

Disciplinary Procedure

Guidelines for Staff

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Introduction

ACAS define discipline as:

The Disciplinary Procedure relates to matters of misconduct and inappropriate behaviour in the workplace.

This guide is intended to explain the disciplinary process, the roles and responsibilities of those involved, and the support mechanisms that are available. It is important that this guidance is read in conjunction with the **University's Disciplinary Procedure**.

The Disciplinary Procedure is first and foremost intended to ensure that allegations of misconduct are managed fairly and consistently. Its aim is to provide staff with appropriate advice and support which will help them to achieve and maintain the expected standards of conduct.

Wherever possible, disciplinary matters are managed informally. Formal action will only be taken in cases of serious and or repeated misconduct.

The [ACAS Code of Practice for Discipline and Grievance](#) sets out the minimum standards that employers are expected to comply with for matters related to discipline or grievance. The good practice guidance includes:

Dealing with formal grievances (Extract from ACAS Code)

Where some form of formal action is needed, what action is reasonable or justified will depend on all the circumstances of the particular case. Employment tribunals will take the size and resources of an employer into account when deciding on relevant cases and it may sometimes not be practicable for all employers to take all of the steps set out in this Code.

That said, whenever a disciplinary or grievance process is being followed it is important to deal with issues fairly. There are a number of elements to this:

- Employers and employees should raise and deal with issues **promptly** and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- Employers and employees should act **consistently**
- Employers should carry out any necessary **investigations**, to establish the facts of the case
- Employers should **inform** employees of the basis of the problem and give them an opportunity to **put their case** in response before any decisions are made
- Employers should allow employees to be **accompanied** at any formal disciplinary or grievance meeting
- Employers should allow an employee to appeal against any formal decision made

Examples of Misconduct

The list below provides examples of misconduct and is not considered to be exhaustive. Other actions might be considered as misconduct potentially resulting in disciplinary action.

- Timekeeping and/or unauthorised absence
- Failure to carry out reasonable instructions and undermining of authority
- Breach of agreed University Policies and Procedures
- Minor breaches of Health & Safety regulations
- Improper use/damage of University equipment and resources (including telephone, email and internet)
- Bullying and/or harassment/discrimination of a colleague, student or member of the public related to race, gender, sexual orientation, disability, religion or believe, age or gender reassignment
- Unacceptable standards of work performance
- Poor customer service
- Unwillingness to take responsibility for the role

