Disciplinary Policy and Procedure

Contents List

1. Introduction 2
2. Scope 2
3. Principles 2
4. Roles and Responsibilities 3
5. Monitoring and Compliance 4
6. Anonymous Complaints 5
7. Informal Stage 5
8. Formal Stage 5
8.1 Investigation 7
8.2 Formal Hearing 7
8.3 Possible Outcomes 9
9. Notification of Outcome 10
10. Appeals Stage 11
11. Suspension from Duty 13
12. Other Provisions 14
13. Discipline in Special Cases 15
14. Links to other Polices 16

Appendices

1. Gross Misconduct 17
2. Roles and Definitions 18
1. **Introduction and Policy Statement**

1.1 It is the policy of Royal Holloway, University of London (the College) to ensure that fair and effective arrangements exist for dealing with disciplinary matters. The purpose of the disciplinary procedure is to provide a transparent process, so that, if there are concerns with an employee's conduct, College management can take a fair and reasonable course of action to resolve issues and aid improvement. The procedure is based upon principles of natural justice, fairness and equality as underpinned by legislation. This procedure meets the ACAS Code of Practice on Disciplinary and Grievance Procedures and current legislative requirements.

1.2 The purpose of this policy and procedure is:

   a) To ensure that the obligations placed on College management are recognised and carried out in a reasonable and consistent manner by those to who disciplinary authority is delegated.
   b) To enable members of staff to understand the circumstances that may give rise to disciplinary action, the procedures to be followed, the remedial action that may be taken, and the available rights of representation and appeal.

1.3 The disclosure by an employee of confidential information that relates to some danger, fraud or other illegal or unethical conduct connected with the College, be it of the Council or fellow employees, will not be subject to disciplinary action, provided it is done lawfully, without malice and in the public interest (See the Whistleblowing Policy).

2. **Scope**

2.1 This policy and procedure apply to all staff employed by the College. It does not form part of an employee's contract of employment. This policy has been agreed following consultation with the recognised trade unions.

2.2 This policy and procedure relate to matters of misconduct. Matters relating to underperformance should be addressed through the College's Capability Policy and Procedure.

2.3 Investigations related to research misconduct will be dealt with under the Research Misconduct Policy before proceeding, where appropriate, under the Disciplinary Policy.

3. **Principles**

3.1 Wherever possible, issues should be resolved informally and swiftly through normal management processes, without recourse to formal procedures.

3.2 At every stage in the procedure, the employee will be advised of the nature of the allegations against them and will be given the opportunity to put their case before a decision is made.

3.3 At all formal stages of the disciplinary procedure, including investigation meetings, the employee will have the right to be accompanied by a trade union representative or work colleague of their choice. A representative or companion should not be someone who has a conflict of interest or who may prejudice the hearing. The representative or companion will have the opportunity to address the disciplinary hearing and the appeal, but they are not permitted to answer questions on the employee's behalf.

3.4 A disciplinary investigation will be undertaken before any formal disciplinary hearing is convened.
3.5 No manager or head of department will be responsible for investigating disciplinary allegations that they have instigated or sit on a panel to consider such allegations.

3.6 No disciplinary sanction will be imposed until after a disciplinary hearing has taken place.

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

3.8 Employees have the right of appeal against any disciplinary sanction.

3.9 All stages of this procedure will be treated as confidential.

3.10 Any employees found to be making malicious or vexatious allegations will be subject to disciplinary proceedings.

3.11 This policy and procedure will be applied without any distinction as to sex or gender reassignment, age, sexual orientation, marriage and civil partnership status, race, ethnic or national origin, disability, religion or belief, political belief or membership of or activities as part of a trade union, and pregnancy and maternity.

3.12 All those involved with the process will be expected always to demonstrate professional conduct and mutual respect to others.

3.13 The Human Resources Department provides advice and support throughout all stages of the College’s formal Disciplinary Policy. They do not form part of the decision-making process except in instances where this is expressly set out in this policy.

4. Roles and Responsibilities

4.1 Investigating Officer
- To undertake a full investigation and to allow parties the opportunity to provide evidence as applicable
- To act in an impartial manner, ensuring a full and fair investigation
- To undertake a timely and accurate investigation and report
- To undertake training and seek advice, as required, to allow for professional performance of the role
- To communicate with the Decision-Making Manager and Human Resources to keep them updated on process, so that the subject of an investigation can be kept informed
- To act in a professional and empathetic manner, providing all those involved in the process with respect and consideration
- To disclose if there is a conflict of interest
- To provide findings to the Disciplinary Panel where applicable

4.2 Line Manager
- To address any disciplinary concerns as soon as they arise, ensuring that involved parties are made aware of those concerns
- To address issues through normal management processes where possible, subject to the seriousness of the concerns
- To provide individuals with support and advice, reminding them of College support services where applicable
- To act in a professional and empathetic manner, providing all those involved in the process with respect and consideration
- To disclose if there is a conflict of interest
4.3 Decision-Making Manager
• To act in an impartial manner, ensuring a fair and reasonable decision is made on whether to proceed with formal proceedings
• To review and assess the investigation and, if applicable, to direct that further investigation is needed to allow for a full assessment of the case
• To undertake all duties in a timely manner, ensuring decisions are fed back to Human Resources and the individual under investigation as soon as possible
• To undertake training and seek advice as required to allow for professional performance of the role
• To disclose if there is a conflict of interest
• To provide findings to the Disciplinary Panel where applicable

