

Staff Disciplinary Policy

UPR HR02 version 04.0

Policies superseded by this document

This document replaces version 03.0 of UPR HR02, with effect from 14 January 2022.

Summary of significant changes to the previous version

Investigation timescales have been clarified to reflect practice. Examples of misconduct have also been included.

Glossary

A glossary of approved University terminology can be found in [UPR GV08](#).

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1 Policy Statement

The University aims to provide and maintain a safe working environment for all employees. The University expects and will enforce reasonable standards of conduct and performance from its staff and aims to ensure that there is a fair and systematic approach to the maintenance of those standards.

2 Purpose and Scope

- 2.1 The policy is intended to help and encourage all staff to achieve and maintain professional standards of behaviour. This policy details a framework for handling staff disciplinary matters related to Staff Misconduct.
- 2.2 Furthermore, it informs staff of the possible consequences of their failure to adhere to the standards expected by the University.
- 2.3 The policy should not interfere, however, with the responsibility of managers to raise informally any matter which gives cause for concern without recourse to this formal procedure and without a specific formal note being made.
- 2.4 All matters relating to the application of this policy will remain confidential between the parties concerned at all times.
- 2.5 These procedures apply to all staff (other than those within their probationary periods who are covered by separate arrangements) with the exception of the Vice-Chancellor, Deputy Vice-Chancellor, the Group Finance Director and Secretary and Registrar for whom separate provision is made in the Articles of Government as appointees of the Board of Governors.
- 2.6 Cases of harassment and bullying are covered by the Policy to Promote Dignity and Respect – Dealing with Bullying and/or Harassment. Such cases may however contribute to an investigation stage of this policy as required.
- 2.7 Where circumstances relate to an individual’s inability to perform work within their contract of employment, due to performance or sickness the Managing Poor Performance Policy and/or the Managing Sickness Absence and Ill Health Policy and Procedure should be used. However, if an employee refuses to engage with the procedures under the aforementioned policies, this may be considered a conduct issue and, if so, this policy should then be used.

3 Suspension

- 3.1 Suspension is not a disciplinary sanction. Without prejudice, suspension may be used where there are serious allegations made that are considered to be gross misconduct and/or urgent cause relating to the University's aims and objectives, which could potentially amount to gross misconduct.
- 3.2 Suspension will allow for an appropriate investigation of the allegations, which may be impeded should the employee remain at work. Such investigations will be conducted without avoidable delay (see APPENDIX F).

4 Dismissal

In some cases, an employee may be dismissed from the University as a result of a succession of disciplinary warnings. In such cases the formal disciplinary procedure will have been followed and an offence during the period a Final Written Warning is live may lead to a further disciplinary hearing which may result in dismissal. Where a disciplinary dismissal is a possible outcome, the Vice Chancellor or Secretary and Registrar may delegate their authority to a panel of three members of Chief Executive's Group. The members of this panel would have had no former involvement in the case. Such a dismissal may be with notice or pay in lieu of notice.

5 Dismissal for Gross Misconduct

Where disciplinary cases are deemed serious enough to warrant a Stage 3 hearing, the University may dismiss any member of staff if the circumstances are such that it is entitled to do so by virtue of the gross misconduct of that member of staff (see APPENDIX D). This will only occur after a full investigation and hearing has taken place. The Vice Chancellor or Secretary and Registrar may delegate their authority to a panel of three members of Chief Executive's Group. The members of this panel would have had no former involvement in the case. Such a dismissal will take effect immediately with no notice or pay in lieu of notice.

6 General Principles

- 6.1 The General Principles detailed make provision for all aspects of the Staff Disciplinary Policy-Staff Misconduct at all stages and levels.
- 6.2 No action under these procedures will be taken against any employee who is a Recognised Trade Union representative until the circumstances have been discussed with a full-time official of the Recognised Trade Union concerned.
- 6.3 The University will expect a sensitive, constructive and timely approach to all disciplinary matters.
- 6.4 Managers have a responsibility, wherever possible, to bring any matters of concern to an employee's attention without delay and offer help and support (including additional training as required) before moving into the formal procedures detailed in this policy.