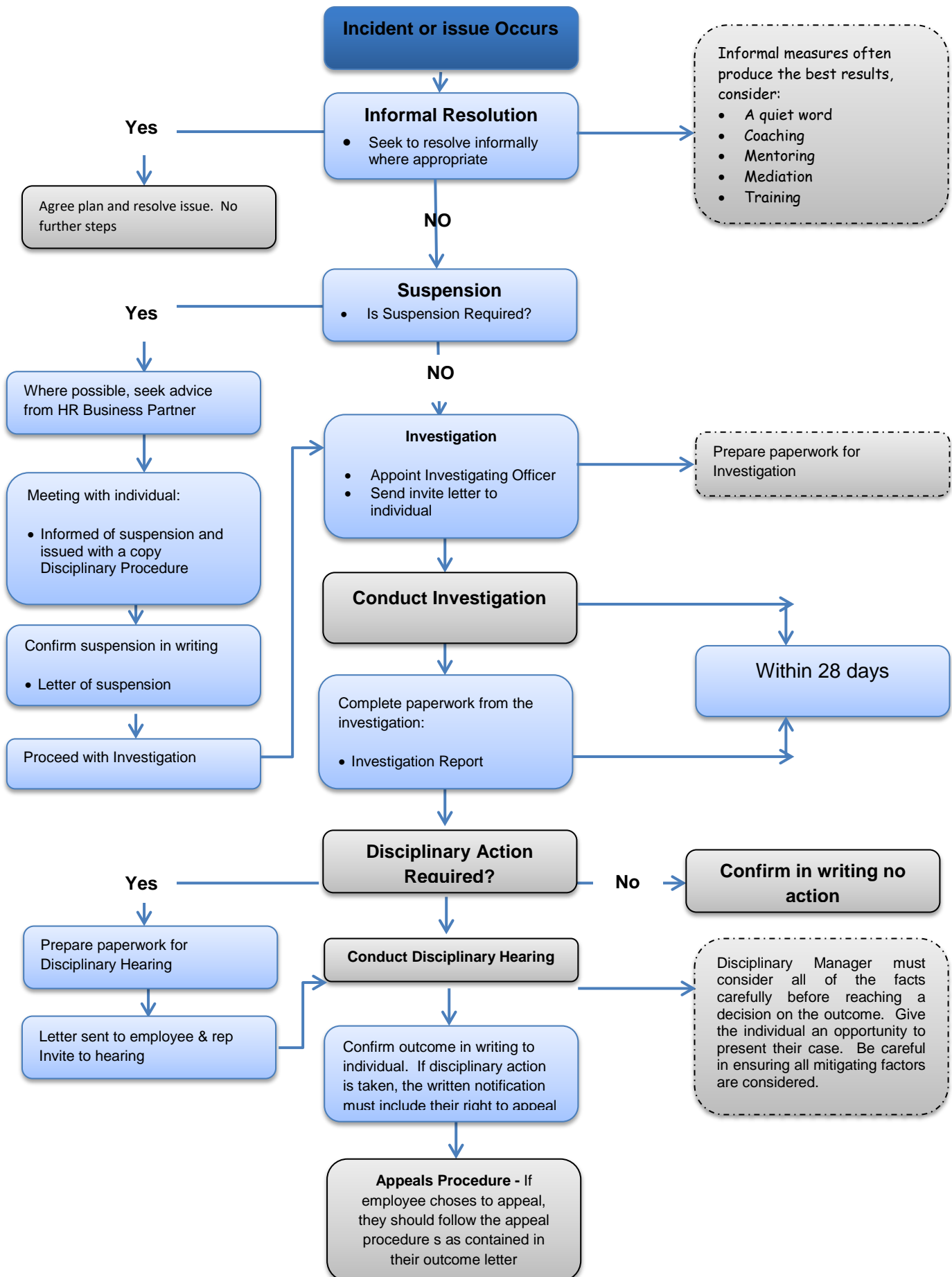


Examples of Gross Misconduct

The list below is illustrative in relation to what might constitute gross misconduct. It is not exhaustive and other actions might be considered as gross misconduct potentially resulting in dismissal.

- Theft, attempted theft or unauthorised possession of property belonging to students, employees, the University or another person
- Serious incapability at work brought on by alcohol or illegal drugs
- Serious breach of health and safety rules
- Fraud or attempted fraud, including deliberate falsification of accounts, financial statements or records
- Bullying and/or harassment/discrimination of a serious nature of a colleague, student or member of the public related to race, gender, sexual orientation, disability, religion or believe, age or gender reassignment
- Physically violent, threatening, indecent behaviour or inappropriate sexual behaviour
- Wilful or negligent failure to comply with legal or other statutory requirements
- Conviction of a criminal offence that makes the employee unsuitable for their employment
- Deliberate damage to, or fraudulent misuse of, University property
- Internet and email abuse including the deliberate access of internet sites containing pornographic, offensive and obscene material
- Serious abuse of social media, including bullying and harassment of colleagues or bringing the University into disrepute
- Serious insubordination through deliberate refusal to carry out a reasonable instruction and serious undermining of authority
- Serious breach of confidentiality or data protection regulations
- Bringing the University into serious disrepute

Overarching Disciplinary Procedure



Informal Action

At UWS we strongly support informal resolution of minor cases of misconduct as it normally results in a more positive outcome for everyone concerned. It also allows for issues to be settled quickly. Wherever possible, all relevant parties will work together at the informal stage in an effort to avoid formal stages of the disciplinary procedure being initiated.

