



Disciplinary Procedure for Senior Post Holders

Policy Area: Governance

Policy Lead: Director of Governance

Approved By: Governance, Performance & Reputation Committee

Date of Approval: May 2024

Contents

1. Scope & purpose	2
2. General principles	2
3. Investigations	3
4. Suspension	4
5. Informal procedure	4
6. Formal procedure	5
7. Disciplinary action	6
8. Stage 1: First Written Warning	6
9. Stage 2: Final Written Warning	6
10. Stage 3: Dismissal	7
11. Gross misconduct / summary dismissal	7
12. Appeal	8

1. Scope & purpose

- 1.1. This procedure applies to the CEO and all senior post holders as defined in the Governing Board's Articles of Government. References to section numbers are to the numbered sections of this document.
- 1.2. Where the Director of Governance is also a member of staff at the institution, the Clerk is to be treated as a senior post holder. In such circumstances the Governing Board shall appoint an appropriate person to fulfil the tasks of the Director of Governance under these sections.
- 1.3. These rules and procedures will be reviewed regularly and applied in accordance with the Articles of Government of the Governing Board; taking into account developments in employment legislation and in accordance with the Advisory, Conciliation and Arbitration Services [\(ACAS\) Code of Practice on disciplinary and grievance procedures](#).
- 1.4. This procedure does not form part of any contract of employment or otherwise have contractual effect. The Governing Board reserves the right to make additions or alterations to this procedure from time to time and the senior post holders will be notified of any such additions or alterations.
- 1.5. The purpose of the procedure is:
 - 1.5.1. To help and encourage senior post holders to achieve and maintain acceptable standards of conduct and job performance.
 - 1.5.2. To ensure that fair, consistent and reasonable action is taken where acceptable standards of conduct or job performance are not maintained.
 - 1.5.3. To ensure consistent and fair treatment for senior post holders in relation to disciplinary action taken in response to unacceptable conduct and job performance.

2. General principles

- 2.1. Every effort will be made to avoid the use of disciplinary action where alternatives are appropriate. Where the matter is not resolved informally or is of a serious nature, the formal procedure will be implemented.
- 2.2. The Governing Board will ensure that its members are familiar with the provisions in this procedure.
- 2.3. A senior post-holder has the right to be accompanied by a representative of a trade union or fellow worker at formal disciplinary meetings, but not at any investigation meetings. The companion should be allowed to address the meeting to put and sum up the senior post-holder's case, respond on behalf of the senior post holder to any views expressed at the meeting and confer with the senior post holder during the meeting. The companion does not, however, have the right to answer questions on the senior post holder's behalf, address the meeting if the senior post holder does not wish it or prevent the Governing Board from explaining their case.
- 2.4. Any formal disciplinary matters should be dealt with without unreasonable delay. In the interest of ensuring that disciplinary matters are resolved as speedily as possible, time limits may be given for appropriate stages in this procedure but these are for guidance only. If it is not practicable to adhere to these time limits, they may be extended by the Governing Board. Due regard will be given to the personal circumstances of all parties involved in the procedure.
- 2.5. Where appropriate, the Governing Board should consider alternative means of resolving problems, for example with training, counselling or use of other more suitable Governing Board procedures, before implementing disciplinary action.
- 2.6. Informal action will be considered, where appropriate, to resolve problems before moving

- to the formal disciplinary procedure.
- 2.7. For formal action, the senior post holder will be advised of the nature of the complaint against him or her and will, following an investigation, be given the opportunity to state their case at a disciplinary meeting before any decision is made.
 - 2.8. Senior post holders will be provided with any written copies of evidence and relevant witness statements in advance of a formal disciplinary meeting.
 - 2.9. Normally, the formal disciplinary procedure will be followed in the order of the stages set out in Section 7 below. However, offences of a serious nature may be brought into the procedure at any stage, if any earlier stage would not be severe enough or appropriate to deal with that disciplinary offence. For example, there may be occasions when misconduct is considered not to be so serious as to justify dismissal, but serious enough to warrant only one written warning which will be both the first and final written warning.
 - 2.10. No senior post-holder will normally be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty may be summary dismissal without notice or payment in lieu of notice. Before imposing any disciplinary penalty, all relevant factors will be considered including the extent to which standards have been breached; the senior post-holder's general record, position and length of service and any special circumstances which might make it appropriate to adjust the severity of the penalty.
 - 2.11. A senior post-holder will have the right to appeal against any formal disciplinary action.
 - 2.12. Accurate and timely records will be kept of all meetings and correspondence.
 - 2.13. All reasonable steps will be taken to maintain confidentiality and written records of any disciplinary proceedings will be kept and maintained by the Governing Board in accordance with the [Data Protection Act 2018](#) and [General Data Protection Regulation](#), and in accordance with the Staff Privacy Notice and the GDPR Policy.
 - 2.14. The following matters will be deemed to be misconduct offences which will be investigated accordingly. A further list of any gross misconduct offences is included in Section 8 below:
 - Failure to adhere to working hours, e.g. persistent lateness
 - Unauthorised absence;
 - Unacceptable level of absence;
 - Failure to follow the Governing Board's procedures and policies (note that very serious failures may constitute gross misconduct, please see below);
 - Inappropriate dress or appearance which is below acceptable standards; and
 - Helping another employee (in any way) to commit a disciplinary offence.
 - 2.15. The above examples are not exhaustive or exclusive and offences of a similar nature will be dealt with under this procedure.