4.4 Panel Members and Chair
• To act in an impartial manner ensuring a fair and reasonable decision is made based on all the evidence presented
• To allow all parties an opportunity to present relevant information
• To reach a decision and to communicate the decisions of the hearing in accordance with defined time-scales
• To undertake training and seek advice as required to allow for professional performance of the role
• To disclose if there is a conflict of interest
• To provide findings to the Appeals Panel where applicable
• To act in a professional and empathetic manner, providing all those involved in the process with respect and consideration

4.5 Executive Dean of School / Director of Professional Service
• To ensure managers have the training and skills to manage staff effectively and to address issues promptly when they arise
• To provide support and advice as required on the management of staff
• To act in a professional and empathetic manner, providing all those involved in the process with respect and consideration

4.6 Employee
• To engage with the management process, trying to resolve issues informally where applicable
• To provide all relevant information to an investigator, allowing for a full assessment of a case to be made in a timely manner
• To act in a professional and empathetic manner, providing all those involved in the process with respect and consideration

4.7 Human Resources
• To provide advice and support to managers and employees as applicable
• To provide support and advice to panels
• To ensure production of paperwork in accordance with time-scales set out in this document
• To ensure that panels are constituted in accordance with the requirements of this policy
• To oversee completion of the process in accordance with the principles of this policy
• To act in a professional and empathetic manner, providing all those involved in the process with respect and consideration

5. Monitoring and Compliance

Data on the number of disciplinary proceedings, reasons for such proceedings, and their outcomes will be collected by the Human Resources Department as part of the annual monitoring arrangements. Such data are reported to the Equality and Diversity Management Committee, and
reported to the Joint Negotiating and Consultative Committees on an annual basis. Policy issues arising from the monitoring process, including its application by managers, and any equality and diversity concerns will be investigated by the Human Resources Department and College management as appropriate. Any such issues will be annually reviewed by the relevant College committee to consider appropriate action.

6. **Anonymous Complaints**

6.1 Anonymous complaints cannot normally be considered due to the difficulty of investigating such cases. As an exception, the Director of Human Resources (or a nominee explicitly acting on their behalf) may decide that an anonymous complaint should be considered, if the case is compelling, and supported by the evidence, and so warrants appointment of an Investigating Officer. Having received the Investigating Officer’s report, the Decision-Making Manager can refer a case based on substantive evidence discovered during the investigation, but not one that uses the evidence of a complaint that continues to be anonymous.

**Procedure**

7. **Informal Stage**

7.1 A manager should try to resolve issues informally through normal management processes where possible. A meeting may be convened between a manager and employee to consider minor issues of discipline. The expectation is that such issues will be addressed as part of normal management discussions, and that a representative from Human Resources, a trade union representative or workplace colleague will not be present, unless their presence is mutually agreed as beneficial.

7.2 In addressing disciplinary concerns, both parties should discuss the reason for the meeting, and the employee will be provided with an opportunity to respond to the matters raised. Where the facts of the case warrant, the manager will follow up the meeting with written confirmation setting out the nature of the misconduct and the change in behaviour required. The written confirmation will also inform the employee of the consequences if there is a repeat of the behaviour or failure to improve such behaviour. These actions do not form part of the formal disciplinary process, but they may be considered if continued issues arise warranting action under formal procedures.

7.3 Due to the seriousness of the concerns or individual circumstances, formal action may proceed without initial informal action in order to ensure the safety of individuals, College property, or the integrity of the investigation. Prior to commencing formal proceedings, a manager should seek advice from the Human Resources Department to ensure all appropriate and reasonable informal resolution has been considered. Having gained the written agreement of the Director of Human Resources, the line manager/Head of Department or nominee, as applicable, will provide the employee with details to explain why informal processes set out in the Disciplinary Policy are inappropriate.

8. **Formal Stage**

8.1 **Investigation**

8.1.1 The purpose of any disciplinary investigation is not to determine guilt or innocence, but to establish whether there is a case to be answered and, if so, to gather the evidence required by a panel hearing to make an informed decision.
8.1.2 An Investigating Officer will be selected by the Human Resources Department to investigate all aspects of the allegations and to establish the facts of any case. The Investigating Officer should be independent, not have previously been involved with the case, and will have received training in conducting investigations and/or be experienced in carrying out investigations. They will be advised by a member of the Human Resources Department.

8.1.3 Investigations shall be undertaken in an objective and transparent manner. No manager will be responsible for investigating disciplinary allegations they have instigated, or with which they have been involved.

8.1.4 The employee will be informed that an investigation will be undertaken and the identity of the Investigating Officer. They will be provided with details of the allegations against them.

8.1.5 The investigation should be initiated without delay and completed as soon as possible. In most instances, the investigation will be completed within 4 working weeks from the appointment of the Investigating Officer. In instances where this is not possible, due to availability or other factors, the Investigating Officer will inform the Human Resources Department, who will inform the relevant parties of the delay and likely timeframe for completion.

8.1.6 A disciplinary investigation may include gathering relevant documentation, signed statements from the employee concerned, and statements from any witnesses or affected parties.

8.1.7 The Investigating Officer will be responsible for determining the extent of the investigation.

8.1.8 If, upon initial investigation, it appears there is insufficient evidence to proceed to a full investigation, the Investigating Officer will provide a short summary of the facts to another manager (the Decision-Making Manager) who has not had any previous involvement with the case. The Decision-Making Manager will decide whether:

- No further investigation is needed, and no further action is to be taken.
- Further investigation is needed.

Where no further action is to be taken, the employee will be informed accordingly. Where further investigation is needed, the process will continue until completion.

8.1.9 When a full disciplinary investigation is completed, the Investigating Officer will write a detailed report outlining the conduct of the investigation and providing the evidence gathered. The Investigating Officer presents all relevant evidence but does not decide whether the matter warrants proceeding to a Disciplinary Panel.

