Disciplinary Policy Guidance – Chair of Disciplinary Hearing

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Action	Supporting information
Familiarise yourself with the Disciplinary Policy	The Disciplinary Policy must be read in conjunction with this guidance.
Confirm that you are **available** to be the Chair and that you have no **conflict of interest** in the case	You need to be available to chair the hearing, deal with the subsequent paperwork and potentially be available to attend an appeal. If you are scheduled to be away on leave or at events etc. over the next 1-6 weeks discuss with your HR Case Manager if you can manage the disciplinary process. This is to ensure that the policy timescales adhered to. Check that you do not have any conflicts of interest that would prevent you chairing the hearing and reaching a decision objectively. If you do have a conflict advise your HR Case Manager at the earliest opportunity. Check the Conflict of Interest Policy for guidance.
Familiarise yourself with the investigation report	You will be sent a copy of the Investigation report. You will need to send the report to the employee when you invite them to the hearing, so check if there are any data protection concerns. If you think there may be sensitive personal information in the report that should not be shared with the employee (e.g. relating to a witness or third party) speak to your HR Case Manager to agree if any content should be redacted.
Agree a **date and venue for the hearing**	You will be advised by the assigned HR Case Manager who will be supporting you at the hearing, including the note taker. One or two other managers will be appointed to the panel, depending on the nature of the case. Agree a date with other panel member/s, your HR Case Manager and note taker. The employee will need at least one calendar week's notice of the hearing. Agree a suitable venue where you won't be interrupted and noise is minimal. Ideally find somewhere where there is another room or waiting area close by where the employee can wait during the hearing adjournment.
Invite the Investigating Officer (IO) to the Hearing	Make sure you **invite the IO to the hearing**, giving at least one calendar week's notice.
Invite the employee to the disciplinary hearing and	You must **invite the employee in writing** giving at least one calendar week's notice and **include a copy of the investigation report.**

Send them a copy of the investigation report	Advise the employee that they can be accompanied by a **companion**, normally a TU rep or workplace colleague. A companion may also be someone to support the employee if they have particular needs e.g. if the employee has a disability or if English is not their first language. This companion may be in addition to a TU rep or workplace colleague. The employee must tell you in advance of the hearing if they are bringing a companion. The employee will advise you if they need an adjustment for the hearing e.g. if they need a hearing loop. You must organise any adjustments requested or seek advice from your HR Case Manager. You must ensure there is a note taker at the hearing. It can be helpful to meet the note taker in advance to give them any useful information e.g. it might help them to be familiar with names, job titles, acronyms, technical terminology etc. that are likely to be discussed. Alternatively provide the note taker with a written summary of the key details of the case e.g. names, job titles, terminology etc. You are not required to have an HR representative at the hearing but if you feel you need support contact your HR Case Manager.
Prepare for the Hearing	Find out from your HR Case Manager if the employee has any **live warnings** as this must be taken in to account if you issue a sanction. If the employee advises you that they do not wish to attend the hearing (Policy section 5.2) discuss with your HR Case Manager if this is appropriate. It should only be permitted in very straight forward cases and where the facts are not in dispute e.g. if the employee has made a data breach. You must never agree that the employee does not need to attend in cases of potential gross misconduct or if dismissal is a possible outcome. If the employee requests to **rearrange the hearing** so that they or their companion can attend you must consider their proposed new date and make an effort to agree to the request. Alternatively seek another date that all parties can attend as long as it will not cause an undue delay. If the companion cannot attend on a rescheduled date and no suitable alternative time can be found you should advise the employee to find someone else to act as their companion. If the **employee does not attend** without good reason liaise with your HR Case Manager about how to proceed. You are expected to rearrange a hearing at least once.

	If the employee has any additional information, they want you to be aware of they must submit it to you at least 3 working days prior to the hearing. If you receive any new information, make sure it is passed to the other members of the panel and your HR Case Manager if they will be attending the hearing. **Review the Investigating Officer's (IO's) report.** Think about what you want to find out at the hearing and **prepare any questions** you want to ask the IO or the employee. Arrange a **pre-meeting** with the other panel member/s to agree how the hearing will proceed and who will ask what questions. This can be on the day of/immediately before the hearing as long as you allow sufficient time.
The Hearing - Process	Make introductions If the employee has a companion with them, they can take notes, set out the employee's case and speak to the employee during the hearing. The companion should not answer questions on behalf of the employee. Ask everyone to **turn off any electronic devices** and remind them that the hearing **cannot be recorded** (unless it has been agreed as an adjustment for a disability). Explain the **schedule** of the hearing. The hearing will normally follow this structure: • The IO will summarise their investigation findings • The panel ask the IO questions • The employee responds and puts forward their point of view and can ask the IO questions about their report • The panel asks the employee questions • Chair checks if anyone has anything to add • The hearing is adjourned The employee should be told to wait in another area (with their companion) while the panel considers the case and reaches a conclusion. (Considerations for the adjournment are detailed in section below.) • The employee is called back to the hearing

