



Queen Margaret University
EDINBURGH

Disciplinary Procedure

Policy Summary:	The Disciplinary Procedure provides a framework within which QMU can maintain satisfactory standards of conduct.
Policy Owner:	Human Resources
Approved By:	Executive Board December 2016
Consultation Completed:	Trade Unions May 2017
Equality Impact Assessed:	27 th September 2011
Date of Issue:	April 2011 (updated June 2017)
Review Period:	Annual or as required by legislation

Contents	Page
1.0 Principles	3
2.0 Confidentiality	3
3.0 Process	4
4.0 The Informal Approach	5
5.0 Investigations	5
6.0 Disciplinary Hearings	6
7.0 Right to be Accompanied	7
8.0 Disciplinary Sanctions	7
9.0 Suspension	8
10.0 Communicating the Decision	9
11.0 Appeals	10
12.0 Criminal Convictions	10

Disciplinary Procedure

1.0 Principles

The procedure applies to all employees regardless of length of service. This disciplinary procedure is not part of your contractual terms of employment, except to the extent that it imposes obligations on you.

The procedure does not apply to agency workers or self employed contractors. It does not apply to dismissals due to redundancy or the non-renewal of a fixed term contract on its expiry.

The purpose of the disciplinary procedure is to encourage all employees to achieve and maintain appropriate standards of conduct and performance and to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary. The application of disciplinary action is intended to be corrective and not punitive. Following the procedures outlined below will help to ensure that the University behaves fairly towards all of its employees in investigating and dealing with alleged instances of unacceptable conduct, performance or capability.

The University reserves the right to depart from the precise requirements of its disciplinary procedure specified below where it is expedient or reasonable to do so.

The disciplinary procedure may begin at any stage (including dismissal) depending on the circumstances.

The University expects all employees to adhere to appropriate standards of conduct and performance. The following is a list of examples of conduct and performance which are not acceptable and which will result in disciplinary action being taken against an employee. This list is not exhaustive. If you are in doubt as to your responsibilities or the standards of conduct expected you should speak to your Manager or the HR department ;

- poor performance;
- sub-standard work;
- poor time-keeping;
- unauthorised absence;
- unpresentable appearance;
- negligence;
- failure to carry out a reasonable instruction;
- inappropriate or irresponsible behaviour towards an University staff member or student, or external contacts, key stakeholders and the general public;
- misusing, damaging or losing University property;
- breach of University rules, policies or procedures , or
- breach of your terms and conditions of employment; and
- any action that might damage the University's reputation

2.0 Confidentiality

Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or a disciplinary matter.

3.0 Process

Each step under the disciplinary procedure will be taken without unreasonable delay. The timing and location of meetings will be reasonable.

No disciplinary action will be taken until the matter has been investigated. This may involve a fact-finding meeting with you before your disciplinary hearing. Relevant witnesses may be interviewed. This includes investigations carried out under the Grievance procedure.

The investigation will be based on the complaint raised and evidence gathered will inform the allegations should the matter be referred to a disciplinary hearing.

At each stage of the formal disciplinary procedure you will be told in writing of the nature of the allegations against you and the possible consequences and be provided with supporting evidence. You will be given a reasonable opportunity to consider this information and prepare your case prior to the disciplinary hearing.

You will be invited to attend a disciplinary hearing and normally will be given at least five working days notice. At the hearing, the evidence against you will be reviewed and you will be given an opportunity to respond to the allegations against you. You will be told of the expected standards of performance or conduct and provided with details as to how you have failed to meet these standards.

The disciplinary hearing may be adjourned if the University needs to carry out any further investigation. You will be given a reasonable opportunity to consider any new information prior to the reconvened hearing.

HR will notify you in writing of the panel decision and the reasons for it within five working days of the hearing. If the decision is to issue a warning you will be told of the timescales within which improvement is to be achieved and the likely consequences if there is no improvement. You will be informed of your right to appeal against the decision.

You must take all reasonable steps to attend the hearing. Failure to attend a hearing without good reason may be treated as misconduct itself. If you cannot attend at the time specified you should inform the University immediately and alternative arrangements will be made. If you are persistently unable or unwilling to attend a disciplinary hearing without good cause the University may make a decision on the evidence available. The reasons for not being able to attend will be considered carefully before the University makes a decision.