8.1.10 The completed investigation report will be submitted to the Decision-Making Manager who will decide whether there is a case to answer, or no further action should be taken. If no further action is to be taken, the Decision-Making Manager will liaise with Human Resources to arrange for the employee to be informed accordingly.

8.1.11 The Decision-Making Manager will be: an Executive Dean (from a different School to that of the employee) or Head of Department (from a different Department to that of the employee), who is a member of academic staff, will decide on cases for academic staff; a Director of Professional Services (from a Professional Services Department different from that of the employee), who is professional services staff member, will decide on cases involving professional service employees. An Executive Dean of School or Head of Department or a Director of Professional Service will, as
Decision-Making Manager, have had no previous involvement with the case. The Human Resource Department will ensure that procedures are conducted appropriately.

8.1.12 A report and associated evidence will be provided to the Disciplinary Panel and a copy will also be provided to the employee in advance of the hearing. The report and evidence should be provided ten working days before the hearing.

8.2 Formal Hearing

8.2.1 The aim of a disciplinary hearing is to hear the disciplinary allegation(s) and case against the employee concerned, to give the employee the opportunity to respond to the allegation(s) and state their case, and to allow the Panel conducting the hearing to consider all relevant information before deciding.

8.2.2 For members of Academic staff covered by Statute 9, the Panel will be constituted in accordance with that statute, namely:

- A Chair, being an Independent Member of College Council
- A senior member of staff of the College, defined both as a professor and as a member of academic staff under the College Statutes, not otherwise concerned with the matter.
- A member of academic staff from a list nominated by Academic Board, not otherwise concerned with the matter.
- Where appropriate, an independent expert or independent experts relevant to the matter concerned may join the Panel as an advisor. The involvement of an independent expert advisor on the Panel will be agreed with the Director of Human Resources.

For Professional Services employees the Panel will be composed as follows:

- A Chair, being a manager who has not had previous involvement with the case and who is not the employee’s Director of Service or Head of Department.
- A second senior manager from another department.
- Where appropriate, an independent expert or independent experts, relevant to the matter concerned may join the Panel as an advisor. The involvement of an independent expert advisor on the Panel will be agreed with the Director of Human Resources.

8.2.3 Panels will be provided with advice and administrative support by the Human Resources Department. Panels will be appointed by a member of the Human Resources Department, who has not been directly involved with the case.

8.2.4 Any concern about a potential conflict of interest involving a Panel member should be raised at the earliest opportunity with the Director of Human Resources or their delegated nominee who will consider the matter and amend the Panel membership if appropriate.

8.2.5 Prior to the hearing, the employee will be informed of the details of the allegation(s) and a hearing will be arranged. The employee will be given a minimum of ten working days’ advance notice of the hearing date. The written notification to attend the hearing will include:

a) The reason for the hearing;
b) The date, time, and location of the hearing;
c) The right to be accompanied at the hearing by a trade union representative or a workplace colleague of their own choice;
d) Copies of all evidence, including the investigation report and any witness statements, to which reference may be made during the hearing.
8.2.6 The employee must make every effort to attend the hearing. Where it may not be practicable for the hearing to proceed on the initially proposed date and time, the Human Resources Department will seek to rearrange the hearing within five working days of the original date. If the employee’s representative is not available, the employee shall offer an alternative time and date that falls within five working days of the originally proposed date.

8.2.7 There is no right to legal representation at a disciplinary hearing. The employee may request legal representation at the disciplinary hearing, for the Chair of the Panel to consider, and explain the reasons in writing before the meeting of the Panel. The possible dismissal of an employee where it could substantially influence the continued practice of their chosen trade or profession should be an important consideration in the decision of the Panel Chair.

8.2.8 The employee does have the right to submit in writing and to present legal advice and the opinions of relevant experts at a Disciplinary Panel.

8.2.9 A Human Resources representative will attend the hearing to take notes, and these will form the basis of a formal record of the hearing. These notes will be typed as soon as possible after the hearing and will be made available to all parties. Any concerns about factual inaccuracies of the notes should be raised with the Chair of the Panel within five working days of receipt.

8.2.10 Audio recordings of the proceedings by the employee, their companion or managers are not permissible at any stage of the disciplinary procedure, unless required as a reasonable adjustment for an employee with a disability, requested in advance, or the recording is mutually agreed by all parties present. Copies of any audio recordings must be made available to all parties within three working days of proceedings.

8.2.11 The Investigating Officer will attend the hearing to present the findings of their investigation and to answer questions. They may be accompanied by the Human Resources representative who advised them during the investigation.

8.2.12 If an employee fails to attend the hearing for reasons outside of their control, e.g. sickness, another date may be proposed. If an employee fails to attend the hearing without good reason, the hearing may proceed in absentia. If an employee is absent due to sickness, they may be required to have a consultation with the College’s Occupational Health Provider to assess their fitness to attend a hearing. If the employee fails to attend the rescheduled hearing without good reason, the hearing may proceed in their absence and a decision will be made on the evidence available.

8.2.13 The employee should make available to the Human Resources Department any documentation that they intend to refer to at the hearing. This should be provided at least five working days in advance of the hearing so that it can be distributed to all parties.

8.2.14 Witnesses are required to attend if requested and therefore should make themselves available.

8.2.15 If an employee wishes to call witnesses not involved in the investigation, they should notify the Human Resources representative assisting the Panel of the names of the witnesses they wish to call with a brief reason for each request three days prior to the hearing. The employee is responsible for providing written statements by their witnesses in advance of the hearing and notifying them of the date, time and location. The Chair is entitled to clarify the purpose of any witness being called and the potential for new and relevant information that the witness can offer.