- 6.5 An investigation will be conducted prior to any disciplinary action being taken. The individual member of staff concerned will normally be made aware of any such investigation (see APPENDIX A – Investigating Staff Misconduct), and the timescale anticipated (normally within 4 weeks, but timescales are dependent upon the nature of case requiring investigation and availability of staff to attend investigation meetings).
- 6.6 Multiple conduct issues may be treated as a single investigation and may result in a single formal hearing of the case. Any disciplinary action taken will be appropriate to the individual allegation(s).
- 6.7 If an investigation or other action has already been taken in connection with the same facts the University will, so far as possible, rely on previous investigations /hearings to ensure that the employee is not subject to the same procedure more than once.
- 6.8 At every step the employee will be informed in writing of the level at which the matter is being considered, advised of the nature and details of the allegation and will be given the opportunity to respond to the allegation(s).
- 6.9 At all formal stages the employee will have the right to be accompanied and represented by a workplace colleague employed by the University or an employee or official of a Trade Union. The role of such a representative does not permit them to answer direct questions for the employee, but they may present the employee's case and confer with the employee during formal proceedings.
- 6.10 The manager presenting the case and the employee responding may call witnesses to attend a disciplinary hearing. This is subject to their signed witness statements having been submitted to the Director of Human Resources (or nominee) at least 5 working days in advance of the hearing.
- 6.11 The Chair of a disciplinary hearing will have had no involvement in the preparation of the hearing and will conduct the proceedings according to the outline format in APPENDIX B.
- 6.12 If, for good cause, an employee is unable to attend a hearing, it will be adjourned to a suitable alternative date, which may be within a week of the original hearing date or later if appropriate. If the employee is unable to attend the re-arranged date, the Chair will decide whether the hearing should take place in their absence or exceptionally to rearrange another suitable date provided this does not unnecessarily delay the matter. If the employee is unable to attend the further rearranged date, the hearing will proceed in their absence, but their representative (see 6.9) will have the opportunity to present the employee's case on their behalf. Any submission by the employee in writing, or by their representative will be considered.
- 6.13 Any Disciplinary action taken will be limited as follows:
- i An ORAL WARNING will normally last for 6 months;
 - ii A WRITTEN WARNING will normally last for 12 months;
 - iii A FINAL WRITTEN WARNING will normally last for 24 months;
 - iv DISMISSAL may be with or without notice depending upon whether or not an allegation of gross misconduct is confirmed.

- 6.14 Warnings given to an employee will be placed on their personal file in the Human Resources Department. The warning will no longer be live after the specified period has elapsed.
- 6.15 In exceptional circumstances, the time periods specified in paragraph 6.13 may be subject to variation – any such variation being notified to the individual at the time the warning is issued.
- 6.16 The procedures may be initiated at any stage if the employee's alleged misconduct warrants such action.
- 6.17 Regarding conduct issues, no employee will be dismissed for a first breach of discipline except in the case of gross misconduct, where the misconduct is deemed so serious that it would normally justify dismissal without notice.

7 Right of Appeal

- 7.1 An employee will have the right of appeal against any disciplinary penalty imposed. The person(s) hearing the appeal will not have been involved in the original decision to issue a disciplinary penalty and will follow the procedures detailed in APPENDIX C.
- 7.2 All Appeal hearings will review the earlier decision based on the submissions made by the member of staff and management. It will not be conducted as a total re-hearing of the evidence made when the initial decision was taken but be concerned with:
- i reviewing the application of the procedures (evidence of procedural or administrative irregularity);
 - ii whether or not the penalty is proportionate to the allegation; and
 - iii considering any new material evidence not reasonably available at the original disciplinary hearing.
- 7.3 Training and support will be provided to the Chair of a hearing.
- 7.4 The Director of Human Resources or nominee will be consulted by management at all stages of any case being considered under these procedures and will be present at all formal hearings.

8 Procedure for Dealing with Misconduct

8.1 Informal

Where it is alleged that conduct does not meet University standards the employee must be advised immediately by their line manager. The employee will be reminded of the standards expected, offered help and support and additional training (if appropriate) before recourse to the formal procedure.

