



University of Essex Campus Services Limited

# **Disciplinary Procedure**

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## **Introduction**

All UECS staff are expected to achieve and maintain high standards of professional behaviour, conduct and attendance. The aim of the procedure is to restore a satisfactory standard where these have not been maintained.

When disciplinary action is deemed necessary, it should be applied consistently and fairly in every case, with proper and proportionate warning.

This procedure will apply to all communications which directly or indirectly represent UECS and / or the University, including social media and email.

Although the usual disciplinary standards must apply to trade union representatives, no formal disciplinary sanction will be applied in respect of a member of staff who is an accredited Trade Union representative until the circumstances of the case have been discussed with the local senior representative of the Union concerned or a full-time official.

UECS will endeavour to deal with matters under this procedure promptly and without undue delay and expects the member of staff concerned to co-operate to achieve that aim.

No employee will be dismissed for a first conduct breach except in the case of gross misconduct.

Further [guidance for managers](#) is available. This guidance has been produced by the University and the references to Ordinance 41 within the guidance do not apply to UECS employees.

Capability issues, where a member of staff is unable to perform the duties of their post to the standard required, are addressed through the UECS [Capability Procedure](#).

## **Probationary Period**

Should disciplinary action become necessary during an employee's probationary period, the informal verbal warning and dismissal stages of this procedure will be used, and the employee will have a right of appeal if dismissed.

The first formal warning and final formal warning stages will not apply to disciplinary action during the probationary period.

## Short Term Contracts

Should disciplinary action become necessary during an employee's short term contract period, the informal verbal warning and dismissal stages of this procedure will be used, and the employee will have a right of appeal if dismissed.

The first formal warning and final formal warning stages will not apply to disciplinary action for employees on short term contracts.

### Summary of stages in the disciplinary procedure

Stage	Reason	Action	Authority
1	Minor Misconduct	Informal discussion followed by verbal warning	Line manager or service manager
2	Repeated minor misconduct following verbal warning or more serious misconduct	Formal meeting followed by first written warning	Service manager or Deputy Head of Service
3	Repeated misconduct since first written warning or more serious misconduct	Formal meeting followed by final written warning	Head of Service
4	Repeated misconduct since final written warning (dismissal with notice) or gross misconduct (summary dismissal without notice)	Formal meeting followed by dismissal	UECS Director

Note: all stages must be followed consecutively beginning with informal action.

## Section 1: Informal Stage

### 1.1 Stage 1 – Informal verbal warning

Where there have been minor breaches of discipline such as lateness or lack of attention to instructions or procedures, the manager will discuss the matter informally with the employee.

Appropriate action at this stage may include support, advice, guidance or training.

Although this is an informal discussion and not part of the formal process, it is important that the individual is given a clear indication of the breach and the next steps.

The purpose of this discussion is:

- To set the standard – to bring to the attention of the employee how they are failing to meet the required standard and of the complaint(s) against them.
- To seek an explanation – to provide the employee with an opportunity to explain why they are not meeting the standard and to discuss the acceptability of the explanation.
- To require improvement – to tell the employee what they are expected to do to bring about improvements in conduct or behaviour, outline any management action and support and give a time limit within which the employee can reasonably be expected to modify or change their behaviour. Improvement in some conduct issues may reasonably be expected to occur immediately.
- To warn of the consequences – to warn the employee about the consequences of failure to improve, to meet and sustain the standard of behaviour, attendance or conduct required.

Should this discussion not improve the situation and further breaches occur or standards remain low, it will be appropriate for the manager to issue the employee with a verbal warning that formal disciplinary action may follow if no improvement occurs.

This should take place as soon as it is clear that the required improvements are not being made.

The warning will be active for 12 months from the date of the warning. Once expired, the warning will remain on the personal file as part of the employee's overall record of employment.

The manager will keep written notes of the informal discussion and verbal warning and any support that has been provided. The written notes will be provided to the employee as a true record of the discussion that has taken place.

Written notes can either be sent by email or a hard copy signed by both parties that is then scanned and saved.

## Section 2: Formal Action

### 2.1 Authority to take formal action

A first written warning may be given by the service manager or deputy Head of Service in consultation with the Senior Employee Relations Adviser.

A final written warning may be given by the Head of Service in consultation with the Senior Employee Relations Adviser.

Stage 4 hearings, including dismissal, may be led by a UECS Director in consultation with the Senior Employee Relations Adviser.

### 2.2 Suspension

An employee may be suspended on normal pay during an investigation or prior to a disciplinary hearing when the alleged behaviour constitutes gross misconduct or if there is a significant risk from the employee being on site.