8.2.16 The order of the disciplinary hearing will be as follows:
The Chair of the Panel will introduce all parties, and explain the purpose of the hearing and how it will be conducted;

a. The Chair will state that the hearing is being conducted in accordance with the College’s Disciplinary Policy and Procedure and will confirm that a written record of the hearing will be made;
b. The Chair will confirm the allegation(s) that they have been asked to consider;
c. The Chair will state whether any witnesses have been asked to give evidence at the hearing, and, if so, who they are and what arrangements have been made regarding their attendance;
d. The Investigating Officer will present the findings of their report. They will explain the evidence supporting the allegation(s) and will present any witnesses;
e. The employee (or their companion or representative) shall have the opportunity to ask questions of the Investigating Officer and witnesses and the Decision-Making Manager, if applicable;
f. The Panel shall have the opportunity to ask questions of the Investigating Officer and, if applicable, the Decision-Making Manager and any witnesses;
g. The employee will then set out their case and present any witnesses in response to the allegation(s);
h. The Investigating Officer shall have the opportunity to ask questions of the employee and witnesses;
i. The Panel shall have the opportunity to ask any final questions of the employee, Investigating Officer, Decision-Making Manager or witnesses;
j. The Investigating Officer and, where applicable, the Decision-Making Manager shall have the opportunity to sum up their case;
k. The employee (or their companion) shall have the opportunity to sum up their case;
l. If considered necessary by the Chair, the hearing shall be adjourned to allow further investigation into the matters raised or to ask questions of any witnesses who were unable to attend the hearing. Such information gathering should be done with a minimum of delay. If further evidence or witnesses are sought and the Panel rely on this evidence to form a decision, they will reconvene the hearing to allow consideration and questioning of the evidence by both parties;
m. The Chair will adjourn the hearing so that the Panel can consider all the evidence and make their decision(s).

8.2.17 The Panel will adjourn after the hearing to decide whether to dismiss or uphold the disciplinary allegation(s). If the allegation(s) are upheld, the Panel will need to decide upon the appropriate sanction to be applied, if any. Where possible, the hearing will be reconvened within one working day to provide the employee with the decision orally. Where this is not possible, for example when the Panel needs longer to consider their decision, the employee will be informed of the outcome in writing within five working days. Where the usual timeframe is not practical, this will be communicated to the employee with reasons and an alternative timeframe.

8.3 Possible Outcomes

8.3.1 No sanction
The employee is exonerated and advised accordingly. No further action will be taken.

8.3.2 First written warning
A first written warning will normally be issued if:

a. There has been no improvement in conduct about which the employee has previously been warned or
b. Another related instance has occurred during the currency of a previous warning or
c. Misconduct is confirmed, and the conduct is of such seriousness that normal management processes are not appropriate.

The employee will receive written details of the nature of the misconduct and the change in behaviour required. The warning will also inform the employee that further consequences will be considered if further misconduct occurs. The letter will also confirm the procedure should they wish to appeal. A written warning will be kept on the employee’s record for a maximum of 12 months subject to achieving and sustaining satisfactory conduct. After this period of 12 months, the first written warning will be disregarded for the purposes of considering any further disciplinary sanction.

8.3.3 Final written warning
A final written warning will normally be issued if:

- A written warning has already been issued following a previous disciplinary hearing and another instance of related misconduct has occurred whilst it is current, or
- There is no improvement in the conduct about which the employee has previously been warned or
- The conduct is of such seriousness that a first written warning is not appropriate but does not justify dismissal.

The employee will receive written details of the nature of the misconduct and the change in behaviour required. The warning will also inform the employee that further consequences will be considered if further misconduct occurs and that this may include dismissal. The letter will also confirm the procedure should they wish to appeal. A final warning will be kept on the employee’s record. After 18 months, the final written warning will be disregarded for the purposes of considering any further disciplinary sanction.

8.3.4 Dismissal
If an allegation of gross misconduct is found to be proven, or if there is repeat misconduct where there is already a final written warning in place, dismissal may result.

A Disciplinary Panel may impose an alternative to dismissal in the form of extending the period of an existing final written warning for a further twelve months.

Before confirming a recommendation to dismiss, the Panel should carefully consider any options short of dismissal, as appropriate.

There shall be no right to notice or notice pay in cases of summary dismissal and termination will take effect from either the date of the decision to dismiss if the decision is communicated orally or, two days after the date of the letter confirming dismissal, if in writing.

9. Notification of Outcome

9.1 Where disciplinary sanction short of dismissal is applied, the decision will be confirmed in writing as soon as possible and will include where applicable:

a. The nature of the disciplinary allegation(s) upheld;
b. The disciplinary sanction applied;
c. The consequences of any further failure to adhere to acceptable standards of conduct. (In cases where a final written warning is given, it should be made clear that further disciplinary action may result in dismissal);
d. Confirmation of any corrective action that is required and the timescale within which the improvement is expected;
e. Confirmation of any support to be provided;
f. The duration of any warning and the date of its expiry;
g. The right of appeal.

10. Appeals Stage

10.1.1 In every case where formal disciplinary sanction is applied, there will be a right of appeal against such sanction together with a right to a hearing. The employee should submit notice and grounds of their appeal to the Director of Human Resources in writing within ten working days of receipt of the written confirmation of the disciplinary sanction.

10.1.2 The employee must be specific about both the grounds and the justification for the appeal being raised. These will form the agenda for the hearing and determine the parties to be present at the appeal hearing. Appeals may only be raised on a number of grounds including:

a. The procedure: a failure to follow proper procedure
b. The decision: the evidence did not support the conclusion reached
c. New information not available at the disciplinary hearing that may have influenced the outcome
d. The sanction: this was disproportionate given the circumstances of the case

If new evidence is submitted as part of the grounds of the appeal, or during the appeal hearing itself, the Panel may decide to rehear the original disciplinary case as part of their consideration of the appeal. In such circumstances, it may be necessary to recall the original Investigating Officer and any witnesses who presented evidence at the original hearing. The Chair of the Panel, in consultation with the Panel as applicable, will decide whether new evidence presented is relevant to the case and how it will be considered.

