



Disciplinary Policy

1.0 Introduction

- 1.1 The purpose of the procedure is to ensure that all disciplinary matters are dealt with promptly, fairly and consistently.
- 1.2 Bath Spa University Students' Union recognises that satisfactory standards of behaviour, attendance and performance are necessary to the conduct of the Union's affairs and for the wellbeing of all employees.
- 1.3 The Students' Union also believes that management has a positive role to play in encouraging all employees to perform professionally and to the expected standard whilst at work. It is recommended that every effort be made by line managers to resolve matters informally by bringing any issues to employees' attention and providing advice and guidance, and this may prove sufficient to bring about the changes required. However, should the required improvement not be forthcoming or the perceived disciplinary problem be considered of a sufficiently serious nature, then the formal procedure, as set out below will be followed.
- 1.4 This procedure does not apply during a period of probationary service.

2.0 Principles

- 2.1 This procedure covers all employees and will be followed when an employee's conduct (at any time while employed by the Students' Union after the completion of the probationary period); or work performance is such as to warrant disciplinary action. This includes without limitation breaches of Health and Safety Rules.
- 2.2 In general, the formal disciplinary procedures will be invoked when the issue is of a serious nature or when a number of minor complaints are made which together represent a serious breach of discipline. The advice of the Finance & Resources Manager will be sought before any formal disciplinary action can be taken.
- 2.3 In the event of any disciplinary action against the Finance & Resources Manager, the Chief Executive Officer or their delegated representative shall be responsible for all duties within this policy normally undertaken by the Finance & Resources Manager.
- 2.4 Any disciplinary action against the Chief Executive Officer will be dealt with by a nominated panel of the Board of Trustees, chaired by the Chair of the Board of Trustees.
- 2.5 The procedure may be implemented at any stage if the employee's alleged misconduct warrants this. Examples of misconduct and gross misconduct have been provided as an indicative guide to the seriousness of alleged behaviour. Examples of misconduct can be found at paragraph 8.1 of this policy.

- 2.6 This policy and procedure may be subject to alteration to reflect future changes in legislation.
- 2.7 At every stage in the procedure the employee will be advised of the nature of the disciplinary against them and will be given the opportunity to state their case before any disciplinary action is taken.
- 2.8 The employee has the right to be accompanied at investigatory interviews, disciplinary and appeal hearings by a companion. This may be a Trade Union representative or colleague. The employee must give at least two clear days' notice of the name of any person they wish to accompany them. The Union reserves the right to reject any representatives it deems inappropriate.

3.0 Investigation and Informal Disciplinary Discussions

- 3.1 Where it is considered that an employee's conduct or performance is unsatisfactory, the line manager will discuss the matter with the employee informally and ask for an explanation. The line manager will consult with the Finance & Resources Manager and, if it is considered necessary, the line manager will conduct a more detailed investigation. The nature of the investigation will depend on the case but it may include fact-finding interviews and examination of relevant documents.
- 3.2 Where the line manager has been involved directly in an alleged disciplinary incident, a line manager who has had no involvement in the case will investigate the matter.

4.0 Suspension

- 4.1 If appropriate, the line manager dealing with the case may recommend to the Chief Executive Officer, or their delegated representative, that the employee be suspended. This will be done in writing, for a specified period during which time such an investigation will be undertaken. An employee's contract of employment will continue during such a period of suspension, so that the employee will continue to be paid. During the period of suspension the employee will not be entitled to access to any of the Students' Union premises or contact any of our students, clients, customers, suppliers, contractors or staff, except with the prior consent of the Students' Union and subject to such conditions as the Students' Union may impose. The investigation must be carried out within a reasonable time frame, ideally with 15 working days, unless the complexities of a particular case make this impracticable.
- 4.2 An employee may be suspended on full pay to enable an investigation to be carried out, or in the case of serious or gross misconduct, pending formal action under paragraph 4.1.
- 4.3 Note that suspension is not considered to be disciplinary action, and suspension does not pre-suppose guilt. However, it may be necessary in an employee's own interests, or in the interests of the institution.
- 4.4 Where an investigation cannot be concluded within 15 working days, any extension of the suspension must be approved by the Chair of the Finance & Resources Committee. Any extension must be for a fixed period and the employee must be notified in writing that suspension has been extended.

5.0 Formal Disciplinary Procedure

5.1 Disciplinary Hearings

If, after a full investigation of the case, the line manager decides that the matter is serious enough to proceed to a disciplinary hearing, they will inform the Finance & Resources Manager who is responsible for convening a disciplinary hearing.

5.2 The disciplinary panel shall consist of the employee's senior line manager or a manager not previously involved in the proceeding, who will act as Chair, a second senior line manager or delegated representative and the Finance & Resources Manager to advise on process.

5.3 The Finance & Resources Manager will write to the employee giving at least five clear working days' notice of the proposed date for a disciplinary hearing. The letter should contain a clear statement of the reasons for the disciplinary hearing and copies of any relevant documents will be included. Where dismissal is a potential outcome of the disciplinary hearing, the employee must be made aware of this in the letter.