You may request that you be accompanied at any disciplinary or appeal hearing by either a work colleague or a trade union representative. Your request must be reasonable. So, for example, it would not be reasonable to request the attendance of a colleague who may have a conflict of interest. Your companion may address the hearing by explaining and summing up your case and responding to any views expressed at the hearing. He or she may confer with you during the hearing but may not answer questions on your behalf.

It is your responsibility to ensure that your chosen companion is willing and available to accompany you to the hearing. If your chosen companion is unavailable on the proposed date of the hearing, you may suggest a reasonable alternative date as long as it is not more than five working days after the original date.

An HR Partner will be present at the hearing, together with a note taker (usually also form HR) to keep a record of what is discussed and any outcomes agreed at the hearing. A copy will be sent to you.

Although the procedure has four stages, the University may omit one or more stages depending on the nature of the alleged misconduct or poor performance.

If the nature of the misconduct or poor performance justifies it, the University may impose a longer time limit for a formal verbal warning, written warning or final written warning than the time limits specified at stages 1 to 3 of the procedure. This may apply to, but is not limited to, especially serious incidents (and in particular where the penalty is less than the University might have imposed) or where the misconduct or poor performance follows an earlier similar act of misconduct or incident of poor performance.

You will not be dismissed for a first incident of misconduct or poor performance unless your behaviour amounts to gross misconduct or gross negligence. In these circumstances the University may dismiss you with immediate effect and without notice or payment in lieu of notice.

If the matter is complex, if it requires detailed or wide-ranging investigation, or if the relevant personnel are unavailable, it may not be possible to meet the timescales specified in the procedure. In these circumstances you will be informed of the reason(s) for any delay, and the revised timetable.

4.0 The informal Approach

It is anticipated that immediate managers will deal informally with cases of minor misconduct or poor performance. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future disciplinary hearings. In some cases, an informal verbal warning may be given which will not form part of your disciplinary records.

If informal intervention does not result in any improvement in performance to acceptable standards, they will write to inform you that formal steps will be taken under this procedure. Formal disciplinary action against an accredited trade union representative will only be taken after discussing the circumstances of the case with a full-time officer of the trade union concerned.

Before using the disciplinary procedures because behaviour or performance gives rise for concern, managers should consider the circumstances and may choose instead to refer to other procedures including (but not limited to), Management of Performance (including PER), Sickness Absence and University Governance and Financial procedures. (Managers should always seek advice from Human Resources at all stages of the procedure and before taking any action, including suspension).

All cases of disciplinary action under these procedures will be recorded and placed in the University's records.

If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with your manager or a member of Human Resources as soon as possible.

The following steps will be taken, as appropriate, in all cases of disciplinary action:-

5.0 Investigations

No disciplinary action will be taken before a proper investigation has been undertaken by the University relating to the circumstances and substance of the complaint.

The purpose of the investigation is for the University to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case.

Your line manager or immediate supervisor is usually the first to know about the possible need for disciplinary action. They will consult with Human Resources to determine whether further investigation is required. If it is decided that further investigation is required, an Investigating Officer will be appointed by HR from a list of staff members who have been trained as investigators.

You must co-operate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

You may be accompanied at all stages of the process by a work colleague or trade union representative (including full time officials).

The Investigating Officer will conduct a full and thorough investigation as speedily as possible and document the results. The investigation may involve interviewing and taking statements from the employee and any witnesses and/or reviewing relevant documents. The investigation will seek to:-

- establish the nature and circumstances of the alleged offence or problem
- assess whether this justifies suspending the disciplinary procedure and applying another more appropriate policy, including (but not limited to), Management of Performance (including PER), Sickness Absence and University Governance and Financial procedures. The disciplinary procedure can start again at any time as appropriate.
- allow you to give your version of events to the investigating officer.
- take into account any personal or mitigating factors that may come to light during the investigation.