Guidance on informal resolution is available in the Manager's Guidance, including:

- A quiet word
- Case Conference
- Training
- Mediation
- Coaching
- Mentoring

A quiet word

In very minor cases of misconduct, the line manager may feel it best to just deal with it by having a confidential conversation with you, outlining why the misconduct is inappropriate. Together, you and your manager will explore support mechanisms and ways in which you can achieve the necessary improvement and how this will be reviewed to monitor/assess progress. A record of these discussions may be shared to support the process and/or ensure clarity. Your manager will then review your progress, keeping you informed of any updates

Case Conference

A case conference can be held with the appropriate people, this normally works best when the employee is a member of the trade union and a meeting is convened to discuss the issue and to jointly agree what the best resolution would be. Prior the case conference being arranged, the employee will need to agree that they are happy for the manager to contact the trade union representative to discuss the issue.

Training

It may be that the issue can be resolved quickly by a learning and development intervention that has not been previously identified.

Mediation

Mediation is fast becoming one of the most popular methods of informal resolution. An independent third party or mediator can sometimes help resolve disciplinary or grievance issues. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome.

Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs. Or they may be from an external mediation provider. They can work individually or in pairs as co-mediators.

Coaching/Mentoring

As part of informal resolution, coaching or mentoring could be identified as an action that will help and support the employee to ensure that they behaving in a way that the University expects. Normally the coaching/mentoring is informal and the coach/mentor can be either someone from within or outwith the department/school. Selecting an appropriate coach or mentor will depend on the individual needs and circumstances.

The purpose of mentoring is to provide additional support to less experienced colleagues / employees who generally, are new to the university, are working towards promotion or have been promoted to a bigger role. Mentoring has been described as a process in which a person (mentor) is responsible for overseeing the career and development of another person.

A mentor is usually an individual who has previous experience in a similar type of role, and can understand the problems and politics associated with the role. This enables the mentor to help the mentee think about what is expected of them in the role, help them to grow in the role, help them to keep going when they are finding the role difficult and to encourage them to discover ways in which they can deal with obstacles or problems . The mentor will use their own experience to ask questions of the mentee that will help lead them to their own solutions.

The Talent & OD team can provide guidance on how to work with a mentor and also advise on the selection of a mentor from individuals with the appropriate skills and commitment.

A **coaching** session is a totally confidential, one-to-one meeting between an individual and a coach. The process of coaching involves the individual and the coach getting together to have a learning conversation with a focus on moving forward.

Coaching can help develop a greater awareness and appreciation of individual circumstances. In addition it may also create new ways to resolve issues, produce better results and generally achieve goals more easily.

Coaching promotes a greater self-awareness, and fuller appreciation of the individual's situation and circumstances. Sometimes, change can be promoted by a simple shift in perspectives. Coaches use their own experience to ask questions that lead to new insights and conclusions, helping the individual develop their own wisdom and experience.

Suspension

Where an allegation relates to potentially very serious misconduct, employees may be suspended from duty to enable a full and fair investigation to take place.

The decision to suspend an individual is never taken lightly and a line manager will always seek advice from the HR Business Partner.

Individuals who are suspended are done so on full pay and the period of suspension will be for as short as possible and initially for no more than 28 days. This may be extended by agreement with the Director of People & OD.

If you are suspended, you will be invited to attend a meeting where the manager will:

- advise you why the suspension is taking place
- the likely duration of the suspension
- confirm you are suspended on full pay
- advise you must remain contactable and available to support the on-going investigation
- provide you the opportunity to make a statement

This will be followed up in writing within 2 days. A representative from P&OD will take notes of the meeting and circulate them to all relevant parties, normally within 5 working days of the meeting.

Suspension is not a punitive action or sanction; it is a precautionary to protect the integrity of the investigation. You have no right of appeal against the decision to suspend you.

When the investigation is complete, a decision is made as to next steps, based on the information gathered. Where it is accepted that there is no evidence to support the allegation of misconduct, no further action will be taken. Where it is found that there is evidence, a formal disciplinary hearing may be held.