3. Investigations

- 3.1. No disciplinary action will be taken against a senior post holder until the matter has been fully investigated by an individual nominated by the Governing Board (the Investigating Officer), having regard to the senior post holder's response to allegations during any investigatory meeting.
- 3.2. An investigatory meeting is not a formal disciplinary hearing and as such, there is no right for the senior post holder to be accompanied by a trade union representative or a fellow worker at an investigatory meeting. Following an investigation, the Investigating Officer will report their findings to a Special Committee of the Board. If there is a case to answer a formal disciplinary hearing will be held in accordance with this procedure. If there to be no case to answer, this will be reported to the Governance, Performance and Reputation Committee.
- 3.3. The senior post holder will be informed as soon as possible that an investigation is to be

conducted and once the investigation has been concluded.

- 3.4. The Investigating Officer should be an appropriate individual. This could be the CEO (where the CEO is not the senior post holder in question), a Governor or an independent external investigator nominated by the Governing Board. The Chair of Committee, the Director of Governance and the Director of People may agree who the most appropriate Investigating Officer would be.
- 3.5. Depending on the circumstances of the allegations, it may not always be necessary to conduct an investigation meeting with the senior post holder.
- 3.6. If appropriate, the Governing Board may suspend a senior post holder in accordance with Section 4 below whilst the investigation is carried out. The decision to suspend is ultimately the responsibility of the Governing Board but may also be exercised by the Chair or Vice Chair.
- 3.7. An investigation carried out following a student complaint, staff complaint or grievance, or under any of the Governing Board's other procedures may form all or part of an investigation under this procedure, as appropriate.

4. Suspension

- 4.1. There may be circumstances during an investigation and the disciplinary process where suspension from duty pending the outcome of a formal disciplinary process may be appropriate. Examples of circumstances in which suspension may be appropriate, depending on the facts of the situation, include some gross misconduct cases; situations where there are risks to an employee's or the Governing Board's property; or where there are reasonable grounds for concern that evidence has been or may be tampered with, destroyed or witnesses pressurised.
- 4.2. The decision to suspend is ultimately the responsibility of the Governing Board but may also be exercised by the Chair of the Governing Board or the Vice Chair of the Governing Board.
- 4.3.
- 4.4. Suspension should only be imposed after careful consideration and it should be made clear to the senior post holder that it is not considered a disciplinary sanction.
- 4.5. A period of suspension pending a disciplinary process should be kept as brief as possible and will be kept under regular review.
- 4.6. A senior post holder who is suspended from duty shall, throughout the period of suspension, continue to be entitled to their full pay unless there is a provision in the contract to the contrary.

5. Informal procedure

- 5.1. If appropriate, before taking formal disciplinary action, reasonable effort will be made to resolve matters by informal discussions with the senior post holder. This will be dealt with either by the CEO or, if the CEO is the senior post holder concerned, by the Chair of the Governing Board, or in their absence the Vice Chair of the Governing Board.
- 5.2. The Governing Board recognises that cases of minor misconduct or performance issues are often best dealt with informally. Therefore, minor lapses from acceptable standards of conduct or performance may result in an informal, oral warning or reprimands, which may be noted on the senior post holder's HR file, but which will not be taken into account for further formal disciplinary processes.
- 5.3. If, despite informal discussions (or if informal discussions are not appropriate), the senior post holder's conduct or performance does not meet acceptable standards, the formal

procedure, described below, should be used.