8.2 Formal Stage 1

- 8.2.1 Where conduct continues to be a concern, or where the matter is sufficiently serious, the line manager will carry out an investigation. If it is alleged that conduct does not meet University standards, and in consultation with the Human Resources Business Partner (HRBP), a decision to proceed with a formal disciplinary hearing may be made.
- 8.2.2 The manager chairing the hearing should provide the employee with advance written notice of the complaint/concern and their right to representation, confirm that Stage 1 of this procedure is being invoked, and provide timings for the hearing (normally within 10 working days).
- 8.2.3 The employee should submit any written evidence regarding the investigation report to the HRBP advising the Chair at least 5 working days before the hearing.
- 8.2.4 The person conducting the hearing (level above line manager) will follow the format outlined in APPENDIX B.
- 8.2.5 The decision made will be either:
- i NO CASE TO ANSWER, or
 - ii NO FURTHER ACTION (confirmed in writing to the employee), or
 - iii ORAL WARNING ISSUED.
- 8.2.6 If an oral warning is issued the employee will be advised of the reason for the decision, that it is the first stage of the disciplinary procedure and any improvements that are required. These improvements may include the establishment of appropriate targets and/or standards together with the support needed to achieve these within a set timescale (normally 8 weeks). The employee will be warned of the possible consequences if further complaints/related concerns arise.
- 8.2.7 The employee will be advised of their rights of appeal to the next level of management, outlined in APPENDIX C.

8.3 Formal Stage 2

- 8.3.1 Where there is a further failure in conduct or a case of serious misconduct, an investigation will be carried out by the line manager and following consultation with HR, a decision will be taken whether to proceed to a formal hearing under Stage 2 of this policy.
- 8.3.2 If a decision to proceed to a formal hearing is made the employee should be provided with details of the complaint/concern and right to representation, confirmation that Stage 2 of this procedure is being invoked and provided with timings for the hearing (normally within 10 working days).
- 8.3.3 A Senior Manager will chair the hearing in accordance with the format outlined in APPENDIX B and the employee will be given the opportunity to respond to the allegations.
- 8.3.4 The Chair will make a decision based on either:

- i NO CASE TO ANSWER, or
- ii NO FURTHER ACTION (confirmed in writing to the employee), or
- iii ISSUE AN ORAL WARNING (if not issued at Stage 1), or
- iv ISSUE A WRITTEN WARNING, or
- v ISSUE A FINAL WRITTEN WARNING.

8.3.5 All written warnings will state the details of the complaint, the hearing outcome, the warning itself, any improvement requirements/timescales and any monitoring/reviews to be established. Further consequences, if no improvement is made or there is any further incident warranting disciplinary action, will be advised. In the case of a final written warning further disciplinary action could lead to dismissal.

8.3.6 The employee will be advised of their rights of appeal to the next level of management, outlined in APPENDIX C.

8.4 Formal Stage 3

8.4.1 An allegation of gross misconduct (Examples in APPENDIX D), a repetition of a serious offence, or a further complaint/concern if the employee is already subject to a final written warning, may result in dismissal from the University. If a case of gross misconduct is proven, then the dismissal will be without notice or pay in lieu of notice.

8.4.2 When the allegation or complaint is brought to The Senior Manager's attention, they will consult with the Director of Human Resources or nominee and a decision will be taken on whether the employee should be suspended. Please see APPENDIX A – Investigating Staff Misconduct and APPENDIX F - Suspension.

8.4.3 The Senior Manager (or nominee) will conduct an investigation.

8.4.4 If a decision is made by the Senior Manager to proceed to a formal hearing under Stage 3 of the policy, the employee will be provided with details of the complaint/concern and right to representation. They will be notified that Stage 3 of this procedure is being invoked and that dismissal is a possible outcome and be provided timings for the hearing (normally within 10 working days).

8.4.5 The employee will have access to any documents which are to be produced at the hearing at least 5 working days before the hearing.

8.4.6 Any written evidence to be submitted by the employee must be received by the chair of the hearing at least 5 working days before the hearing.

8.4.7 The Vice Chancellor or Secretary and Registrar may delegate their authority to chair a formal hearing to a panel of three members of the Chief Executive Group (CEG) in accordance with the format outlined in APPENDIX B.