	• The employee is advised of outcome and if a sanction has been issued, they must be told of their right of appeal. The employee is advised that the outcome will be confirmed in writing • Hearing closes • *If the outcome is immediate dismissal the employee must be accompanied to collect their belongings or agree how belongings will be passed to them. The employee must be accompanied out of the building and their pass, keys and any other appropriate items collected.* • *Ensure the employee's manager is informed at the earliest opportunity of the decision to dismiss the employee. Agree whether you or your HR Case Manager will advise them.*
Harassment Cases	Harassment can occur even if the employee did not intend to cause offense or upset. This is due to the definition of harassment, which is "unwanted conduct relating to one of the relevant protected characteristics which has the purpose **or** effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them". Please refer to the Staff Dignity and Respect Policy for further information. When hearing a disciplinary case, you might encounter situations where the employee claims no intention to cause harm, but the person who raised the complaint (the complainant) genuinely felt harassed by their behaviour. The Staff Dignity and Respect Policy employs a "reasonableness test" to determine whether it was reasonable for the conduct in question to affect the complainant in the way that it did. This means evaluating the specific circumstances to determine if the behaviour reasonably led to the reported effect. In such cases, you must consider: • **The complainant's perception of the incident.** This is the subjective experience of the person who complained about the behaviour. Awareness of the unwanted conduct is essential for harassment to have occurred. • **The other circumstances of the case.** This includes the overall context of the work environment and the relationships involved. Consideration can be given to the complainant's health, mental health, their previous experiences of harassment, and whether the employee holds a position of trust, power and authority over them. The race or cultural background of those involved may also be relevant. For example, a particular term may be offensive to people of one race because historically it has been used as a derogatory term in relation to that race,

	whereas people of other races may not generally understand it to be offensive. Finally, whether the employee was exercising their rights in relation to freedom of expression or academic freedom of expression may be relevant. • **Whether the impact of the conduct was reasonable under the circumstances.** This means an objective assessment can be made on whether it was reasonable for the conduct to have had the adverse effect. It can be helpful to question whether the behaviour complained about is standard practice or acceptable workplace culture (e.g., high fiving other employees, exchanging Christmas gifts, or holding a door open for someone). Assessing this could also include whether the behaviour is a one-off or part of a pattern, and the presence of any immediate or sincere apology and/or rectification.
The Hearing – Considerations for Adjournment and Outcomes	The possible **outcomes** of a hearing are: • **No disciplinary action** (although you can still recommend other remedies or actions e.g. training, mediation) • **Written warning** lasting one year • **Final written warning** lasting two years • **A sanction short of dismissal** – as an alternative to dismissal you can issue a Final written warning + another sanction e.g. demotion, loss of title, withholding a salary increment • **Dismissal** – dismissal would not apply to a first 'offence' unless the behaviour is deemed to be gross misconduct In deciding whether or not to dismiss consider how serious, harmful and damaging the misconduct has been. During the **adjournment** the panel must decide what sanction is appropriate based on the severity of the misconduct, the circumstances surrounding the misconduct, the impact of the misconduct, any current warnings the employee has etc. The panel should reach a decision collectively. You must take an appropriate amount of time to consider the information from the hearing. An **adjournment** should not be for an extended period and you should reach a decision as soon as practicably possible. It will be stressful for the employee waiting to know the outcome. If you need more time because there is a lot to consider or you need clarification on any issues e.g. further HR

	advice, you can advise the employee that you require more time to reach a decision and they will be notified of the outcome in writing and when this will be.
Agree the notes of the hearing	The note taker will send you a draft copy of the notes of the hearing, normally within two calendar days of the hearing. You may amend them if there are any details that have not been recorded accurately e.g. spellings, terminology. You cannot change the substance of what a person said during the hearing, including your own comments. **Agree who will be sending the notes to the employee**. If possible, you should send them with the letter confirming the outcome of the hearing. Alternatively agree with your HR Case Manager if they are to be sent separately.
Write to the employee confirming the outcome of the hearing	You must **write to the employee within one calendar week** of the hearing confirming the outcome. Use the template letter and send a copy to the employee's manager and your HR Case Manager.
If the employee raises a grievance during the process contact your HR Case Manager	You do not necessarily have to halt the disciplinary process if the employee raises a grievance but discuss with your HR Case Manager.
If the disciplinary hearing was a result of an investigation following another process e.g. grievance, student complaint contacts your HR Case Manager to agree process	If the hearing took place as a result of a complaint being made under a different process you must discuss with your HR Case Manager what **information can be shared with the complainant**. A complainant should not be told what disciplinary sanction has been issued to an employee but they may need to be told that the process has concluded and an employee has moved to another role or another location, for example.
Attend the Hearing if Applicable	If the employee appeals you will need to attend the appeal hearing. Make sure you have relevant documentation and notes with you. You will need to explain how the panel reached its decision about the outcome of the disciplinary hearing and why you decided to issue a particular sanction. The appeal panel and the employee will ask you questions. It is not a re-hearing of the case.

