

## Academic Staff Disciplinary Regulation

<b>Policy Category:</b>	Human Resources
<b>Subject:</b>	Disciplinary matters for Academic Staff
<b>Approving Authority:</b>	SMT
<b>Responsible Officer:</b>	President & Principal
<b>Responsible Office:</b>	Human Resources Directorate
<b>Related College Policies:</b>	Academic Staff Capability Regulation Academic Staff Grievance Regulation Policy on Bullying & Harassment
<b>Effective Date:</b>	24 September 2020
<b>Supersedes:</b>	25 October 2017
<b>Next Review:</b>	July 2024

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### 1. General Principles

- 1.1. This Regulation is made pursuant to the College's Ordinance Relating to Dismissal, Grievance Procedures and Related Matters for Academic Staff.
- 1.2. This Regulation applies to all academic staff, i.e. employees of the College who have the title of 'Lecturer', 'Senior Lecturer', 'Reader' or 'Professor'. It does not form part of any contract of employment. It may be amended at any time and the procedure may be departed from if appropriate, including during an employee's probationary period and in cases of gross misconduct.
- 1.3. The purpose of this Regulation is to set out the procedure to be followed when the standards of conduct expected by the College are not met.
- 1.4. This Regulation does not apply to cases of capability, genuine sickness absence or redundancy.
- 1.5. If, during the procedure outlined in this Regulation, the College decides that it would be more appropriate to deal with the matter under another regulation or policy, the College may follow the procedure under the alternative regulation or policy at an appropriate stage. It will not be necessary for the College to start at the beginning of the alternative regulation or policy. The employee will be notified accordingly.
- 1.6. The responsibility for conduct matters for Clinical Lecturers, Clinical Senior Lecturers, Clinical Readers and Clinical Professors will normally follow the lines of accountability set out in the employee's contract of employment, clinical addendum and job description, i.e. the College as the university employer will lead on matters arising under the substantive contract and the honorary NHS employer and, if appropriate the relevant regulatory authority will lead on matters arising under the honorary contract.
- 1.7. A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if is considered relevant to an employee's employment.
- 1.8. Dismissal will not usually be the outcome for a first offence unless it is a matter of gross misconduct.

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- 1.9. The College aims to treat disciplinary issues sensitively and with respect for the privacy of those concerned. All staff must treat as confidential any information communicated in connection with a matter which is the subject of this Regulation.
- 1.10. Records will be kept of any procedures carried out under this Regulation and may be referred to in future if necessary.
- 1.11. Failing to attend a meeting or hearing, failing to cooperate with the procedure, or making false or malicious allegations under this Regulation may be treated as misconduct.

### **Meetings (including hearings)**

- 1.12. Meetings under this Regulation will usually take place in person but they may be conducted by phone or other technology, or by written questions if necessary as determined by the chair of the meeting.
- 1.13. The chair of a meeting will be responsible for ensuring there is appropriate HR support and a note taker present if necessary. Meetings should not be recorded without the permission of the chair<sup>1</sup>.
- 1.14. If the employee (or their companion where applicable) becomes unable to attend a meeting or hearing, they must inform the chair of the meeting, or the relevant HR representative, immediately.
- 1.15. Meetings under this Regulation may go ahead in the absence of the employee or their companion (if applicable) if:
  - 1.15.1. the employee or their companion fails to attend a meeting without good reason; or
  - 1.15.2. the meeting has already been rearranged and it is not reasonable to rearrange it again.

### **The right to be accompanied**

- 1.16. The employee subject to the disciplinary procedure may bring a companion (either a work colleague or a trade union representative) to investigation meetings, disciplinary hearings and appeal hearings. The employee must inform the chair of the meeting or hearing, or the relevant HR representative of the identity of any companion not later than three working days before the meeting or hearing. The companion may confer with the employee and address the meeting or hearing on behalf of the employee but may not answer questions on behalf of the employee.
- 1.17. If the employee's chosen companion is unavailable to attend the meeting or hearing on the first notified date, the employee may request a postponement and suggest an alternative date which is within five working days of the date originally notified. If it is not possible for the companion to attend on the alternative date, the employee must attend the rearranged meeting or hearing without a companion or choose an alternative companion.
- 1.18. It is the employee's responsibility to notify the companion of the details of the meeting or hearing including the date, time and location of the meetings and any relevant documentation relating to their case.