10.1.3 For members of Academic staff covered by Statute 9, an Appeals Panel will be constituted in accordance with that statute. Membership will consist of:
- Two Independent Council Members, one of whom shall be the Chair of the Panel;
- At least one Member of Academic Staff from the approved list nominated by Academic Board
- Where appropriate, an independent expert or independent experts relevant to the matter concerned, may join the Panel as an advisor. The involvement of an independent expert advisor on the Panel will be agreed with the Director of Human Resources.

10.1.4 For Professional Service employees, appeals will be heard by a Panel of:
- Three senior members of staff, appointed by the Director of Human Resources.
- The Panel Chair will be from the next level of management above the manager who chaired the original Disciplinary Panel. For appeals relating to dismissal, the Chair will be a member of the College Executive Team. The Chair will be assisted by another senior member of staff and the Director of Human Resources.
- Where appropriate, an independent expert or independent experts relevant to the matter concerned, may join the Panel as an advisor. The involvement of an independent expert advisor on the Panel will be agreed with the Director of Human Resources.

10.1.5 No member of an Appeals Panel shall have had any previous involvement in the matter.
10.1.6 Any concern about a potential conflict of interest involving a Panel member should be raised at the earliest opportunity with the Director of Human Resources or their delegated nominee who will consider the matter and amend the Panel membership if appropriate.

10.1.7 Once notification and grounds of an appeal have been received, an appeal hearing will be scheduled to take place within twenty working days, or as soon as practicably possible.

10.1.8 The Human Resources representative will notify the employee and Decision-Making Manager. The notification to attend the hearing will include:

a. The date, time and place of the hearing;
b. The right of the employee to be represented at the hearing by a trade union representative or a workplace colleague of their own choice;
c. The identity of the Appeals Panel members;
d. A written management response to the appeal;
e. The paperwork from the original hearing.

10.1.9 The employee must make every effort to attend the appeal hearing. If the employee's representative is not available, the employee should offer an alternative time and date so long as it is reasonable and falls within five working days of the originally proposed date.

10.1.10 If an employee fails to attend for reasons outside of their control, e.g. sickness, another date may be proposed. If an employee fails to attend the hearing without good reason, the hearing may proceed in absentia. If an employee is absent due to sickness, they may be required to have a consultation with the College's Occupational Health Provider to assess their fitness to attend a hearing. If the employee fails to attend the rescheduled hearing without good reason, the appeal hearing may proceed in their absence and a decision will be made on the evidence available.

10.1.11 The evidence considered at the original disciplinary hearing will be made available to the Appeals Panel for reference purposes. However, as the purpose of the appeal is to review rather than to reheat the case, it is the responsibility of the employee to state their case and bring to the attention of the Panel all evidence relevant to their appeal.

10.1.12 A Human Resources representative will attend the appeal hearing to take notes and these will form the basis of a formal record. These notes will be typed as soon as possible after the appeal hearing, and will be made available to all parties. Any concerns about factual inaccuracies of the notes should be raised with the Chair of the Panel within five working days of their receipt.

10.1.13 Where necessary and depending on the grounds of the appeal, the original Investigating Officer may be asked to make themselves available to attend the appeal hearing as a witness to answer questions regarding the investigation.

10.1.14 There is no right to legal representation at an appeals panel. The employee may request legal representation at the appeal, for the Chair of the Panel to consider, and explain the reasons in writing before the meeting of the Panel. The possible dismissal of an employee where it could substantially influence the continued practice of their chosen trade or profession should be an important consideration in the decision of the Appeal Chair.

10.1.15 The employee does have the right to submit in writing and to present legal advice and the opinions of relevant experts at an appeal.

10.1.16 The order of proceedings for the appeal hearing will be as follows:
a. The Chair will introduce all parties and explain the purpose of the appeal hearing and how it will be conducted.
b. The Chair will confirm that the appeal hearing is being heard in accordance with the Appeal Procedure contained within the College's Disciplinary Policy and Procedure.
c. The employee and /or their representative will present the appeal
d. The Appeals Panel will ask questions and seek clarification from the employee as necessary.
e. The Chair of the original disciplinary hearing will respond to the appeal
f. The employee will be given the opportunity to ask questions relating to the response given
g. The Appeals Panel will ask questions and seek clarification from the original Panel Chair as necessary
h. Both parties will then be given the opportunity to make a short closing statement on their case
i. The Appeals Panel will adjourn to consider their decision.

10.2 The Outcome of the Appeal Hearing

10.2.1 The outcome of the appeal hearing will normally be confirmed to the employee in writing, usually within five working days of the hearing. In instances of dismissal, the Appeals Panel will, where possible, reconvene the hearing within 24 hours to notify the employee of their decision. If a decision is given in person, a follow up letter confirming the outcome of the appeal hearing will still be sent to the employee.

10.2.2 Based on the appeal presented and the associated evidence, the Appeals Panel may either:
   a. Uphold the appeal
   b. Reject the appeal
   c. Require a re-hearing of the whole or part of the original case

10.2.3 Where an appeal is upheld, the Panel may remove the disciplinary sanction or apply a lower level of sanction if appropriate.

10.2.4 Where an appeal is rejected, the original sanction shall remain in place; the Panel may not apply a higher level of sanction.