6. Formal procedure

- 6.1. If, upon completion of an investigation by the Investigating Officer, there are reasonable grounds to believe that a senior post holder has committed an act of misconduct, or that they not meeting acceptable performance standards, they will be invited to attend a disciplinary meeting. The senior post holder will be advised in writing of the nature of the alleged misconduct or performance issue, the possible consequences of the meeting and any relevant papers (such as written evidence and witness statements) will be provided in advance of the disciplinary meeting to enable the senior post holder to prepare for the meeting. The Governing Board will write to the senior post holder with all the above information at least 2 working days before the meeting. The written notification should also detail the date and venue of the meeting and the senior post holder's right to be accompanied.
- 6.2. If the senior post holder wishes to call relevant witnesses to the meeting, they should advise the Governing Board of this in advance of the meeting. The senior post holder will be informed prior to the meeting if the Governing Board intends to call relevant witnesses.
- 6.3. Before the meeting takes place, the senior post holder should notify the Governing Board if they are to be accompanied and provide the name and contact details of the companion.
- 6.4. At any disciplinary meeting, the senior post holder will be given an opportunity to state their case and will have the right to be accompanied by a trade union representative or a fellow worker of their choice, subject to a reasonable request being made. However, if the chosen companion of the senior post holder is unavailable on the date of the disciplinary meeting, the senior post holder may delay the date of that meeting once by up to five working days to enable the chosen companion to attend. The location and timing of any alternative meeting should be convenient to both the Governing Board and the senior post holder but should not unduly delay the process.
- 6.5. Representatives of the Governing Board, the senior post holder and the senior post holder's companion should make every effort to attend the meeting. If the senior post holder fails persistently, without good reason, to attend a disciplinary meeting which the Governing Board has instructed him or her to attend, the meeting will take place and a decision will be made in his or her absence. In other circumstances where it seems likely that for a lengthy period, the senior post holder will be unable to attend a disciplinary meeting, the Governing Board reserves the right to proceed with that meeting, affording the senior post holder the right to submit written representations.
- 6.6. The disciplinary meeting will be conducted by a newly formed Special Committee of the Governing Board, consisting of three Governors (the Special Committee). This Special Committee will not include the staff or student Governor, nor Governors who were involved in receiving the Investigation Officer's initial report.
- 6.7. The disciplinary meeting will include a Chair who will have overall responsibility in respect of any decisions made following the disciplinary meeting.
- 6.8. Although the individual who conducted the investigation shall not be a member of the disciplinary meeting, they may attend in order to present the findings of the investigation and any supporting material.
- 6.9. The outcome of the disciplinary meeting will be confirmed in writing to the senior post holder. Where disciplinary action is the outcome, the senior post holder will be informed of the nature of the action and the right to appeal under this procedure.

7. Disciplinary action

- 7.1. Normally the stages described in the following sections will be cumulative; however, the Governing Board reserves the right to implement the procedure at Stage 2 or 3 if the senior post holder's alleged misconduct is sufficiently serious to warrant this. This right will also apply in circumstances where a senior post holder commits a further act of alleged misconduct, which is sufficiently serious, whilst a formal warning is in place.

8. Stage 1: First Written Warning

- 8.1. A first written warning will usually be given to the senior post holder by the disciplinary panel if the senior post holder commits a serious act of misconduct or the standard of their work performance is seriously inadequate.
- 8.2. In misconduct cases: this written warning will give details of the senior post holder's misconduct, the improvement required and the time limit within which such improvement must be achieved. The warning will state that, if the senior post holder commits a further offence of misconduct during the period specified in the warning, action under Stage 3 will be considered. The written warning will also advise the senior post holder of the right of appeal.
- 8.3. In performance cases: this written warning will give details of the senior post holder's unsatisfactory work performance, the improvement required and the time limit within which such improvement must be achieved. The written warning will advise the senior post-holder as to what steps they should take to improve and will state that, unless such improvement is achieved within the period specified in the warning, action under Stage 3 will be considered. The written warning will also advise the senior post holder of the right of appeal.
- 8.4. A copy of the written warning will be placed on the senior post holder's HR file. The warning will be spent and will usually be disregarded for disciplinary purposes after 12 months, subject to the senior post holder's conduct or work performance having been satisfactory throughout that period. In exceptional circumstances the disciplinary panel will be able to extend the timescale to 18 months.

9. Stage 2: Final Written Warning

- 9.1. A final written warning will normally be given to the senior post holder if:
 - 9.1.1. The senior post holder fails to comply with a first written warning;
 - 9.1.2. Despite having been given a first written warning as the result of misconduct or unsatisfactory work performance, the senior post holder commits a further offence of misconduct, or their work performance continues to be unsatisfactory; or
 - 9.1.3. The senior post holder's misconduct or unsatisfactory work performance, although not considered to be serious enough to justify summary dismissal, is sufficiently serious to warrant a final written warning.
- 9.2. In misconduct cases: the final written warning will give details of the senior post holder's misconduct, the improvement required and the time limit within which such improvement must be achieved. The warning will state that if the senior post holder commits a further offence of misconduct during the time limit specified in the warning their employment may be terminated. The final written warning will also advise the senior post holder of the right of appeal.
- 9.3. In performance cases: the final written warning will give details of the senior post holder's unsatisfactory work performance, the improvement required and the time limit within which such improvement must be achieved. The warning will advise the senior post holder

as to what steps they should take to improve and state that, if such improvement is not achieved within the period specified in the warning, his or her employment may be terminated. The final written warning will also advise the senior post-holder of the right of appeal.