8.4.8 Following the hearing and after consideration of all the evidence, the chair of the panel will come to one of the following conclusions:

- i NO CASE TO ANSWER, or

- ii NO FURTHER ACTION, or
- iii ISSUE AN ORAL WARNING (if not issued at Stage 1), or
- iv ISSUE A WRITTEN WARNING, or
- v ISSUE A FINAL WRITTEN WARNING, or
- vi DISMISSAL (this may be with or without notice dependent on whether gross misconduct is confirmed).

8.4.9 The employee will be informed in writing of the decision and the reasons for it and of their right of appeal to the Director of Human Resources (Please see APPENDIX C).

Appendix A - Investigating Alleged Staff Misconduct

1 Purpose of the Investigation:

- 1.1 To investigate the circumstances surrounding the alleged misconduct.
- 1.2 To inform the employee of the investigation and provide an opportunity for the employee to respond to the allegation/s.
- 1.3 To take a balanced view of the evidence.
- 1.4 To reach a decision on whether misconduct has taken place.
- 1.5 To determine whether an informal or formal procedure should be followed.

2 Who should conduct an Investigation?

- 2.1 The appropriate level of line manager or other appropriate nominee (e.g.: Associate Dean; Head of Department/Subject Group Leader). For Professional staff, the line manager will normally be the Investigating Officer. However, there may be particular circumstances where it may be more appropriate for another manager to fulfil this role.
- 2.2 Training and support will be provided to Investigation Officers.

3 The Procedure

- 3.1 The employee concerned will normally be informed of the investigation and the nature of the allegations (unless inappropriate to do so, e.g. in cases of fraud).
- 3.2 The employee will be given the opportunity to make an initial response to the allegation.
- 3.3 Witnesses and others involved should be interviewed as soon as possible and written statements obtained.
- 3.4 The Investigating Officer will analyse all the facts and statements and prepare their report in consultation with an HRBP.
- 3.5 The Investigating Officer will determine whether the Informal or Formal Disciplinary Procedure should be followed.
- 3.6 If the Informal procedure is followed the employee should be advised accordingly, and any development or action required regarding conduct, standards etc. outlined.
- 3.7 The meeting will be noted, and a copy sent to the HRBP.
- 3.8 If the Formal procedure is followed the Investigating Officers' report will be considered by a disciplinary hearing.

4 Timescales

The investigation should be conducted as quickly as possible and will not normally exceed **20** working days, but timescales are dependent upon the nature of the case requiring investigation.

Appendix B - Disciplinary Hearings

- 1 The status of the hearing will be confirmed at the outset by the Chair of the Hearing, outlining the potential outcomes before the hearing proceeds.
- 2 Management/Investigating Manager will present the Investigation and the employee will respond and put forward their case. The manager and employee will be subject to cross questioning by the other party.
- 3 Witnesses will attend only to give their accounts and will be open to questioning by the other party. They may be recalled at a later stage for further questions/clarification of issues.
- 4 Both parties may be asked to sum up their case at the end of the hearing.
- 5 Both parties will withdraw, taking all belongings with them, and the Chair, panel and Human Resources representative will deliberate on the proceedings and either call all parties back to announce a decision or may adjourn the hearing and communicate their decision in writing normally within five (5) working days.
- 6 The employee will be advised of the Appeals process at the conclusion of the hearing.

(Note for guidance:

- a Exceptionally and by mutual agreement the format of the hearing can be amended provided that the General Principles are adhered to.
- b Witness statements and questioning will be limited to half an hour per witness.
- c No tape recording of proceedings is permitted.
- d Adjournment requests will not be unreasonably withheld.
- e Nominated notetakers will take notes of the proceedings and these will be kept for record purposes and only circulated in the event of a subsequent appeal. It is therefore the responsibility of the employee and/or “Friend” to retain their own notes of the hearing.)

