

Staff Disciplinary Procedure

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1. Purpose

- 1.1. All individuals should be able to live and work in an environment where they feel safe and are free from harm. The University of Surrey will not tolerate Misconduct. This means that Incidents of Misconduct will be treated seriously, via proportionate investigation/action, in order to promote a safe environment for Students, Members of Staff, Visitors and third parties. The University leadership is committed to fostering environments free from Misconduct and ensure that managers and supervisors have the tools to address issues that arise and monitor the effective use of those tools within their faculties and departments.
- 1.2. The University expects satisfactory standards of behaviour, conduct and attendance from all Members of Staff. The purpose of this procedure is to:
- assist in enabling both Members of Staff and the University to be clear about the expectations of both parties;
 - provide a framework for dealing with instances where Members of Staff are alleged not to have met the required standards of conduct;
 - provide a mechanism for consistent, prompt, and fair treatment for all Members of Staff in disciplinary matters;
 - provide a mechanism for managing the remuneration of Members of Staff who demonstrate continued unsatisfactory conduct. (In accordance with the principal statement, automatic increments will be halted if conduct is unsatisfactory (formal stage only). This action will be taken if an individual at the time of the 1 April automatic increment has a live formal disciplinary warning on file.)
- 1.3. This procedure should be read in conjunction with the University's staff and Student policies and regulations. The following will be of particular relevance:
- [Equality Policy](#)
 - [Trans and Gender Identity Procedure](#)
 - [Safeguarding Procedure](#)
 - [Sexual Misconduct Procedure](#)
 - [Data Protection Policy](#)
 - [Data Protection Processing Statement](#)
 - [Student Disciplinary Regulations](#)
 - [Code of Practice for Intimate Personal Relationships](#)
 - [Code of Practice on Allegations of Research Misconduct](#)
 - [Procedure for Complaints](#) (Students)
 - [Staff Grievance Procedure](#)
 - [Acceptable Use Procedure](#)
 - [Social Media Procedure](#) (Staff)
 - [Public Interest Disclosure \(Whistleblowing\) Procedure](#)
 - [Information Sharing Procedure](#)
 - [Harassment and Bullying Procedure](#)
- 1.4. Members of Staff who undertake research within the University of Surrey, irrespective of how it is funded, should refer to the [Code of Practice on Allegations of Research](#)

Misconduct in addition to this *Procedure*. This should be read in conjunction with the UUK *Concordat to Support Research Integrity* and the RCUK's *Research and Code of Conduct on the Governance of Good Research Conduct*.

2. Scope and Exceptions to the Procedure

2.1. What does this procedure apply to?

2.1.1. This procedure relates to Misconduct affecting:

- a Member of Staff or Student (including staff in University of Surrey subsidiaries and Surrey Sports Park staff)
- the University of Surrey Students' Union or a Union employee
- members of the public
- others visiting, working or studying at the University
- the University itself (for example, reputational matters) or its property.

2.2. Who does this procedure apply to?

2.2.1. The Staff Disciplinary Procedure applies to all Members of Staff (including staff in University of Surrey subsidiaries and Surrey Sports Park staff), at all times, on University of Surrey campuses, online and, in some circumstances, off campus.

2.2.2. This includes academic staff referred to in Ordinance 11.2 *Disciplinary Procedures* (Lecturer A & B, Senior Lecturer, Associate Professor, Professor Role Profiles) who should refer to this *Procedure* in conjunction with Ordinance 11.2.

2.2.3. This procedure does not form part of any Member of Staff's contract of employment. It may be amended from time to time with appropriate consultation with recognised trade union representatives.

2.2.4. This procedure does not apply to:

- the management of underperformance. In these circumstances, the Capability Procedure applies;
- the management of sickness absence. In these circumstances, the Sickness Absence Procedure applies;
- non-academic staff under an initial period of probation (in these circumstances the Non-Academic Probation Procedure applies).

2.3. What is generally expected of Members of Staff?

2.3.1. It is expected that every Member of Staff should:

- maintain a high standard of honesty, integrity and conduct at all times,
- fulfil the duties specified in their contract of employment/job purpose/role profile.

2.3.2. The University expects its staff to uphold its policies and procedures and to report infringements via the appropriate channels.

3. Definitions and Terminology

Bullying

The University defines Bullying as unwanted conduct from a person or group that is:

- offensive, intimidating, threatening, malicious or insulting, and/or
- an abuse or misuse of power that undermines, humiliates or causes physical or emotional harm to another person or persons.

This *Procedure* should be read in conjunction with the [Harassment and Bullying Procedure](#).

Directly Affected Party

A Directly Affected Party is a person who is reasonably identified as:

- of particular significance in the context of an Incident, and
- likely to be directly impacted by a key decision made in respect of an Incident. A key decision is a decision whether to progress the case to the next stage of the University's processes (as applicable) or a decision as to the overall outcome of the University's processes.

Disclosure

A Disclosure is when an individual shares their experience, whether verbally or in writing, with a suitably trained Member of Staff, however, the individual may not necessarily want action to be taken. An individual making a Disclosure should be given time to make an informed choice about whether to make a Formal Report to the police, to the University or to both the police and the University. A Disclosure is different to a Formal Report (see below).