- 9.4. A copy of the written warning will be placed on the senior post holder's HR file. The warning will be spent and will usually be disregarded for disciplinary purposes after 18 months, subject to the senior post holder's conduct or work performance having been satisfactory throughout that period. In exceptional circumstances the disciplinary panel will be able to extend the timescale to 24 months.

10. Stage 3: Dismissal

- 10.1. The Special Committee may, following a disciplinary meeting, give notice of dismissal to the senior post-holder if:
- 10.1.1. The senior post-holder fails to comply with a final written warning given under Stage 3; or
- 10.1.2. Despite having been given a final written warning as the result of either misconduct or unsatisfactory work performance, the senior post holder commits a further offence of misconduct or their work performance continues to be unsatisfactory.
- 10.2. The decision to dismiss will be communicated in writing to the senior post holder and will specify the reasons for dismissal and the date on which the employment will terminate. The communication must also notify the senior post holder of their right of appeal against the decision.

11. Gross misconduct / summary dismissal

- 11.1. The Governing Board may summarily dismiss the senior post holder without notice or pay in lieu of notice if, on completion of an investigation and a disciplinary meeting, it is established that the senior post holder has been guilty of gross misconduct.
- 11.2. In the event of summary dismissal the Governing Board shall, without unreasonable delay, provide the dismissed senior post holder with a written statement of the gross misconduct which has led to the dismissal and the reasons why the Governing Board considers that the senior post holder was guilty of such misconduct and notifying that senior post holder of the right to appeal against the dismissal.
- 11.3. Any steps which the Governing Board can take under sections 11.1 and 11.2 can also be taken by a special committee of the Governing Board to whom the responsibility has been delegated by the Governing Board, and the provisions of sections 11.1 and 11.2 shall be read accordingly.
- 11.4. The following offences are examples of offences which are normally regarded as grounds for summary dismissal:
- Theft or unauthorised possession of any property or facilities belonging to the Governing Board, or to any employee or student
 - Serious damage deliberately sustained to Governing Board property
 - Deliberate falsification of Governing Board registers, reports, accounts, expense claims, self-certification forms or other documents
 - Bribery or corruption
 - Deliberate refusal to carry out duties or reasonable instructions or to comply with Governing Board rules
 - Serious acts of insubordination
 - Serious negligence/incompetence which causes unacceptable loss, damage or injury

- Serious incapability and/or misconduct as a result of being intoxicated by reason of alcohol or illegal drugs
 - Violent, dangerous or intimidatory conduct
 - Bullying
 - Violation of the Governing Board's rules and procedures concerning health and safety at work
 - Unlawful discrimination or harassment
 - A criminal offence, which may (whether it is committed during or outside the senior post holder's hours of work for the Governing Board) adversely affect the Governing Board's reputation, the senior post holder's suitability for the type of work they are employed by the Governing Board to perform or their acceptability to other employees or to students
 - Deliberately accessing internet sites containing pornographic, offensive or obscene material
 - Serious concerns in respect of safeguarding
 - Serious breaches of the Governing Board's policies and procedures
- 11.5. The above examples are not exhaustive or exclusive and offences of a similar nature will be dealt with under this procedure.

12. Appeal

- 12.1. A senior post holder who wishes to appeal against a disciplinary decision must do so within 5 working days of the date of the decision. To do so, the senior post holder should inform the Director of Governance in writing, stating the grounds for appeal.
- 12.2. The appeal will be heard by an Appeal Committee of the Governing Board. In so far as is reasonably practicable, the committee will not include any member of the Governing Board who has been involved in the disciplinary process in question so far. The committee shall not include the CEO, staff members or student members of the Governing Board.
- 12.3. The appeal meeting will be held as soon as reasonably practicable after the notice to appeal has been received. The senior post holder will be given at least two days' notice of the meeting date to allow them to prepare for the meeting.
- 12.4. At the appeal meeting, the senior post holder will be given the opportunity to state their case and has the right to be accompanied by a representative of a trade union or fellow worker.
- 12.5. If the chosen companion of the senior post holder is unavailable on the date of the initial meeting, the senior post holder may delay the date of that meeting once by up to five working days to enable the chosen companion to attend. The location and timing of any alternative meeting should be convenient to both the Governing Board and the senior post holder but should not unduly delay the process.
- 12.6. At the appeal, the disciplinary penalty imposed will be reviewed, but it cannot be increased. The appeal decision will be notified to the senior post holder in writing without unreasonable delay following the appeal meeting. The appeal decision is final.