5.4 The letter will also inform the employee of the right to representation. Employees subject to formal disciplinary procedure have the right to be accompanied by a companion. This may be a colleague, a trade union representative or an official employed by the Trade Union, but not an elected officer. Where the Trade Union representative is not an official, they must be certified by the Trade Union as competent to accompany a worker. The companion may take notes, discuss with the employee, present or sum up their position to the meeting, but they may not answer questions on the employee's behalf, address the hearing without the workers permission or prevent the meeting from progressing.

5.5 Every reasonable effort will be made to arrange the date of the meeting so that the companion is able to attend. If the companion is unable to attend on the date proposed, the hearing will be postponed to an alternative date as arranged with the employee. This must be at a reasonable time and no more than five working days from the date originally proposed.

5.6 In the case of alleged gross misconduct immediate arrangements may be made to hold a disciplinary hearing as soon as possible with the same right of representation. If the line manager considers dismissal is a possible penalty, he/she will make this clear to the employee at the earliest opportunity.

5.7 The disciplinary hearing will be held between the employee, their representative (if requested by the employee) and the disciplinary panel.

5.8 Evidence presented during the hearing should be supported by documentation or witnesses appearing in person or providing signed statements. Either side, provided adequate notice is given to the panel, can call witnesses. All documentation to be used in the hearing must be made available 3 days prior to the hearing taking place.

6.0 Conduct of Disciplinary Hearings

6.1 At the start of any disciplinary hearing, all those present will be introduced to the employee and an explanation will be given as to why they are present. The nature of the allegation will be stated to the employee.

6.2 The Chair of the panel will then invite the line manager to present the case against the employee, together with all supporting evidence. After that is completed there will be an

opportunity for questions. The employee shall then present their response, including use of evidence and the calling of witnesses where appropriate.

- 6.3 Once the questioning has concluded then each party will present a summary of the main elements of their case, with the employee having the final right of reply.
- 6.4 The panel will then adjourn to consider the evidence presented, the past record of the employee, any mitigating circumstances and what penalty should be imposed. In some circumstances the decision may be delayed, for example, where the employee has raised issues that require further corroboration or investigation or where complex issues requiring detailed consideration have arisen.
- 6.5 The Chair, in conjunction with the Finance & Resources Manager, will notify the employee of the panel's decision and the reasons, in writing, normally within ten working days. The notification will include the details of any sanction or review period and how long any sanction is applicable for. It will include the employee's right to appeal within ten days from the date of the letter confirming the disciplinary decision.
- 6.6 At the Finance & Resources Manager's absolute discretion, where a grievance procedure is instigated and is linked to a disciplinary procedure, the two procedures may be more effectively resolved through their merger. In these circumstances, the decision would be heard by a panel, the employee's rights will not be affected and this will be confirmed to the relevant parties prior to any hearing taking place. The Finance & Resources Manager will keep on file a record of the hearing, together with the minutes and outcome.

7.0 Outcomes of Disciplinary Hearings

- 7.1 The potential outcomes of a disciplinary hearing are no further action, verbal warning, first written warning, final written warning or dismissal. When imposing penalties for disciplinary offences, the Students' Union will endeavour to follow the guidance set out below. However, the Students' Union may move immediately to a Written or Final Written Warning where it considers that to be appropriate because of the seriousness of the conduct and/or extent of the poor performance.

7.2 Verbal Warning

- 7.2.1 If conduct or performance does not meet acceptable standards, and the issue is relatively minor or new, the employee will be given a verbal warning by the line manager dealing with the disciplinary hearing and a record of the warning, signed by the line manager, will be placed on the employee's personal file. The file will contain notice of the date and time of the verbal warning. The employee will be given a copy of the record of the warning and will be advised that the warning constitutes the first formal stage of the disciplinary procedure.
- 7.2.2 The line manager dealing with the incident will, as part of the warning, give details of the complaint and specify the consequences of further misconduct or failure to improve performance. They will also notify the employee of their right of appeal. Where performance is an issue, any training or additional support required by the employee to achieve the required standard will be identified and an appropriate period for improvement/review will be set at the time of the verbal warning.

7.3 Written Warning

- 7.3.1 In the event of misconduct of a more serious nature and/or if a further offence of misconduct occurs, or if there has been a failure to improve and performance is still

unsatisfactory, the employee will be given a second stage warning (a written warning). A record of the warning, signed by the Chair of the disciplinary hearing, will be placed on the employee's personnel file. The employee will be given a copy of the record of warning and be advised that the warning constitutes the second stage of the disciplinary procedure.

7.3.2 The warning will give details of the complaint and specify the consequences of further misconduct or failure to improve performance. Again, it will also confirm the employee's right of appeal. Where performance is an issue, any training or additional support required by the employee to achieve the required standard will again be identified and an appropriate period for improvement/review will be set.