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<sup>1</sup> [Use of recording devices](#)

## **Suspension**

- 1.19. When disciplinary allegations are made against an employee, a decision will be taken by the Director of Human Resources, their nominee or a more senior person if necessary, whether to suspend the employee. The employee's line manager should usually be consulted about this decision.
- 1.20. Suspension is not a disciplinary sanction but a means by which to facilitate a full investigation being carried out in order to determine whether a hearing is required.
- 1.21. When an employee has been suspended:
  - 1.21.1. they may not attend the College's premises or have contact with staff, students or funding bodies without express written permission from the person who authorised the suspension, or their nominee, but must be readily contactable and available to work if requested;
  - 1.21.2. their access to the College's systems and their College email account may be suspended;
  - 1.21.3. in certain circumstances, it may be necessary to notify other members of staff that an employee has been suspended, and why;
  - 1.21.4. they will be paid in accordance with their contract of employment;
  - 1.21.5. they will be given reasons for the suspension; and
  - 1.21.6. their suspension will be kept under review (normally on a fortnightly basis).
- 1.22. If an employee holds an honorary NHS contract and is suspended, the Director of Human Resources and/or Medical Director of the relevant NHS Trust will be informed.

## **2. Informal guidance and advice**

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- 2.1. A manager may give informal guidance and advice to an employee if the manager has grounds for concern regarding their conduct. Informal guidance and advice is not a disciplinary sanction but records will be kept when it is given.
- 2.2. An investigation and/or the disciplinary procedure may be invoked if similar issues recur following informal guidance and advice.

## **3. Investigation**

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- 3.1. An investigation may be carried out into alleged misconduct to establish the facts and decide whether to invoke the disciplinary procedure. The person who raises the allegation will be informed in writing whether an investigation will be carried out, and the relevant HR People Partner will be provided with a copy of that correspondence.
- 3.2. The investigator will normally be appointed by local management, who should take advice from [Human Resources](#). The investigator may be a suitable person external to the College.
- 3.3. The investigator should arrange a meeting with or request a statement from the employee concerned and from any other people they consider relevant.

- 3.4. If the investigator determines there is a case to answer, they will inform the Director of Human Resources or their nominee and the disciplinary procedure will be invoked.
- 3.5. Any investigation report will be kept on the employee's file and may be referred to in future procedures.

#### **4. Disciplinary procedure**

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- 4.1. If a decision is taken to invoke the disciplinary procedure, the Director of Human Resources or their nominee will appoint *a panel* to consider the case. If this procedure is being invoked against the Director of Human Resources, the next most senior person will appoint a panel. If a panel is appointed, one member should be appointed chair, and the panel may include a person external to the College (e.g. an NHS Trust Representative).
- 4.2. At their discretion the Director of Human Resources (or their nominee) may determine that a disciplinary manager be appointed in place of a panel.
- 4.3. An employee who is required to attend a disciplinary hearing will be given:
  - 4.3.1. a copy of this Regulation and details in writing of the allegations(s).
  - 4.3.2. a summary of relevant information gathered during the investigation;
  - 4.3.3. a copy of any relevant documents which will be used at the disciplinary hearing; and
  - 4.3.4. a copy of any relevant witness statements, except if a witness's identity is to be kept confidential, in which case the employee will be given as much information as possible while maintaining confidentiality.
- 4.4. If the panel or disciplinary manager chooses to interview any witnesses (including the investigator if appropriate), the interview may be part of the hearing, or a separate meeting. If a witness wants to provide a written statement, a copy should be provided not later than three working days in advance of the meeting or hearing. Any witnesses interviewed will be provided with notes of their interview.
- 4.5. If an employee fails to attend a hearing without good reasons or is persistently unable to do so (e.g. for health reasons), the panel or disciplinary manager may reach an outcome based on the available evidence.
- 4.6. At the disciplinary hearing, the panel or disciplinary manager will discuss the allegations with the employee and review the evidence that has been gathered. The employee will be permitted to respond to the allegations and present any evidence of their own.
- 4.7. The employee will be provided with notes of the hearing.
- 4.8. The panel or disciplinary manager may carry out any further investigation, such as re-interviewing witnesses, which is necessary following the hearing. The employee will be given a reasonable opportunity to comment on any new information before an outcome is reached.
- 4.9. The panel or disciplinary manager will inform the employee of the outcome of the disciplinary hearing, usually within ten working days of the hearing subject to paragraph 4.8 above. The outcome letter should state whether the allegation(s) is upheld and, if so, the applicable disciplinary penalty. The usual disciplinary penalties are set out below:

- 4.9.1. A **written warning** may be issued if the misconduct is not considered serious enough to merit a final written warning. A written warning will normally expire six months after it is issued but a different period may be set.
- 4.9.2. A **final written warning** may be issued if the misconduct is too serious or repeated for a written warning to be appropriate but not serious enough to warrant dismissal, or if there has been an inadequate response to previous warnings. A final written warning will normally expire one year after it is issued but a different period may be set. The reason for any period longer than one year will be contained in the outcome letter.
- 4.9.3. An employee may be **dismissed on notice** if the misconduct is sufficiently serious to warrant dismissal, or if there have been earlier warnings to which the employee has not made an adequate response.
- 4.9.4. An employee may be **dismissed without notice** for gross misconduct.
- 4.9.5. **Supplementary sanctions** may be appropriate depending on the specific circumstances of the case. They may include: delayed incremental progression; demotion (with a reduction in pay); and/or transfer to another department. Supplementary sanctions may be offered to the employee as an alternative to dismissal.

## 5. Appeals

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- 5.1. An employee may appeal a disciplinary outcome on one or more of the following grounds:
  - 5.1.1. the outcome was unreasonable;
  - 5.1.2. there was a failure of procedure that led to the wrong outcome being reached; or
  - 5.1.3. information has arisen which was not available at the time which may have led to a different outcome.
- 5.2. An employee who wishes to appeal against a disciplinary outcome should do so in writing to the Director of Human Resources (or the next most senior person if necessary) within ten working days of receipt of the outcome, setting out the grounds of their appeal in full. Appeals should be typed in an ordinary font size and spacing and should not be longer than five A4 pages.
- 5.3. The Director of Human Resources or their nominee will, normally in consultation with the employee's line manager, appoint an appeal panel, normally of three members of staff, and select one to act as chair. The appeal panel may include a person who is external to the College (e.g. an NHS Trust Representative). Where possible, the chair of the appeal panel will be more senior than the disciplinary manager or chair of the disciplinary panel, and the members of the appeal panel will not previously have been involved in the case. The appeal will not usually take the form of a re-hearing of the evidence (unless the chair determines, in their absolute discretion, that this is necessary to properly dispose of the appeal).
- 5.4. The chair of the appeal panel will arrange an appeal hearing and invite the employee to attend to present their case.

- 5.5. At the appeal hearing, the appeal panel will discuss the employee's appeal. Witnesses may be called only with the permission of the chair of the appeal panel. The employee will be invited to make representations.
- 5.6. The chair of the appeal panel will prepare a written outcome stating whether, in full or in part, the original outcome is upheld, dismissed or varied. The outcome is final.
- 5.7. If an appeal against dismissal is allowed, the employee will be reinstated with no loss of continuity of service or pay, unless the outcome is to vary the sanction and apply a supplemental sanction which results in a loss of pay.

## **6. Types of misconduct**

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- 6.1. The following examples of conduct are likely to be regarded as misconduct. This list is illustrative and is not exhaustive:
  - 6.1.1. unsatisfactory time keeping;
  - 6.1.2. unsatisfactory attendance record;
  - 6.1.3. refusal to carry out a reasonable instruction;
  - 6.1.4. disrupting the work of others;
  - 6.1.5. neglect of duties
  - 6.1.6. breach of a condition of employment, regulation, policy or instruction;
  - 6.1.7. breach of health and safety rules;
  - 6.1.8. a minor failure to comply with the College's Financial Regulations;
  - 6.1.9. the failure to undertake appropriate UK Visas and Immigration compliance checks to ascertain the right of an individual to work in the UK;
  - 6.1.10. breach of confidentiality
  - 6.1.11. bringing the College into disrepute;
  - 6.1.12. research misconduct;
  - 6.1.13. failing to cooperate in any procedures under the College's regulations; or
  - 6.1.14. smoking in no smoking areas.
  - 6.1.15. Inappropriate behaviour towards staff and or students.
- 6.2. The following examples of misconduct are likely to be regarded as gross misconduct. This list is illustrative and is not exhaustive:
  - 6.2.1. any serious or repeated incident of the misconduct listed above;
  - 6.2.2. theft or fraud;

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- 6.2.3. physical violence or the threat of physical violence;
- 6.2.4. deliberate or serious damage to property;
- 6.2.5. accessing internet sites containing indecent or offensive material unless duly authorised;
- 6.2.6. bullying, discrimination or harassment;
- 6.2.7. incapacity at work brought on by alcohol or illegal drugs;
- 6.2.8. causing loss, damage or injury through negligence;
- 6.2.9. failing to disclose information required for your employment to continue or giving false information about your qualifications or right to work in the UK;
- 6.2.10. failing to declare a material conflict of interest; or
- 6.2.11. knowingly making a false or malicious allegation under the Grievance Regulation, the Disciplinary Regulation, the Capability Regulation or the Whistleblowing policy.