Suspension may also be necessary where the presence of the employee may hinder the investigation. Suspension from duty is not a pre-judgement of guilt and is not a disciplinary penalty.

The decision to suspend can only be taken (and lifted) by the Director of Campus Services, following consultation with People and Culture.

The reasons for the suspension must be stated clearly to the employee in writing.

The period of suspension will be as brief as possible and must be kept under review.

Whilst suspended, the employee:

- must not contact fellow workers, visit their place of work or access work facilities including email and databases without first obtaining authority from their manager.
- must not contact fellow workers other than where absolutely necessary and in the strictest confidence, for example, as part of the support provided by the employee's union representative.
- must not visit their place of work or access work facilities including email and databases without first obtaining authority from the manager.

- Such authority would be granted (subject to any conditions considered appropriate) to enable the member of staff to prepare their response.
- Normally, access to networks and systems will be withdrawn for the period of the suspension.

In addition, the employee:

- retains the right to contact their Trade Union representative and to visit their place of work for this purpose having first obtained permission from their manager.
- will be provided with a named contact for any queries.
- will be required to attend meetings and must ensure availability. Attendance at such meetings on site is deemed to be approved by their line manager.

## **2.3 Investigation**

Where there are grounds for considering disciplinary action against a member of staff, it is essential to ensure that there is clear supporting evidence.

Where the evidence is not clear or the case is complex, it may be necessary to undertake a formal investigation. The purpose of the investigation is to gather evidence and to enable a decision to be taken on whether the matter should proceed to a formal disciplinary hearing.

Investigations must be undertaken promptly, especially if the employee under investigation has been suspended.

The investigation should be undertaken by an Investigating Officer appointed by a UECS Director in conjunction with the Senior Employee Relations Adviser.

The Investigating Officer should be someone more senior than the individual being investigated, but not their line manager. The Investigating Officer may be from the same service, but not directly working with the individual concerned.

- If appropriate, as part of the investigation, the member of staff will be interviewed. This is not a disciplinary hearing but will be for the purpose of investigating the matter before a decision is taken as to whether a disciplinary hearing is warranted.
- If there are witnesses to an incident, or a person makes an allegation against someone else, these witnesses / complainants will be

interviewed, and notes of the interviews will be produced and shared with the witness / complainant.

- Only in exceptional circumstances where there is, for example, a genuine concern for personal safety, will statements be anonymised.
- The Investigating Officer and any managers who have been interviewed as part of the investigation would not usually take part in any subsequent disciplinary hearing except to give evidence.
- The employee who is the subject of the investigation may also provide documentary evidence to support their case or identify witnesses to be interviewed as part of the investigation.

When the investigation is concluded, the Investigating Officer should present their findings to the Head of Service to enable them to decide:

- whether there is no case to answer and therefore no action is necessary;  
or
- whether the matter should be dealt with informally outside the formal disciplinary procedure; or
- whether there is a case to answer and therefore it is necessary to consider the matter under the formal disciplinary procedure.

## Section 3: Formal Stages

### 3.1 Stage 2 – First written warning

Where informal action has failed to bring about the necessary change in behaviour, or where the breach is more serious, it may be appropriate to take formal disciplinary action.

The purpose of the formal warning is to advise the employee that their conduct is a matter of concern meriting a reprimand and that any continued breach of discipline or failure to adhere to standards will result in further disciplinary action.

When a formal warning is contemplated, the service manager or deputy Head of Service will discuss the issue with a Senior Employee Relations Adviser and arrange a hearing, giving the employee written notice of not less than 7 calendar days.

The notice will include:

- The date, time and venue of the hearing.
- The allegations including the date, time and details of relevant incidents and copies of any statements from witnesses and other relevant evidence including investigation reports.
- The right to call witnesses where appropriate.
- The possible outcomes under the disciplinary procedure.
- The right to be accompanied by a workplace colleague or trade union representative (if they are a member of a trade union).
- A copy of the Disciplinary Procedure.

Hearings should be arranged to take account of authorised leave. The employee is entitled to propose an alternative time and date so long as it is reasonable, has regard for the availability of the manager hearing the case and is within seven calendar days of the original meeting date.

Normally the service manager or deputy Head of Service and the Senior Employee Relations Adviser would conduct the meeting.

The disciplinary hearing should allow the employee an opportunity to respond to the conduct breach and present any mitigating circumstances or evidence. Where appropriate, training and support should be identified and arranged to assist the member of staff to meet the necessary standards.

If the employee does not attend the disciplinary hearing, the reason must be ascertained, if possible. If the circumstances were beyond the employee's control, for example illness, another meeting should be arranged.

