

# **STAFF DISCIPLINARY PROCEDURE**



## **1. Preamble.**

Bath Spa University Students' Union recognises that satisfactory standards of behavior, attendance and performance are necessary to the conduct of the Institution's affairs and for the well being of all employees. The Students' Union also believes that management has a positive role to play in encouraging all employees to perform professionally and to the expected standard whilst at work.

It is recommended that every effort be made by line managers to resolve matters informally through advice and guidance. However, should the required improvement not be forthcoming or the perceived disciplinary problem be considered of a sufficiently serious nature, then the formal procedure, as set out below will be followed.

The purpose of the procedure is to ensure that all disciplinary matters are dealt with promptly, fairly and consistently.

## **2. Scope.**

- 2.1** This procedure covers all employees and will be followed when an employee's conduct (at any time while employed by the Students' Union); or work performance is such as to warrant disciplinary action. This includes without limitation breaches of health and safety rules.
- 2.2** In general the formal disciplinary procedures will be invoked when the complaint is of a serious nature or when a number of minor complaints are made which together represent a serious breach of discipline. An employee will not be dismissed summarily under the formal disciplinary procedures except for gross misconduct.
- 2.3** This procedure will not apply:  
At the termination of a fixed term contract of employment for which the employee has been specifically engaged.  
Where the reason given for dismissal is one of redundancy.  
Where the reason given for dismissal is some other substantial reason e.g., dismissal of an employee engaged specifically as a temporary replacement for any employee who is absent because of maternity leave.  
Where the reason for dismissal is incapability by reason of ill health, where the Students' Union ill health procedure will apply.

## **3. Investigation & informal disciplinary discussions.**

- 3.1** Where it is considered that an employee's conduct or performance is unsatisfactory the line manager will discuss the matter with the employee asking for an explanation. The line manager will consult with the Membership Services Manager and if it is considered necessary, the line manager will conduct a more detailed investigation. The nature

of the investigation will depend on the case but it may include fact-finding interviews and examination of relevant documents. The employee has the right to be accompanied at investigatory interviews by a Trade Union representative or colleague.

Where the line manager has been involved directly in an alleged disciplinary incident, a line manager who has had no involvement in the case will investigate the matter.

#### **4. Suspension.**

- 4.1 If appropriate, the line manager dealing with the case may recommend to the General Manager, or their delegated representative that the employee be suspended. This will be done by written notice, for a specified period during which time such an investigation will be undertaken. An employee's contract of employment will continue during such a period of suspension, so that the employee will continue to be paid. During the period of suspension the employee will not be entitled to access to any of the Students' Union premises except with the prior consent of the Students' Union and subject to such conditions as the Students' Union may impose. The investigation must be carried out within a reasonable time frame, ideally with 15 working days, unless the complexities of a particular case make this impracticable.
- 4.2 An employee may be suspended on full pay to enable an investigation to be carried out, or in the case of serious or gross misconduct pending formal action under paragraph 4.1.
- 4.3 Such suspension does not pre-judge the issues, nor is it in the nature of disciplinary action, but it may be necessary in an employee's own interests, or in the interests of the institution.
- 4.4 Any employee suspended for more than three weeks, may appeal to the Students' Union, Board of Trustees against the suspension, by applying, in writing to the Students' Union President, who will appoint a panel from the Union Officers. The suspension shall remain valid during the process of the appeal.
- 4.5 Any employee has a further right of appeal to the full Board of Governors against the suspension, by applying, in writing to the Students' Union President. The suspension shall remain valid during the process of the appeal.

#### **5. Formal disciplinary procedure.**

##### **5.1 Disciplinary hearings.**

- a. If after a full investigation of the case, the line manager decides that the matter is serious enough that it is necessary to proceed to a disciplinary hearing, they will inform The Students' Union General Manager is responsible for convening a disciplinary hearing. The Students' Union General Manager or his/her nominated representative will write to the employee giving at least five clear working days notice of the proposed date for a disciplinary hearing. The letter should contain a clear statement of the reasons for the disciplinary hearing and copies of any relevant documents will be included. The letter will also inform the employee of his/her right of representation by a Trade

Union Officer or work colleague. In the case of alleged gross misconduct immediate arrangements may be made to hold a disciplinary hearing as soon as possible with the same right of representation. If the Line Manager considers dismissal is a possible penalty, he/she will make this clear to the employee at the earliest opportunity.