10.2.5 Where a full or partial rehearing is required, the Appeal Panel may conduct such a rehearing should they deem it appropriate. Alternatively, they may refer the case to a newly constituted Disciplinary Panel.

10.2.6 The decision of the Appeals Panel is final.

10.2.7 Records of any disciplinary proceedings will be kept confidential and retained in accordance with the Data Protection Act.

11. Suspension from Duty

11.1 In some circumstances, it may be necessary to suspend an employee from work on full pay while matters are investigated. Suspension must never be used as a disciplinary sanction, and does not imply guilt in any way.

11.2 For Academic employees covered by Statute 9, the Suspending Officer with the authority to suspend is the Principal, or, when unavailable, with the Deputy Principal (Academic) or a Senior Vice-Principal. For Professional Services employees, the Suspending Officer with the authority to suspend is the Deputy Principal (Operations) or, where unavailable a Director of Professional Services who is a member of College Executive.
11.3 Suspension may be deemed necessary if the continued presence of the employee may inhibit the investigation, where there are risks to an employee's or the College's property, or where the work of the College is seriously prejudiced, and no other solution is deemed possible. Suspension notifications should provide the reasons for the suspension as set out above. In certain instances, consideration may be given to revised or reduced duties as an alternative to full suspension from work.

11.4 Suspension must be for as short a period as possible, and any investigation must be conducted as promptly as possible to allow for a full investigation. Any period of suspension will be kept under regular review, and reviewed at least every two months. If an employee is still suspended at each two months, the Decision-Making Manager will be required to provide the Suspending Officer with the reasons for the delay and the likely date of conclusion of the investigation. They will also be required to provide details on whether the reasons for the original suspension remain valid. In order to do this, they will need to liaise with the Investigating Officer. The Suspending Officer will review the information provided and will decide whether continued suspension is applicable. The employee will be informed in writing whether suspension is to continue and the reasons for the decision, or that they may return to work, the reasons and any short term adjustments.

11.5 Careful consideration must be given before a decision to suspend is taken, and managers must consult with the Human Resources Department beforehand.

11.6 The facts and conditions of the suspension will be confirmed in a letter to the employee immediately on suspension.

11.7 Whilst on suspension, the employee should not enter College premises other than under the terms of their suspension, which may include agreed meetings with the Investigating Officer, members of the Human Resources Department, or their line manager. The employee should be reminded that all other contractual obligations remain and that they should keep themselves available for work at the normal working times.

12. Other Provisions

12.1 Where an employee raises a grievance complaint alleging a breach of the disciplinary procedure during the period in which the matter is under investigation, the Director of Human Resources may appoint an Investigating Officer or Officers to investigate the disciplinary and grievance complaint together or in parallel.

12.2 Where an employee submits a formal grievance associated with a disciplinary process, when the matter has gone to consideration by a Panel, the Panel Chair with advice from the Director of Human Resources or their nominee will consider whether it is appropriate to suspend the disciplinary procedure pending the outcome of the grievance, or, alternatively, deem it appropriate to deal with the issues as part of the disciplinary procedure. Where a Panel is to consider both a disciplinary and grievance matter, the Panel Chair must, after consulting with the parties concerned and with Human Resources Department, allow an appropriate period for full investigation of the grievance before the convening of a Panel. In some cases, the Human Resources Department may need to reappoint an alternative Panel.

12.3 During formal proceedings, where a member of staff believes that there are circumstances that may impact their ability to participate in the disciplinary procedure, reasonable support and/or adjustment may be made. The employee should raise concerns with the Human Resources Department as soon as possible.
12.4 Where staff are charged or convicted of a criminal offence that may affect their employment, they are required to inform the College as soon as possible. This circumstance shall not be regarded as an automatic reason for disciplinary action. Consideration will be given to whether the employee's conduct or conviction merits action because of its employment implications. Factors may include, for example, whether the offence or the type of conduct makes the employee unsuitable to undertake their job or if there is potential to damage the College's reputation. The facts of the case will be established to determine whether formal disciplinary action is required. An investigation and subsequent disciplinary action will be separate to any police investigation or judicial process, and may take place in the employee's absence if they are unable to attend meetings/hearings themselves.

12.5 The Human Resources Department shall monitor equality statistics relating to disciplinary action as part of the annual equality monitoring cycle. These statistics will be shared with the College unions on an annual basis at the Joint Negotiating and Consultation Committee meetings. The policy implications of such data will be considered by the Human Resources Department and the senior management of the College.

13. Discipline in Special Cases

Senior Management

13.1 Disciplinary arrangements for the Principal and College Secretary will be considered by the Chair of Council in accordance with the Standing Orders of Council.

13.2 Senior administrative employees of the College who report directly to the Principal may only be suspended by the Principal (or Deputy Principal in their absence).

13.3 If there is an allegation of misconduct, the Principal will initiate an investigation into the complaint and decide whether to dismiss the matter or to proceed under the formal disciplinary procedure.

13.4 In a case where the Principal has decided to proceed with a disciplinary hearing, the Principal will request the Council of the College to appoint a Panel to hear the charge or charges, and to determine whether the conduct of the employee concerned constitutes gross misconduct, or otherwise constitutes a serious complaint relating to the employee's employment.

13.5 The Panel appointed by Council will consist of a Chair who is a lay member of Council, another lay member of Council, and a senior member of staff nominated by the Principal. The Director of Human Resources will also support the Panel in an advisory capacity (unless party to the case already).

13.6 The rules for the disciplinary hearing shall follow the steps outlined in this procedure in sections 8 and 9.

13.7 In the case of an appeal, the Principal will request the Council to appoint an Appeals Panel which should consist of a Chair who is a lay member of Council, another lay member of Council, and a senior member of staff nominated by the Principal, none of whom have previously been involved in events leading up to the disciplinary action which is the subject of the appeal.