Appendix C - Appeals Against Disciplinary Warnings and Dismissals

1 Appeals against disciplinary warnings

- 1.1 A member of staff, against whom a disciplinary sanction has been issued, will have the right of appeal. The next level of Line Manager/Senior Manager will conduct the appeal hearing. Any appeal should be submitted to the Director of Human Resources. All disciplinary appeals must be lodged in writing within ten (**10**) working days of receipt of written confirmation of the disciplinary sanction. Appeals will be heard as soon as is reasonably practicable (see below):
- 1.2 State the reasons for appeal.
- 1.3 The Director of Human Resources (or nominee) will give the employee a minimum of ten (**10**) working days' notice of the appeal hearing stating place, date and time.
- 1.4 The Director of Human Resources (or nominee) will inform the Chair of the original disciplinary hearing that an appeal has been lodged.
- 1.5 The appeal hearing will review the earlier decision based on the submissions made at the appeal.
- 1.6 The appeal will not be a re-hearing but concerned with the application of procedures, looking at any new evidence, not reasonably available at the time of the original hearing, that may be brought forward and determining the proportionality of the penalty to the misdemeanour.
- 1.7 Both the member of staff who is appealing and the Chair who made the original decision must submit all evidence or documents to which reference will be made at the hearing, including where the case for appeal relates to new evidence not reasonably available at the time of the original hearing, the names of any witnesses it is proposed to call (or witness statements where a witness is not to be called). These should be submitted no later than 5 working days before the date set for the hearing to the Director of HR (or nominee) for simultaneous distribution to all parties. Papers not submitted by this date will not normally be eligible for consideration.
- 1.8 The employee will present their case and introduce any new witnesses.
- 1.9 All parties will be provided with the opportunity to ask questions.
- 1.10 Both parties will have the opportunity to summarise their case if they so wish. The employee summarising first.
- 1.11 Nominated note takers will take notes of the proceedings and these will be kept for record purposes. It is therefore the responsibility of the employee and/or their representative to retain their own notes of the hearing.
- 1.12 The Chair of the appeal meeting will review the grounds of the appeal with the Director of Human Resources (or nominee) before determining a final decision. This may be given on the day and advised to both parties or, where further consideration is required, will be confirmed later in writing normally within five (**5**) working days.

1.13 The decision will be final.

(Note for guidance:

- a Exceptionally and by mutual agreement the format of the hearing can be amended provided that the General Principles are still followed.
- b Witness statements and questioning will be limited to half an hour per witness.
- c No recording of proceedings is permitted. Covert recording will be considered misconduct.
- d Requests for adjournments by either party will be at the discretion of the chair and not unreasonably withheld.
- e A notetaker will be in attendance at the proceedings and notes will be kept for record purposes.
- f It is therefore the responsibility of the employee and/or their representative to retain their own notes of the hearing.)

2 Appeal Against Dismissal

2.1 Appeals against Dismissal should be submitted, in writing, to the Director of Human Resources within ten (**10**) working days of receipt of the disciplinary hearing outcome.

2.2 The Vice Chancellor or nominee will chair an appeal hearing as soon as possible and normally within **15** working days.

2.3 A panel appeal hearing panel will consist of the Chair (Vice Chancellor or nominee) and three (**3**) members of CEG. The panel members will have had no former involvement in the case.

2.4 The Chair will be supported by the Director of Human Resources (or nominee).

2.5 The hearing will review the previous decision, based on submissions made by the staff member and the Chair of the original hearing.

2.6 It will not be a re-hearing of the evidence but concerned with procedural integrity and whether the outcome was fair and reasonable. It will follow the procedure as laid out above. The decision will normally be confirmed in writing within five (**5**) working days of the appeal hearing.

2.7 The decision will be final.

(Note for guidance:

- a It must be made clear at the outset who will be the lead in presenting the employee's case to the Appeal Hearing – either the employee or their representative.

- b If the employee has been dismissed without notice and re-instated on appeal, the re-instatement will take effect from the date of the original dismissal and no loss of earnings will be incurred.
- c No recording of proceedings is permitted. Covert recording will be considered misconduct.
- d Requests for adjournments by either party will be at the discretion of the chair and not unreasonably withheld.
- e A notetaker will be in attendance of the proceedings and notes will be kept for record purposes only and may be used in response to any subsequent employment tribunal or legal action.
- f It is therefore the responsibility of the employee and/or their representative to retain their own notes of the hearing.
- g If the Branch Secretary/President of a recognised trade union objects to a specific member of an Appeal Against Dismissal Panel being on that panel, the Trade Union should, in the first instance, raise this (via the Director of Human Resources) with the Vice Chancellor and if agreement is not reached, they may raise this (again via the Director of Human Resources) with the Chair of the board of Governors.)