7.4 Final Written Warning

7.4.1 In the event of misconduct which is sufficiently serious to warrant only a written warning but insufficiently serious to justify dismissal, or if a further offence of misconduct occurs, or if there is still a failure to improve and performance is still unsatisfactory, the employee will be given a final written warning and a record of the warning signed by the Chair of the disciplinary hearing will be placed on the employee's personnel file. The employee will be given a copy of the record of warning and will be advised that the warning constitutes the third stage of the disciplinary procedure.

7.4.2 The warning will give details of the complaint and specify the consequences of further misconduct or failure to improve performance. Again, the employee's right of appeal will be confirmed. The warning will also warn that dismissal will result if there is no satisfactory improvement or any repetition of misconduct. Where performance is an issue, any training or additional support required by the employee to achieve the required standard will be identified and an appropriate period for improvement/review will be set.

7.5 Dismissal

7.5.1 In the event of gross misconduct, or if a further offence of misconduct occurs whilst a previous warning is still recorded on file, or if there is still a failure to improve and performance is still unsatisfactory, the final stage in the process may be dismissal with notice. Dismissal decisions can only be taken by the Chief Executive Officer or their delegated representative.

7.5.2 The employee will, as soon as reasonably practicable, be informed in writing of the outcome of the hearing including reasons for dismissal, date on which employment will terminate, and the right of appeal.

7.6 Alternative Sanctions Short of Dismissal

7.6.1 In appropriate cases the Union may consider some other sanction short of dismissal, such as demotion, a transfer to another department or job, loss of seniority or a reduction in pay. These sanctions may be used in conjunction with a written warning and may be authorised by the Chief Executive Officer or their delegated representative.

8.0 Gross Misconduct

8.1 Some types of behaviour are so serious and so unacceptable that, if proved, they warrant summary dismissal (i.e. dismissal without notice or pay in lieu of notice). It is not possible to set down a definitive list of all the specific offences constituting gross misconduct and, in any event, all cases will be dealt with on their own facts. However,

the following examples give some guidance as to types of behaviour, which in certain circumstances could be judged to be gross misconduct:

- Theft, fraud and deliberate falsification of records
- Physical violence
- Serious bullying or harassment
- Deliberate damage to property
- Serious insubordination
- Significant misuse of an Students' Union property or name
- Bringing the Students' Union into disrepute
- Deliberately accessing internet sites which contain material which is pornographic, obscene or offensive
- Serious incapability whilst on duty brought on by alcohol or illegal drugs
- Serious negligence which causes or might cause unacceptable loss, damage or injury
- Serious infringement of health and safety rules
- Serious breach of confidence (subject to the Disclosure Policy)

Note this list is not exhaustive.

9.0 Currency of warnings

9.1 In all cases a record of any disciplinary action will be placed on the employee's personnel file. A copy of the relevant record will be supplied to the employee concerned on request. All formal warnings given under this procedure will normally be disregarded for disciplinary purposes after a period of 12 months, subject to satisfactory conduct and performance. However, this period may be extended where the Students' Union considers it to be reasonable to do so in view of the seriousness of the offence. Further, the Students' Union may take account of expired warnings in exceptional circumstances. Any expired warnings would have to have a direct bearing on the current allegation and would only be considered when consideration is given to any penalty.

10.0 Appeals

10.1 An employee has the right to appeal against any disciplinary penalty. In order to exercise their right of appeal, the employee must notify the Finance & Resources Manager in writing within 10 working days of the date of the letter confirming the disciplinary decision.

10.2 In the appeal letter the employee must state the case for the basis of their appeal. An appeal is not simply a re-run of the previous hearing. It must be based on either new evidence which was not considered at the disciplinary hearing or where the employee believes a breach of the disciplinary procedure has occurred that has significantly affected the outcome of the hearing.

10.3 Upon receipt of a letter of appeal, an appeal hearing will be arranged and the Students' Union will provide reasonable notice of the time and place of the appeal.

10.4 Employees have the right of representation at an appeal hearing, similar to the conditions outlined in clause 5.1 (d).

10.5 During the process to deal with an appeal, the original disciplinary penalty already invoked (including dismissal) will still apply.

- 10.6 Two appropriate managers will hear the appeal and their decision is final. The appeal panel members must have had no involvement in the original disciplinary hearing.
- 10.7 Appeals against dismissal will be heard by a subcommittee of the Board of Trustees, consisting of four members, chaired by the Chair of the Board.
- 10.8 At the start of any Appeal hearing, all those present will be introduced to the employee and an explanation will be given as to why they are present.
- 10.9 The Chair of the Appeal panel will then invite the employee to present their Appeal together with all supporting evidence. After that is completed there will be an opportunity for questions.
- 10.10 The Chair of the Disciplinary Panel Hearing shall then present their response, including use of evidence where appropriate. Again, there will be an opportunity for questions.
- 10.11 The Appeals Panel will then retire to consider the appeal and the disciplinary penalty imposed will be reviewed. The employee will be notified in writing of the outcome as soon as possible and within five working days.
- 10.12 The conclusion of the Appeals Panel is final and there is no further right of appeal.

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