13.8 Appeals against a disciplinary sanction should be received by the Principal within ten working days of receipt of the letter confirming the disciplinary sanction. This letter must state the grounds for appeal.

13.9 An Appeals Panel will be convened at the request of the Principal to Council as soon as possible but normally within twenty days of receipt of this letter.
13.10 The appeal hearing shall follow the procedure set out in section 10 of this policy.

**Trade Union Representatives**

13.11 No formal disciplinary action should be taken against accredited trade union representatives until there has been a discussion with the appropriate official employed by the trade union. Suspension of a trade union representative will also be discussed in advance, where possible, with the appropriate official.

13.12 These procedures shall apply equally to elected trade union representatives. If a trade union representative is to attend a disciplinary hearing or an appeal against the decision of a disciplinary hearing, then the Human Resources representative shall ensure that, in addition to informing the employee of their right to be accompanied by a trade union representative or colleague, they will also inform the appropriate full time union official as soon as possible and in any case before the date of the hearing or appeal hearing has been finalised.

13.13 The full time official shall also be given a copy of any communication containing the result of such hearing as sent to the employee.

14. **Links to Other Policies and Information**

The policies and information set out below may be of assistance to those accessing this policy, and can be found on the HR webpage:

- Capability policy and procedure
- Dignity at Work policy
- Grievance policy and procedure
- Absence Management
- Health & Wellbeing
- Research Misconduct policy
- Guidance for Investigators

### Policy Schedule

<table>
<thead>
<tr>
<th>Policy Title</th>
<th>Disciplinary Policy and Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy Owner</td>
<td>Human Resources Department</td>
</tr>
<tr>
<td>Policy lead contact</td>
<td>Human Resources Director</td>
</tr>
<tr>
<td>Consultation with College Unions</td>
<td>UCU, UNITE and GMB</td>
</tr>
<tr>
<td>Approving Body</td>
<td>College Executive and Council</td>
</tr>
<tr>
<td>Date of Approval</td>
<td>June 2022</td>
</tr>
<tr>
<td>Date of implementation</td>
<td>August 2022</td>
</tr>
<tr>
<td>Version Number</td>
<td>8</td>
</tr>
<tr>
<td>Review Interval</td>
<td>Every three years</td>
</tr>
</tbody>
</table>
Appendix 1

Gross Misconduct

1. Gross misconduct is behaviour which is so serious or has such serious consequences that a disciplinary panel may impose dismissal without notice for a first offence. Such dismissal without notice is often called summary dismissal.

2. The following list provides some examples of offences which are usually regarded as gross misconduct. Further examples must be of equivalent consequence. If a matter not set out on the list below is proposed as gross misconduct the decision will rest with the Director of Human Resources or their Deputy.

   a. Theft, including unauthorised possession of goods belonging to the College, its staff or students
   b. Fraud, including deliberate falsification of records
   c. Corruption or bribery
   d. Serious breaches of code of research ethics
   e. Serious verbal assault
   f. Physical assault or attempted physical assault
   g. Acts of discrimination, bullying, harassment and victimisation
   h. Deliberate and serious damage to property.
   i. Deliberate misuse of College property or name
   j. Serious misuse of College IT resources such as deliberately accessing internet sites for personal use which contain pornographic, or obscene material or unauthorised entry to computer records.
   k. Conduct seriously and detrimentally affected due to alcohol, drug or substance misuse
   l. A serious breach of health and safety regulations
   m. A serious breach of confidentiality
   n. Causing loss, damage or injury through gross negligence
   o. Actions which impede or interfere with an investigation
   p. Unreasonable behaviour that causes serious damage to the reputation of the college including through improper use of social media.
Appendix 2

Roles and Definitions

Roles

**Academic Board**: College body responsible for academic matters which agrees list of those who are approved to sit on panels considering staffing matters in relation to academic staff.

**Accompanying Individuals**: Individuals who are being investigated as part of the formal disciplinary process have the right to be accompanied by a recognised trade union representative or work place colleague. Accompanying individuals cannot answer on behalf of individuals but they can make additional points or seek clarification. Individuals do not have the right to be accompanied by anyone and the only groups allowable are those set out above.

**Decision-Making Manager**: Manager appointed to decide whether, upon completion of the investigation report, that the evidence presented is sufficient to proceed to a disciplinary hearing or whether there is no case to answer. To provide evidence in person and in writing as applicable to a Disciplinary Hearing. To inform the Human Resources Department as applicable of the decision so that appropriate actions i.e. inform employee of no further action or to appoint a panel can be taken.

**Deputy Principal (Operations)**: The Deputy Principal (Operations) makes the decision on suspension of professional services staff. The Deputy Principal (Operations) deputises for the Principal in initiating the disciplinary process for senior members of the College who report directly into the Principal in their absence.

**Disciplinary/Appeals Panels**: Panels constituted by the Human Resources Department in accordance with the composition set out in the Disciplinary Policy. These panels have a prescribed membership. The panels make a decision on the outcome of the evidence presented to them to decide the outcome. In the case of an Appeal Panel a decision will be made on whether the original decision is upheld or whether it is overturned completely or the sanction is adjusted.

**Director of Human Resources**: To have overall responsibility for the role of Human Resources Department in managing the disciplinary process. To make a decision on dismissal and suspension as applicable.

**Human Resources Department**: To provide support and advice to managers throughout the process ensuring correct application of the policy. To provide administrative support. To provide support to employees through facilitating access to the College’s Occupational Health provision and Employees Assistance Programme as applicable.