Investigation

Where more serious misconduct is alleged, or where minor misconduct is repeated, an investigation may be carried out to establish the facts. An investigation can be a simple gathering of relevant documents, or it can involve interviewing yourself and relevant witnesses. If you are interviewed, you will be made aware of the allegation(s) and be given notice of the interview. It is important to make the investigators aware of any special requirements you may have or reasonable adjustments that might be required for you to attend the interview.

You are encouraged to co-operate with any investigation process, and answer any questions as fully as you can, setting out any special circumstances. Where limited facts are provided, it can mean that decisions about possible disciplinary action are reached on the basis of partial information.

Whilst the interview will be informal and thus there is no right of representation, the individual undertaking the investigation may permit you to be accompanied by a companion i.e. a trade union representative or work colleague, if you feel that this would be beneficial. Such requests should be submitted to the investigator, along with the proposed individual's name/designation, at least 24 hours in advance of any investigation meeting.

Should you wish to provide a written submission or submit any related evidence to assist with the investigation in advance of (or during) the meeting, you may usually do so.

When the investigation is complete, a decision is made as to next steps, based on the information gathered. Where it is accepted that there is no evidence to support the allegation of misconduct, no further action will be taken. Where it is found that there is evidence, a formal disciplinary hearing may be held.

The Disciplinary Hearing

The meeting will be held as soon as is reasonably practicable once the decision has been made to progress to a formal disciplinary hearing.

You should make your manager aware of any reasonable adjustments for yourself or your representative as soon as possible to ensure that any adjustments can be made in good time.

You will receive the following in writing at least 5 calendar days before the meeting:

- The practical arrangements: date, time and location of the meeting;
- Copies of the evidence to be considered;
- Details of the people who will attend the meeting;
- Advised of your right to be accompanied by your trade union representative or colleague

At the meeting you may:

- Be accompanied by a colleague or trade union representative;
- Have reasonable adjustments if you are disabled or have other special requirements;
- Call relevant witnesses in support of your case

Ahead of the meeting you should:

- Advise the manager of the person accompanying you (if you wish to be accompanied) and any special requirements (e.g. disability, language requirements);
- Supply any evidence to support your case;
- Confirm your attendance
- Advise the manager of any witnesses that you wish to call

During the meeting:

- The manager will advise you of the proceeding for the meeting
- The management representatives will present their evidence to support the allegations, this may include calling witnesses
- You will be given the opportunity to ask question of them and any witnesses
- You will then be given the opportunity to present your case
- The panel and the management representatives will have the opportunity to ask you/your witnesses questions
- Once everyone has spoken, the manager will make you aware of what will happen next. In most cases, the manager will adjourn the meeting to take full consideration of all of the evidence presented
- You will be advised that you will receive a written outcome within 10 working days and that if you are dissatisfied with the outcome, of your right to appeal

Please note: you or your representative can ask for an adjournment at any point during the Hearing

The Outcome:

- You will be advised in writing of the outcome of the disciplinary hearing within 10 working days of the hearing
- If you are dissatisfied with the outcome, you will be advised of your right to appeal

Appeals Procedure

If you are unhappy with the outcome of your disciplinary hearing, you have the right to appeal.

The ACAS Code of Practice states:

- **Where an employee feels that their grievance has not been satisfactorily resolved they should appeal. They should let their employer know the grounds for their appeal without unreasonable delay and in writing**
- Appeals should be heard without unreasonable delay and at a time and place which should be notified to the employee in advance
- The appeal should be dealt with impartially and wherever possible by a manager who has not previously been involved in the case
- Workers have a statutory right to be accompanied at any such appeal hearing
- The outcome of the appeal should be communicated to the employee in writing without unreasonable delay

How to Appeal

If you wish to appeal against the outcome of the formal meeting, you should submit an appeal using the **Notification of Appeal Against Disciplinary Action (DA1)** to the Department of People & OD within 10 working days of receipt of the outcome.