If the meeting is rearranged and the employee fails to attend for a second time without good reason, the case may be heard and a decision made in the employee's absence.

Following the disciplinary meeting one of the following courses of action will be taken, depending on the circumstances of the case:

- Take no formal disciplinary action.
- Give a first formal written warning if there has been either a repeated minor breach in conduct following informal disciplinary discussions, or a first but more serious breach of discipline.
- Give a final formal written warning where the breach turns out to be more serious or where the employee's behaviour during the hearing requires this.
- In some cases, it may be appropriate to give an informal oral warning if the manager moved to the first stage of the disciplinary process without taking informal action, perhaps believing the breach to be more serious.

Confirmation of the outcome of the hearing will be given in writing within 7 calendar days.

The outcome letter should cover:

- The level of action taken (or that no further formal action was taken) and the reasons for that action.
- Any remedial action required by the employee and the consequences of any recurrence of misconduct, including any dates for review (in the case of first or final warning).
- That the employee has a right of appeal and how to exercise that right.
- That the warning will be active for 12 months but will be disregarded after this time unless any further action is taken. This means that if conduct issues reoccur during this period, the next stage of action may be taken.
- It is not necessary to wait until the end of the 12 month period before taking further action.
- Once expired, the warning will remain on the file as part of the employee's overall record of employment.

### **3.2 Stage 3 – Final written warning**

Where there is a reasonable belief that serious misconduct has occurred or where there is a repetition of a conduct breach which occurs whilst a first formal written or verbal warning remains active, the employee may be issued with a final written warning.

The same procedure is followed as for a first formal written warning.

The employee will be informed in writing giving at least 7 calendar days' notice of a disciplinary hearing. At this stage, the case will be heard by the Head of Service.

If it becomes clear that dismissal might be an outcome at this stage, for example if the breach might be considered gross misconduct, the hearing should be adjourned and reconvened under Stage 4.

Following the disciplinary meeting one of the following courses of action will be taken, depending on the circumstances of the case:

- Take no formal disciplinary action.
- Give a final formal written warning if there has been an insufficient response to previous warnings and conduct is still unsatisfactory, or in the case of a first but sufficiently serious breach of discipline.
- Give a first formal written warning if the manager moved to the final stage of the disciplinary process without taking previous stages, perhaps believing the breach to be more serious.

Confirmation of the outcome of the hearing will be given in writing within 7 calendar days. The letter should cover:

- The level of action taken (or that no further formal action was taken) and the reasons for that action.
- Any remedial action required by the employee and the consequences of any recurrence of misconduct, including any dates for review (in the case of first or final warning).
- That the employee has a right of appeal, and how to exercise that right.
- That the warning will be active for 12 months but will be disregarded after this time unless any further action is taken. This means that if the conduct issue reoccurs during this period, the next stage of action may be taken.
- It is not necessary to wait until the end of the 12 month period before

taking further action.

- Once expired, the warning will remain on the file as part of the employee's overall record of employment.
- The confirmation of a final warning will refer to previous warnings (if applicable) and will state that any further misconduct or failure to improve standards may lead to dismissal.

### **3.3 Stage 4 - Dismissal**

Where the employee has not reached the standard within the timescale for improvement, or where there are continued breaches of conduct, the employee may be dismissed.

A case for dismissal should be considered by a UECS Director with support from a Senior Employee Relations Adviser.

In cases where dismissal is contemplated, the Senior Employee Relations Adviser will send the employee written notice of a disciplinary hearing and advise them to be represented. The hearing should take place promptly.

The employee will also be told in the letter that the outcome of the hearing could be dismissal. The letter will refer to the reasons for the hearing and the procedure for arranging the hearing will be the same as those for a final formal written warning.

If, in the opinion of the UECS Director with the advice of the Senior Employee Relations Adviser, any mitigating circumstances put forward at the hearing are not sufficient to warrant reconsideration, the employee will be informed that they have been dismissed with contractual notice or payment in lieu of notice.

[People & Culture](#) will confirm in writing, within 7 calendar days, the dismissal to the employee and send it by recorded delivery.

### **3.4 Summary dismissal**

Summary dismissal will only occur where an employee has committed gross misconduct (or where it is believed on the balance of probabilities that they have committed gross misconduct). This means that the employee will be dismissed without notice but not without a disciplinary hearing. The hearing will be arranged in the same way as for a Stage 4 dismissal.

## Section 4: Appeals

### 4.1 Right of appeal

An employee who has been subject to formal disciplinary action is entitled to appeal. The right of appeal must be exercised within 14 calendar days of the date of the letter of confirmation of a formal warning.