Be aware of Data protection and **Subject Access Request** requirements	Information relating to a disciplinary case should be held in line with the University's Retention Schedule. This includes all electronic correspondence as well as all letters relating to the process and outcomes. Remember that that an employee may make a subject access request to see data about their case which will include any emails between you and your HR Case Manager or any other person you correspond with about the case e.g. another panel member. Therefore, be prepared that any of your correspondence may be seen by the employee.

Guidance for setting up and hosting meetings and hearings remotely

If you plan to hold a meeting/hearing remotely please read this section in conjunction with other relevant sections of the procedure.

Action	Supporting information
Prepare for the meeting/hearing	Set up the meeting via **Microsoft (MS) Teams**. Information about hosting and joining MS Teams meetings is available here. If the employee does not have access to a PC or MS Teams contact your HR Case Manager to consider alternatives. Make sure you invite all the relevant parties including a note taker. Check if the employee has a **suitable environment** where they can attend the meeting/hearing in private. Be aware that they may normally work in a shared space e.g. if they live in a flat with others. If they don't have a suitable environment liaise with your HR Case Manager to see if there are any alternatives. E.g. could a space be found for them in a designated building on campus for the duration of the meeting (subject to appropriate H&S requirements)? Be aware that attendees may have particular needs in order to participate in the meeting/hearing via MS Teams e.g. if they have a hearing or visual impairment. The employee should let you know if they require any **reasonable adjustments** to take part. Discuss with your HR Case Manager if special arrangements need to be made. Please refer to the Reasonable Adjustments Policy for further information. Advise the employee in advance if you are likely to **deviate from the normal procedural format** e.g. if you will not be giving the outcome of the hearing on the day.
Pre- meeting	You should have a meeting with other panel members/your HR Case Manager prior to your meeting/hearing with the employee. If you hold the pre-meeting directly before the meeting/hearing with the employee, it is best to do this as a **separate meeting.** This ensures that you

	cannot be interrupted or cut short if the employee or companion 'arrive' earlier than expected. Alternatively use the **lobby room** function to allow the employee and companion to join the meeting/hearing when the panel is ready. Information about hosting MS Teams meetings, privacy guidance and lobby areas can be found here.
Establish familiarity with technology	It is possible that the employee may have limited experience of MS Teams meetings. At the start of the meeting/hearing establish how familiar they are with **technical functions**. If they are not familiar, walk them through functions such as how to mute their microphone, raise a hand etc.
Meeting etiquette	If you are chairing the meeting/hearing establish basic rules at the start. These should include: • Everyone should be on mute unless speaking • Raise a hand if need to make a point • The note taker should be off camera after introductions • Everyone else to keep cameras on unless there are connectivity issues • The meeting cannot be recorded either through MS Teams or other devices e.g. mobile phones • If an adjournment is required everyone will leave the meeting and return at an agreed time. Share a **running order/schedule** for the meeting/hearing so that everyone understands when it will be their turn to speak or answer questions. If the **chat function** is to be used, remind everyone that any comments will form part of the record of the meeting/hearing. (Note - this means these comments would be subject to FOI/SARs.)

Progress of meeting/hearing	You may have to **adapt** how the meeting/hearing progresses to take account of the remote circumstances. Agree with the employee at the start if you are likely to deviate from the normal procedural format. e.g. It might feel more appropriate not to adjourn for an unspecified time while you decide the outcome of the hearing and then call the employee back. If all parties are agreeable, you can confirm that the employee will be **notified in writing** within the timescale specified in the policy.

Letters and templates:

(the following template letters are available from your **HR Case Manager)**
5. Notice of disciplinary hearing
6. Outcome of disciplinary hearing – warning/final written warning
7. Outcome of disciplinary hearing – dismissal gross misconduct
8. Outcome of disciplinary hearing – no action
11. Letter issuing notes of meeting/hearing