**Investigating Officer**: To undertake a full investigation of the evidence through the use of written evidence and interviews. Evidence gathering to include liaison with the subject of the investigation and witnesses where applicable. To provide a report at the end of the investigation setting out the information. To present evidence if needed as part of a formal disciplinary meeting.
**Line Manager:** To raise an issue of concern in a timely manner as soon as this arises through the appropriate route. To manage staff performance and, where possible/suitable to address matters through an informal route in the first instance.

**Principal:** The Principal of the College makes the decision on suspension of those staff covered by Statute 9. The Principal is responsible for initiating the disciplinary process for senior members of the College who report directly into the role.

**Suspending Officer:** The senior member of College with responsibility for suspending an employee and reviewing suspension to ensure that the reasons for suspension remain applicable and valid. A Suspending Officer will review the reasons proposed for suspension recognising the exceptional nature of this action.

**Trade Unions:** The College has three recognised trade unions – UCU, GMB and Unite. The unions can provide support to employees who are the subject of disciplinary action or investigation. They can accompany employees in investigation meetings and hearings. Further information on the trade unions can be found on the College webpages.

**Witnesses:** As part of an investigation witnesses may be interviewed and/or provide evidence to allow for a complete review of a case. Witnesses may in some instances be called to give evidence as part of a disciplinary hearing. Both the College and an employee may call witnesses.

**Confidentiality:** All participants involved with a disciplinary matter are required to treat all information received in the course of the matter in the strictest confidence.

**Definitions**

**Informal:** Action outside of a formal process. Informal action would normally form part of normal performance management processes which managers would undertake with those they Line Manager. In most instances it would be hoped that issues may be resolved through informal actions.

**Formal:** In the context of the Disciplinary Policy the formal process refers to any stage which may result in a sanction which may have an impact upon an individual’s future employment e.g. termination or a warning which may be applied to an individual’s record for a period of time and may be referenced in future disciplinary cases.

**Investigation:** This is the process whereby an Investigating Officer will obtain and draw together all the evidence that may be relevant to allow a Decision-Making Manager to make a decision on whether to proceed to a Disciplinary Hearing. Evidence from the investigation will inform the Disciplinary Panel in making its decision and the Investigating Officer and Decision-Making Manager may be asked to present details as part of the Disciplinary Hearing. During the investigation the staff member subject to action will be offered the opportunity to be interviewed and provide their version of events as well as be given the chance to present written evidence.

**Suspension:** Members of staff may be suspended from work where an event under investigation or prior to the start of investigation has been identified as likely to be Gross Misconduct or may result in dismissal. Suspension is used in exceptional circumstances only and it is not automatic that suspension occurs in all instances of Gross Misconduct or serious misconduct. Suspension is not a disciplinary sanction. Suspension is on full pay. Permission to suspend is subject to agreement by the Principal, Deputy Principal (Operations) or the Director of Human Resources or their nominees only.

**Hearing:** A Hearing is the name for the meeting to decide the outcome of a Disciplinary case or in the case of an Appeal Hearing to decide the outcome of the appeal. It will be constituted in accordance with the composition set out in this document. During the hearing evidence from the member of staff, the
manager and witnesses (where appropriate) will be heard by the Panel by allow for a decision to be made. Further evidence may be sought by the Panel if needed to help prior to making a decision.

**Misconduct:** This is an action or actions which are sufficient to warrant disciplinary action. In the event of dismissal for misconduct employees would be provided with notice pay.

**Gross misconduct:** This is the most serious form of sanction and may result in dismissal with immediate effect i.e. without notice. Some examples of what may be deemed to be gross misconduct are included in Appendix 1 of the Disciplinary Policy. Dismissal without notice is known as Summary Dismissal.

**First Written Warning:** This is the first formal sanction issued under the Disciplinary Policy. Panels hearing the case may decide, on the evidence presented to issue any level of warning so in order to get a Final Written Warning or Dismissal a First Written Warning does not need to be issued. A First Written Warning is likely to be issued for a first sanction at a lower level i.e. continued lateness.

**Final Written Warning:** A Final Written Warning may be issued where there is a repeat of behaviour which resulted in the First Written Warning or where a Disciplinary Panel decides that a warning at the lowest level does not reflect the seriousness of the behaviour demonstrated.

**Dismissal:** This is when a decision is taken to end the employment of an individual by a Disciplinary Panel with sanction by the relevant senior officer i.e. The Principal or Deputy Principal (Operations). Details on the reason for the decision and the end date of employment, which except for Summary Dismissal as set out below, will include a notice period, and will be included in the termination letter.

**Summary Dismissal:** This is when action is very serious and the decision is taken by the Disciplinary Panel, sanctioned by the relevant Senior Post Holder (the Principal or Deputy-Principal (Operations)) to end employment without notice.

**Appeal:** At all stages of the formal Disciplinary Policy staff can appeal against a sanction. Appeals can be made on the basis of specific grounds only. If it can demonstrated the decision of the original panel was incorrect based on the grounds for appeal (procedure, decision or sanction) an Appeals Panel may remove the sanction, lessen the sanction or make the decision that the case or part of the case should be reheard.

**College Statutes:** The College is governed by its Statutes which determine how the College should operate in relation to matters including academic delivery and staffing.

**Statute g:** College regulation which governs the employment of academic staff i.e. Professors, Readers, Senior Lecturers and Lecturers. This includes matters relating to the dismissal of academic staff.

**Council:** The College’s application of its Statutes is overseen by the College Council, which is the College’s Governing Body. Council ensures that, through the implementation of a range of policies and committees that it meets its legal and own governance structures and it protects the values on which the College was founded.

**Joint Negotiating and Consultation Committee:** This is a joint committee between the College and the recognised trade unions to discuss matters in relation to staffing.