Appendix D - Examples of Misconduct and Gross Misconduct

1 Examples of Misconduct

These are illustrative examples and do not constitute an exhaustive list.

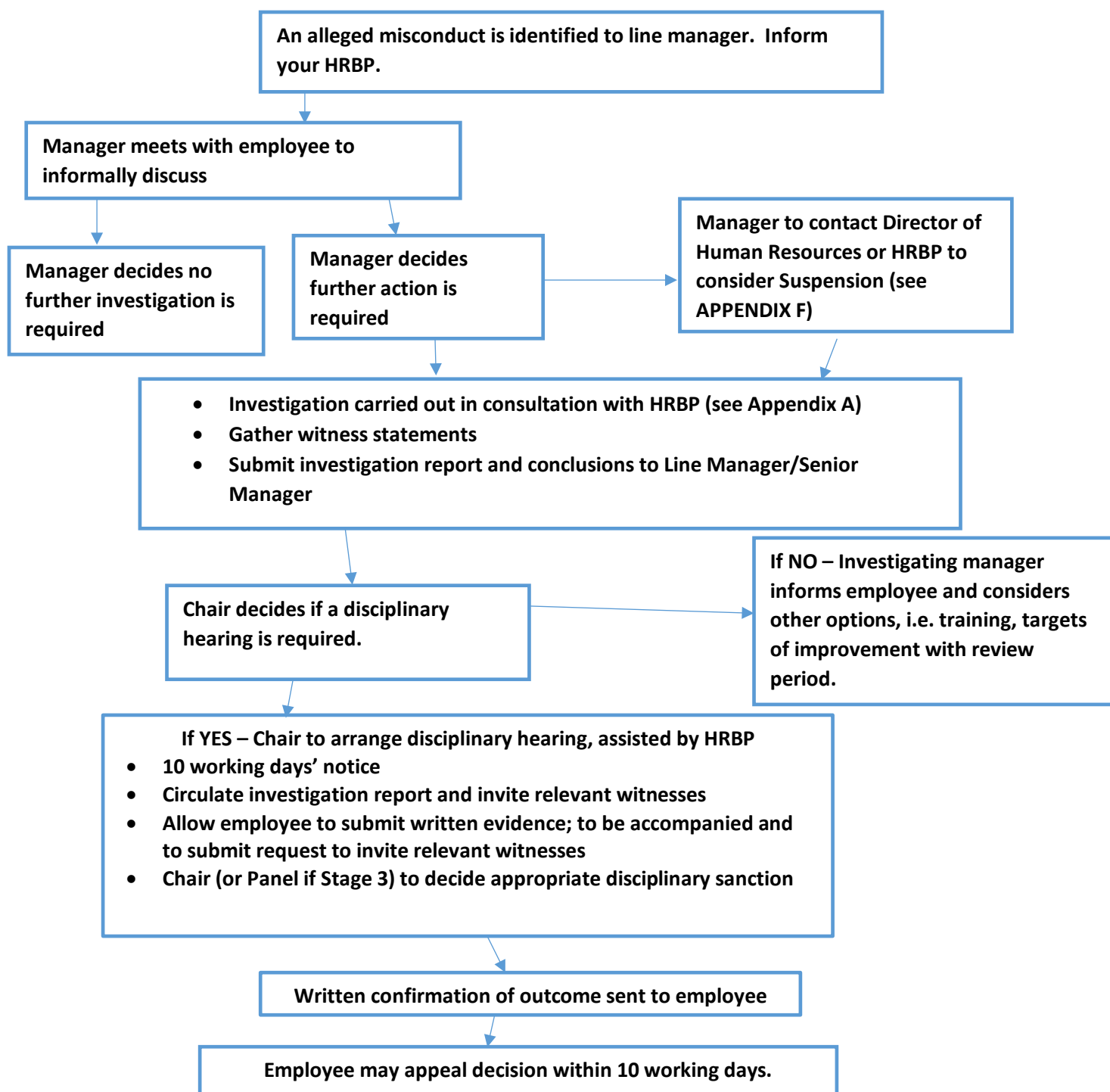
- a Poor timekeeping
- b Non-compliance with the University values
- c Breach of University policies and procedures
- d Failure to follow reasonable management instructions)
- e Being absent without leave
- f Inappropriate or offensive behaviour (e.g. inappropriate use of language or behaviour)