The appeal should be addressed to the Senior Employee Relations Adviser. A copy of the letter should also be sent to the relevant manager. Appeals will be heard by a senior member of staff who has not been previously involved in the case.

The appeal hearing will review the decision taken at the most recent formal stage.

New evidence can only be presented at the appeal stage if there are exceptional reasons why such evidence or witnesses were not produced at the disciplinary hearing and / or that it is necessary in the interests of fairness for the evidence to be considered.

The appeal hearing should take place within 28 calendar days of the appeal being lodged. [People and Culture](#) must give notice (of not less than 7 calendar days) of the appeal hearing in writing to the employee.

The letter should cover:

- Who will hear the appeal.
- The date, time and venue of the hearing.
- The possible outcomes under the disciplinary procedure.
- The right to be accompanied by a workplace colleague or trade union representative (if they are a member of a trade union).

The employee is entitled to offer an alternative time and date so long as it is reasonable, including having regard to the availability of the senior member of staff hearing the appeal. It must be within 7 calendar days of the date originally proposed.

The response to the appeal may be:

- Uphold the action taken.
- Withdraw the action taken.
- Reduce the level of action taken.

## **4.2 Appeals against dismissal**

An employee who has been dismissed following a stage 4 dismissal hearing is entitled to appeal on the grounds that new evidence has emerged or that the procedure which led to the decision to dismiss was so flawed that it rendered the decision unfair.

The right of appeal must be exercised within 14 calendar days of the date of the letter of dismissal.

The appeal should be addressed to the Director of People and Culture. A copy of the letter should also be sent to the relevant Senior Employee Relations Adviser.

Appeals against dismissal will be heard by the Director of Campus Services or a UECS Director who has had no previous involvement in the case. Advice on procedure should be taken from the Senior Employee Relations Adviser.

The appeal hearing will review the decision taken at the dismissal stage.

New evidence can only be presented at the appeal stage if there are exceptional reasons why such evidence or witnesses were not produced at the disciplinary hearing and / or that it is necessary in the interests of fairness.

The appeal hearing should take place within 28 calendar days of the appeal being lodged.

The response to the appeal may be:

- Uphold the dismissal.
- Revoke the decision to dismiss.
- Reinstatement of the employee with a lesser penalty.

## **Section 5: Examples of Misconduct and Gross Misconduct**

The following lists are not comprehensive or exhaustive. They provide examples of the types of misconduct that might result in formal disciplinary action, including summary dismissal, following the application of the disciplinary procedure as detailed above and applying the test of reasonableness.

### **5.1 Examples of misconduct**

The following examples of behaviour may, within this procedure, lead to a formal written warning where the level of misconduct is minor or less serious:

- Shortfalls in timekeeping and attendance.
- Non-compliance with UECS or University Health and Safety Policy and standards.
- Misuse of UECS or University property.
- Inappropriate behaviour.
- Failing to inform UECS of a criminal conviction.

The following examples of behaviour may, within this procedure, lead to a final written warning where the level of misconduct is more serious:

- Inappropriate behaviour.
- Breach of confidence.
- Refusal to follow a reasonable instruction.
- Failure to comply with UECS policies, procedures or standards.
- Behaviour bringing disrepute to UECS or to the University.
- Repeated failure to comply with UECS or University Health and Safety Policy and standards.

### **5.2 Examples of gross misconduct**

The following examples of behaviour may be regarded as gross misconduct and, if judged as such within this procedure, may lead to summary dismissal:

- Dishonesty, theft, fraud, or serious misuse of UECS or University property, including malicious damage.
- Theft from or violence to other employees, students, members of the University or members of the public including malicious damage to their property.
- Obscene or indecent behaviour or sexual misconduct or the circulation of offensive material.

- Serious bullying or harassment.
- Serious breach of security or of financial procedures.
- Serious breach of confidence.
- Serious incapability whilst at work brought on by misuse of substances, for example alcohol or drugs.
- Being in the possession of illegal drugs.
- Serious breach of health and safety, fire or environmental legislation, or acting in a manner dangerous to themselves or others (whether intentionally or through neglect).
- Behaviour bringing UECS or the University into serious disrepute.
- Serious insubordination.
- Professional incompetence or gross negligence.
- Serious intentional unlawful discrimination.
- Severe breach of the University's Information Security Policy, in particular any breach that also constitutes a breach of relevant data protection legislation.
- Where the employee has stopped attending work without authority and reasonable explanation.

Serious misconduct outside of work or through personal use of social media may need to be dealt with under the formal disciplinary procedure where it is considered there is an effect upon the employment relationship and may be, in appropriate circumstances, regarded as gross misconduct.

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Author: Head of Compliance and Policy Development

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