You must clearly state the grounds of your appeal. This might be, for example, the reasons you believe that the outcome was not right or the action was inappropriate.

On receipt of your DA1 Form, The Head of HR Services will make arrangements for your appeal to be acknowledged who will also identify an appropriate manager to hear the Appeal. This will be someone that has had no prior involvement of the case.

The Appeal Hearing

You should note that an appeal hearing is not intended to repeat the full detailed investigation of the disciplinary hearing, but to focus on specific factors which they believe have received insufficient consideration, or for consideration of new evidence has subsequently become available.

However, in some exceptional cases, it may be possible to identify where an appeal panel may potentially deem it appropriate to require a full or partial rehearing, for example, where there has been a procedural flaw.

You will receive the following in writing at least 5 calendar days before the Hearing:

- The practical arrangements: date, time and location of the meeting;
- Copies of the relevant paperwork from the grievance meeting;
- Details of the Panel;
- Advised of your right to be accompanied by your trade union representative or colleague

At the Hearing you may:

- Be accompanied by a colleague or trade union representative;
- Have reasonable adjustments if you are disabled or have other special requirements;

Ahead of the Hearing you should:

- Advise the manager of the person accompanying you (if you wish to be accompanied) and any special requirements (e.g. disability, language requirements);
- Supply any additional evidence with your appeal;
- Confirm your attendance

During the Hearing:

- The manager will advise you of the proceeding for the hearing.
- You will be given the opportunity to explain your specific grounds for appeal - explain why you believe the original decision to be incorrect
- You should ensure that you stick to the facts of your case, ensuring that they are relevant
- You will have the opportunity to question the evidence presented in the papers
- Once everyone has spoken, the chair will make you aware of what will happen next. In most cases, they will adjourn the hearing to take full consideration of your appeal
- You will be advised that you will receive a written outcome to your grievance within 10 working days and that if you are dissatisfied with the outcome, of your right to appeal

The Outcome:

- You will be advised in writing of the outcome of your appeal within 10 working days of the hearing
- The internal process has been exhausted, there is no further right to internal appeal

Support During the Procedure

We understand that being involved in a formal disciplinary procedure may be a difficult time for you. You can discuss your concerns in confidence with your HR Business Partner, Trade Union Representative, and Occupational Health or visit the [Employee Assistance Programme](#) for additional support.

Reasonable Adjustment

We are committed to ensuring that our staff and their representatives do not experience any disadvantage because of disability or any special requirements. You are encouraged to raise any queries you may have relating to disability or other needs at the earliest opportunity with your line manager or HR Business Partner.

This will help us to accommodate your request, where reasonably possible.

Notification of Appeal Against Disciplinary Action (DA1)

This form is to be used when an employee is submitting an appeal against a decision taken against them under the Disciplinary Procedure. The Form should be submitted to the appropriate manager in accordance with the 'Table of Delegated Authority' contained within the Disciplinary Policy & Procedure.

Notification of Appeal Against Supporting Performance Improvement Action

Name:	
Job Title	
Department/School	
Date you received the outcome:	

Grounds of Appeal

Please set out the grounds of your appeal. Employees should note that an appeal hearing is not intended to repeat the full detailed investigation of the disciplinary hearing, but to focus on specific factors which you feel have received insufficient consideration, or for consideration of new evidence has subsequently become available.

Signature:

Date:

For Office Use only:

Date Received:

Name:

Further Information

HR Business Partner

Your HR Business Partner will be able to provide you with advice and guidance throughout the grievance procedure. You will find contact details [here](#).

Working with Others Framework

Our Working with Others Framework sets out the University's expected standards of behaviour.

Development Toolkit

The Development Toolkit is an on-line resource that provides access to wide range of information. All you need is your AD number and password to access University systems. The Development Toolkit is available [here](#).

ACAS Code of Practice

The ACAS Code of Practice for Discipline & Grievance (2015) sets the expectations that we should comply with and is available [here](#).

Discipline and Grievances at Work: The ACAS Guide is available [here](#).