- b. The disciplinary hearing will be held between the employee, his/her representative if requested by the employee and a disciplinary panel, which will consist of the Students' Union General Manager, Membership Services Manager and the Union President (or student officer nominee). Evidence presented during the hearing should be supported by documentation or witnesses appearing in person or providing signed statements. Either side, provided adequate notice is given to the panel can call witnesses. All documentation to be used in the hearing must be made available 3 days prior to the hearing-taking place.

## **6. Conduct of disciplinary hearings.**

- 6.1** At the start of any disciplinary investigation, all those present will be introduced to the employee and an explanation will be given as to why they are present. The nature of the allegation will be stated to the employee.
- 6.2** The Chair of the panel will then invite the Line Manager to present the case against the employee, together with all supporting evidence. After that is completed, there will be an opportunity for questions. The employee shall then present their response, including use of evidence and the calling of witnesses where appropriate.
- 6.3** Once the questioning has concluded, and then each party will present a summary of the main elements of their case, with the employee having the final right of reply.
- 6.4** The panel will then adjourn to consider the evidence presented, the past record of the employee, any mitigating circumstances and what penalty should be imposed. In some circumstances, the decision may be delayed, for example, where the employee has raised issues that require further corroboration or investigation or where complex issues requiring detailed consideration have arisen.
- 6.5** On reconvening the hearing, the employee shall be informed of the disciplinary action to be taken, if any, and in such cases should be informed of their right of appeal.

## **7. Disciplinary penalties.**

When imposing penalties for disciplinary offences, the Students' Union will endeavor to follow the guidance set out below. However, the Students' Union may move immediately to a Written or Final Written Warning where it considers that to be appropriate because of the seriousness of the conduct and/or extent of the poor performance.

### ***Oral Warning.***

If conduct or performance does not meet acceptable standards the employee will be given an oral warning by the Students' Union General Manager dealing with the disciplinary hearing and a record of the warning, signed by the Students' Union General Manager will be placed on the employee's personal file. The file will contain notice of the date and time of the verbal warning. The employee will be given a copy of the record of the warning and will be advised that the warning constitutes the first formal stage of the disciplinary procedure. The Students' Union General Manager will, as part of the warning, give details of the complaint and specify the consequences of further misconduct or failure to improve performance. He/she will also notify the employee of their right of appeal. Where performance is an issue, any training or additional support required by the employee to achieve the required standard will be identified and an appropriate period for improvement/review will be set at the time of the oral warning.

***Written Warning.***

In the event of misconduct of a more serious nature and/or if a further offence of misconduct occurs or if there has been a failure to improve and performance is still unsatisfactory, the employee will be given a second stage warning (a written warning) by the Students' Union General Manager and a record of the warning, signed by the Students' Union General Manager, will be placed on the employee's personnel file. The employee will be given a copy of the record of warning and be advised that the warning constitutes the second stage of the disciplinary procedure.

The warning will give details of the complaint and specify the consequences of further misconduct or failure to improve performance. Again, it will also confirm the employee's right of appeal. Where performance is an issue, any training or additional support required by the employee to achieve the required standard will again be identified and an appropriate period for improvement/review will be set.

***Final Written Warning.***

In the event of misconduct which is sufficiently serious to warrant only a written warning but insufficiently serious to justify dismissal, or if a further offence of misconduct occurs, or if there is still a failure to improve and performance is still unsatisfactory, the employee will be given a final written warning and a record of the warning signed by the Students' Union General Manager will be placed on the employee's personnel file. The employee will be given a copy of the record of warning and will be advised that the warning constitutes the third stage of the disciplinary procedure.

The warning will give details of the complaint and specify the consequences of further misconduct or failure to improve performance. Again, the employee's right of appeal will be confirmed. The warning will also warn that dismissal will result if there is no satisfactory improvement or any repetition of misconduct. Where performance is an issue, any training or additional support required by the employee to achieve the required standard will be identified and an appropriate period for improvement/review will be set.

***Dismissal.***

In the event of gross misconduct, or if a further offence of misconduct occurs whilst a previous warning is still recorded on file, or if there is still a failure to improve and performance is still unsatisfactory, the employee will normally be dismissed.

The employee will, as soon as reasonable practicable, be informed in writing of the reasons for dismissal and the right of appeal. Dismissal for gross misconduct will be summary i.e. immediate and with no pay in lieu of notice. For all other cases, the employee will be given their period of contractual notice.