2 Examples of Gross Misconduct

The following are examples of gross misconduct which, if proved, may result in dismissal without notice. These are illustrative examples and do not constitute an exhaustive list.

- a Theft or fraud.
- b Threat of or actual physical violence or bullying.
- c Deliberate and serious damage to property.
- d Serious misuse of the University's or University's Companies property or name.
- e Deliberately accessing internet sites containing pornographic, offensive or obscene materials.
- f Deliberately sending pornographic, offensive or obscene materials.
- g A serious breach of University rules and regulations.
- h Deliberate non-compliance to carry out a reasonable management request.
- i Unlawful discrimination or harassment.
- j Bringing the University or University Companies into serious disrepute.
- k Serious incapability at work brought on by alcohol or illegal drugs.
- l Causing loss, damage or injury through serious negligence.
- m A serious breach of the University's health and safety rules.
- n A serious breach of trust and confidence.

Appendix E - Flowchart for disciplinary procedure – misconduct



Progression through the disciplinary procedure: Staff misconduct

A warning may be first issued at any level, however, subsequent warnings for repetition or similar misconduct would normally be issued at the next level.

Appendix F - Suspension

- 1 Where there appears to be gross misconduct or other urgent cause which might expose people or property to risk, a period of suspension with pay may be imposed while the case is being investigated.
- 2 Any suspension will be with full pay, and any period of suspension will be as short as possible. The member of staff will be told exactly why they are being suspended, and that they will be called in for a disciplinary hearing as soon as reasonably possible. Suspension will not be used as a sanction before the disciplinary hearing.
- 3 The Vice-Chancellor or, in the case of Professional staff, the Secretary and Registrar, may suspend from duty on full pay any employee for alleged gross misconduct or for other good and urgent cause. This authority may be delegated to a member of the Chief Executive Group (CEG). The suspension will be confirmed in writing subsequently by the Director of Human Resources or nominee.
- 4 The employee will be advised as to what contact with the University will be permitted.
- 5 The suspension will be for the shortest practicable time.
- 6 During the period of suspension, the employee may request in writing permission to attend the University, specifying their reasons for this. Such request will be subject to the approval of the Director of Human Resources and will not be unreasonably withheld.
- 7 Right of Appeal against suspension: Any employee who has been suspended for three weeks or more may appeal in writing to the Vice Chancellor against the suspension. There will be no right of appeal if the employee has had notification of a disciplinary hearing.

(Note for guidance:

The suspension against which an appeal is made will continue to operate pending the determination of the appeal.)

Appendix G - Definitions of Terms Used

“Misconduct”	matters connected with an employee’s behavior, inappropriate actions, deliberate wrongful acts or omissions, negligence or other such substantial reason.
“Friend”	is a person chosen by the employee to accompany them to a hearing and who is either a colleague employed by the University or an employee or official of a Trade Union. The Friend may present the employee’s case and confer with the employee but will not be permitted to answer direct questions for the employee.
“Line Manager”	is the person to whom a member of staff reports or is directly responsible.
“Recognised Trade Union”	is a trade union formally recognised by the University for the purposes of collective bargaining (i.e.: The University and College Unions (UCU) and UNISON).
“Senior Manager”	is the next level of Line Manager, or a CEG member
‘CEG’	Chief Executive Group.

Sharon Harrison-Barker
Secretary and Registrar
Signed: **14 January 2022**

Alternative format

If you need this document in an alternative format, please email us at governanceservices@herts.ac.uk or telephone us on +44 (0)1707 28 6006.