After completing all disciplinary or grievance investigations the investigating officer should provide the Manager and the next most senior Manager with the results of the investigation to enable the Manager and the senior Manager to decide:-

- whether there are grounds for formal disciplinary action and to refer the matter to a disciplinary hearing for consideration
- whether it would be more appropriate to use other related procedures
- that no action is required

6.0 Disciplinary Hearings

Following any investigation, if the University considers there are grounds for disciplinary action, you will be required to attend a disciplinary hearing.

A Disciplinary Panel of three will be appointed by HR to hear the disciplinary proceedings. All panel members will be fully trained in conducting disciplinary hearings. The panel will be asked to appoint a spokesperson who will report the panel's decision to HR.

You will be given details of the complaint against you in a written statement, normally at least five working days before any such disciplinary hearing.

The written statement will set out

- the allegations against you
- the basis of the allegations;
- what the likely range of outcomes will be if the University decides after the hearing that the allegations are true/founded;
- a summary of relevant information gathered during the investigation together with any supporting documentation or other evidence that will be relied upon by the University at any disciplinary hearing;.
- A copy of any relevant witness statements, except where a witness's identity is to be kept confidential in which case we will give you as much information as possible while maintaining confidentiality;
- The date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable but you will be given a reasonable amount of time to prepare your case based on the information we have given you.
- You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, there may be exceptional circumstances where a witnesses identity is not revealed, for example in the case of Whistleblowing.
- We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

At any disciplinary hearing you will be given a full opportunity to state your case and to respond to the allegations.

7.0 Right to be Accompanied

You may be accompanied by a work colleague or by a trade union representative (including full time officials). You must tell Human Resources who your chosen companion is, in good time before the hearing.

If your choice of companion is unreasonable, we may ask you to choose someone else, for example if in our opinion your companion may have a conflict of interest or may prejudice the hearing.

Your representative will be allowed to address the hearing to put and sum up your case, respond on your behalf to any views expressed at the meeting and confer with you during the hearing. However your representative cannot answer questions on your behalf, address the hearing (if you do not want them to) or prevent the investigating officer from explaining the facts of the case. You have a duty to take all reasonable steps to attend the hearing. If you or your companion cannot attend the hearing, you should inform us immediately and we will arrange an alternative time.

Failure to attend the hearing without good reason may be treated as misconduct in itself. Where you are persistently unable or unwilling to attend a disciplinary meeting the matter may be dealt with in your absence and a decision based on the evidence available.

At the disciplinary hearing, we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own.

You may also ask relevant witnesses to appear at the hearing provided you have given the University sufficient advance warning to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. However, you will not normally be permitted to cross examine witnesses unless, in exceptional circumstances, we decide that a fair hearing could not be held otherwise.

8.0 Disciplinary Sanctions

Level 1 Warning

You may be given a level 1 warning for a minor act of misconduct or for a minor instance of unsatisfactory performance.

- The warning will be confirmed in writing, setting out the nature of the misconduct or performance issue, the change in behaviour required and the likely consequences of further misconduct or a failure to improve performance.
- A note of the level 1 warning will be kept on your personnel file. After six months the warning will lapse, subject to satisfactory conduct or performance, and the warning will be removed from your file.

Level 2 Warning

- If your poor performance or misconduct is more serious, if you have not made the improvements required under level 1, or if there is a repetition of any misconduct or poor performance, whether related or unrelated, you may be given a formal written warning.
- The warning will be confirmed in writing, setting out the nature of the misconduct or performance issue, the change in behaviour required and the likely consequences of further misconduct or a failure to improve performance.
- A record of the level 2 warning will be kept on your personnel file. After twelve months the warning will lapse, subject to satisfactory conduct or performance, and the warning will be removed from your file.

Level 3 Warning

- If your misconduct or poor performance is sufficiently serious, if you have not made the improvements required under level 2, or if there is a repetition of misconduct or poor performance, whether related or unrelated, you may be given a final written warning.
- The warning will be confirmed in writing, setting out the nature of the misconduct or performance issue, the change in behaviour required and the likely consequences of further misconduct or a failure to improve performance.
- A record of the level 3 warning will then be kept on your personnel file. After eighteen months the warning will lapse, subject to satisfactory conduct or performance, and the warning will be removed from your file.