#### **8. Currency of warnings.**

In all cases a record of any disciplinary action will be placed on the relevant employee's personnel file. A copy of the relevant record will be supplied to the employee concerned on request. All warnings given under this procedure will normally be disregarded for disciplinary purposes after a period of 12 months, subject to satisfactory conduct and performance. However, this period may be extended where the Students' Union considers it to be reasonable to do so in view of the seriousness of the offence. Further, the Students' Union may take account of expired warnings in exceptional circumstances. Any expired warnings would have to have a direct bearing on the current allegation and would only be considered when consideration is given to any penalty.

#### **9. Formal disciplinary action against a Trade Union Official.**

Formal disciplinary action will not be taken against a trade union official until the circumstances of the case have been discussed with a full-time trade union officer.

#### **10 Appeals.**

- 10.1** Any employee suspended for more than three weeks, may appeal to the Students' Union, Disciplinary appeals panel against the suspension, by applying, in writing to the Students' Union President. The suspension shall remain valid during the process of the appeal. The Panel will comprise of two Union officers, who are not part of the original disciplinary hearing and a senior member of Union staff.
- 10.2** An employee has the further right to appeal against any disciplinary penalty. Appeals against dismissal will be heard by the full Board of Trustees. Appeals against all other disciplinary penalties will be heard by an Appeal Panel. The Panel will comprise two student officers and two senior members of Union staff will be drawn from departments outside the appellant's work area and will be chosen after consultation for appropriateness and availability. The appeal panel members must have had no involvement in the original disciplinary hearing.
- 10.2** In order to exercise his/her right of appeal, the employee must notify the Students' Union General Manager in writing within 10 clear working days of the date of the letter confirming disciplinary penalty.
- 10.3** In the letter of notification to the Students' Union President, the employee must state the case for the basis of their appeal. An appeal must be based on either new evidence which was not considered at

the disciplinary hearing or where the employee believes a breach of the disciplinary procedure has occurred that has materially affected the outcome of the hearing.

- 10.4** An appeal will not suspend or delay any disciplinary penalty already invoked (including dismissal) an appeal hearing will then be arranged and the Students' Union will provide reasonable notice of the time and place of the appeal.
- 10.5** The decision of the Appeals Panel or Boar of Trustees will be final. Paragraphs 4.5.1 and 4.5..2 will not apply during an initial period of employment (in the case of Craft and Manual Workers) or during a period of probationary service (for all other employees) of less than 25 weeks, or where dismissal arises from unsuitability for confirmation of appointment within a period of 25 weeks from the date employment began.

### **11. General Notes on Procedure.**

- 11.1** The employee has the right to be accompanied to any disciplinary hearing by a fellow worker, or a full time trade union officer or a union official who has been certified by the union as having experience and/or training in disciplinary matters (a "union representative"). The employee must be given reasonable notice to the General Manager conducting the relevant hearing of who is to accompany him/her. Although the companion will be able to address and to confer with the employee, he/she will not be permitted to answer questions on the employee's behalf.
- 11.2** No formal disciplinary action will be taken without the involvement of the Head of Personnel or his/her nominated representative.
- 11.3** At every stage in the Procedure the employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any disciplinary action is taken.
- 11.4** Any disciplinary action brought against the Students' Union General Manager will be dealt with by a nominated panel of the Students' Union President.

### **12. Gross Misconduct.**

Some types of behavior are so serious and so unacceptable that, if proved, warrants summary dismissal (i.e. dismissal without notice or pay in lieu of notice). It is not possible to set down a definitive list of all the specific offences constituting gross misconduct and, in any event, all cases will be dealt with on their own facts. However, the following examples give some guidance as to types of behavior, which in certain circumstances could be judged to be gross misconduct.

- Theft, fraud and deliberate falsification of records
- Physical violence
- Serious bullying or harassment
- Deliberate damage to property
- Serious insubordination
- Significant misuse of an Students' Union property or name
- Bringing the Students' Union into disrepute

- Serious incapability whilst on duty brought on by alcohol or illegal drugs
- Serious negligence which causes or might cause unacceptable loss, damage or injury
- Serious infringement of health and safety rules
- Serious breach of confidence (subject to the Disclosure Policy)

This list provides examples of gross misconduct only and is not exhaustive.