Level 4 - Dismissal

- If your misconduct or poor performance is sufficiently serious, if you have not made the improvements required under level 3, or if there is a repetition of previous serious misconduct or poor performance, whether related or unrelated, you may be dismissed. In appropriate circumstances the University may apply another sanction such as disciplinary suspension (without pay) or demotion
- In cases of gross misconduct, the dismissal will normally be without notice or payment in lieu of notice. In cases not involving gross misconduct you will be given your full contractual notice period or payment in lieu of notice.

9.0 Suspension

Suspension is generally only appropriate where your continuing at work would not be in the interests of the University, or where the University believes that you may cause injury to yourself, students, other members of staff or the general public. It may also be appropriate where your presence could prejudice the investigation. Prior to suspension, alternative courses of action may be considered, such as a temporary transfer to other duties or another place of work.

If you are suspended, your contract of employment will be deemed to continue together with all your rights under your contract including payment of salary, but during the period of suspension you will not be entitled to access any of the University's premises, except at the prior request or, with the prior consent, of the University and subject to such conditions as the University may impose. Where an employee who is currently suspended on full pay submits a medical certificate for sickness absence, the sickness absence should be recorded but not accumulated to the sickness absence record during the period of suspension.

The decision to suspend you will be notified to you by your immediate manager and confirmed in writing.

Suspension should be for as brief a period as possible, be kept under review and it must be made clear that suspension is not considered a disciplinary action. In the case of weekend or evening duty, the member of staff in charge of the department (at the time of the need to suspend you) has the authority to suspend. As soon as practicable, they should confirm their decision to suspend you to Human Resources. They should send a letter to your home address by recorded delivery stating:-

- the reason for your suspension
- the date and time from when the suspension will operate
- an indication of the likely length of the suspension

10.0 Communicating the decision

Following the disciplinary hearing, a decision will be taken as to what, if any, disciplinary action is to be taken. The panel will complete the Disciplinary Panel Report Form and send to Human Resources. You will be notified of the outcome in writing by Human Resources normally within 5 working days of the hearing. The written confirmation will state (where relevant):-

- the nature of the disciplinary action decided upon
- the stage of the disciplinary procedure used
- the grounds and reasons for the decision
- reference to any current previous warnings taken into account
- actions for improvements and timescales
- the likely implications and consequences of further offences
- the length of time for which the action will remain current
- details of your right of appeal and access to the appeals procedure
- in cases of dismissal only, the effective date of termination of your contract, whether dismissal is with or without notice and your notice entitlement if your dismissal is with notice.

Two copies of this letter will be sent to your home address by registered post. You should sign one copy and return it to your manager. Your representative will receive a copy of the letter. The disciplining manager will send a copy of your letter to Human Resources who will put it in your personal file.

11.0 Appeals

If you are not satisfied with a disciplinary decision, you may appeal in writing, stating your full grounds of appeal within five working days to the appropriate member of the Senior Management Team (SMT).

Wherever possible the appeal will be heard by someone senior to the persons who conducted the disciplinary hearing.

If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light, we will provide you with a summary including where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the appeal hearing.

You will be invited to attend an appeal hearing within ten working days of receiving your written request and normally will be given at least three working days notice. You may be accompanied by a work colleague or by a trade union representative (including full time officials).

The appeal hearing will be a review of the original decision taking into account any new information.

You will be informed in writing of the outcome of the appeal within five working days of the date of the appeal hearing. The decision at the appeal hearing is final and there is no further right of appeal.

Following the appeal hearing, the University may:

- (a) confirm the original decision; or
- (b) revoke the original decision; or

(c) substitute a different penalty

You shall be notified of the decision in writing which will be final and binding within 5 working days of the appeal. There will be no further right of appeal.

12.0 Criminal Convictions

Where your conduct is the subject of criminal investigation, charge or conviction, we will investigate the facts before deciding whether to take formal disciplinary action.

We will not usually wait for the outcome of any prosecution before deciding what action, if any to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.

If you are convicted of a criminal offence this is not normally in itself reason for the University to take disciplinary action. However consideration will need to be taken of the effect of the charge or conviction has on your suitability for the job that you do and your relationship with the University, work colleagues and students. In such cases advice should be sought from Human Resources.

Human Resources

2017