Formal Report

A Formal Report is a way of officially lodging an allegation or allegations, to be followed up with potential action against a Responding Party. A Formal Report can be made to the police or to the University or to both the police and the University. Where a Formal Report is made to the police, consideration will be given as to whether one or more criminal offences have been committed within the context of the criminal justice system. Where a Formal Report is made to the University, consideration will be limited to whether University internal policies, procedures or regulations have been breached. The University cannot and does not make a criminal legal finding. A Formal Report is different from a Disclosure (see above).

Gross Misconduct

Gross Misconduct is Misconduct that is so serious it effectively breaches the contract of employment with the employee, and it could result in dismissal with notice pay or summary dismissal (with no notice pay).

Harassment

For the purposes of this Procedure, this term applies to behaviour within the definitions found in:

- section 26 of the Equality Act 2010
(<https://www.legislation.gov.uk/ukpga/2010/15/section/26>) and/or
- section 1 of the Protection from Harassment Act 1997 (in its entirety, and as interpreted by section 7 of the Act)

(<https://www.legislation.gov.uk/ukpga/1997/40/section/1>).

The definitions in both pieces of legislation above ought to be consulted in conjunction with this Procedure and the [Harassment and Bullying Procedure](#).

Incident

This term is used to describe allegations, complaints, suspected behaviour and formal findings of Misconduct.

Intimate Personal Relationship

An Intimate Personal Relationship means a relationship involving one or more of the following:

- physical intimacy (including isolated or repeated sexual activity)
- romantic intimacy
- emotional intimacy

This Procedure should be consulted in conjunction with the [Code of Practice for Intimate Personal Relationships](#).

Investigator

An Investigator is the individual responsible for investigating reports of Misconduct, in accordance with the University's policies and procedures, most commonly, the [Staff Disciplinary Procedure](#).

Member(s) of Staff

A Member of Staff is an employee of the University of Surrey or an employee of a subsidiary of the University of Surrey (including a Student where they are acting in a staff capacity).

Members of the University

Members of the University means current Members of Staff, members of Council and Students at the University of Surrey.

Misconduct

Misconduct is unacceptable behaviour and examples are found later in this Procedure. Misconduct can be categorised as Ordinary Misconduct or Gross Misconduct.

In all cases, this includes behaviour that takes place in person as well as behaviour via other mediums, such as social media.

Ordinary Misconduct

Ordinary Misconduct is Misconduct which would not necessarily lead to dismissal for a first offence. Repeated instances of Ordinary Misconduct can, however, lead to dismissal.

Reporting Party

A Reporting Party is a person(s) who has reported one or more allegations of Misconduct to the University. A Reporting Party could be a person who has been subject to the Misconduct themselves, or a person who witnessed, or has been made aware of Misconduct, but was not personally subject to it.

Responding Party

A Responding Party is a person(s) whose conduct has been alleged to have amounted to Misconduct (whether Ordinary or Gross Misconduct).

Senior Manager

A Senior Manager is a Member of Staff at Grade 6 or above of the University's pay scales.

Sexual Misconduct

Sexual Misconduct is conduct, or attempted conduct, that is directed at a person without (and in some circumstances with) their consent and which is of a sexual nature. This includes but is not limited to:

- Sexual Harassment (as defined by s26(2) and s26(3) Equality Act 2010)
- Sexual Assault (as defined by s3 Sexual Offences Act 2003)
- Rape (as defined by s1 Sexual Offences Act 2003)

In some circumstances, conduct or attempted conduct that is wanted may still constitute Sexual Misconduct. For example, having consensual sexual intercourse in a public place. This Procedure should be read in conjunction with the [*Sexual Misconduct Procedure*](#).

Student

For the purposes of this *Procedure*, Student applies to:

- applicants to the University who have accepted an offer of a place;
- those registered on the Foundation Year and award-bearing programmes delivered by the University; this includes new Students who have been through the online registration process and have yet to complete the main registration process and Students on their Professional Training Year;
- those registered to study for the award of academic credit delivered by the University;
- those registered to study for non-credit bearing modules/courses and non-award-bearing programmes delivered by the University;
- those registered as a Student with another organisation operating in collaboration with the University and using University facilities, for example, Surrey International Study Centre (SISC);
- those registered as a Student participating in an exchange scheme;
- formerly registered students in exceptional circumstances.

Visitor

Any person:

- present on University premises (including University managed houses), or
 - attending an off campus University led event (including virtual events),
- who is not a Member of the University.

Procedural Principles

4. What is Misconduct?

- 4.1. Misconduct will be progressed as either Ordinary or Gross depending on the severity of the Misconduct and with due regard as to what level of penalty would be proportionate and reasonable for a proven offence.

4.2. Misconduct means unacceptable behaviour that takes place either in person or via other mediums such as online and includes, but is not limited to, behaviour falling within the following categories:

- actions which cause actual or potential distress or harm (physical or psychological) to another person irrespective of whether or not distress or harm was intended;
- actions which cause actual or potential damage to property of others;
- actions which cause actual or potential reputational damage to the University;
- actions which disrupt the normal operations, and/or safe use of, the University;
- actions which impede or interfere with the pursuance of work/study of University members.
- use of violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language;
- Sexual Misconduct as described in the University's [Sexual Misconduct Procedure](#);
- Harassment or Bullying as described in the University's [Harassment and Bullying Procedure](#);
- fraud, deceit, deception or dishonesty in relation to the University's regulations, policies and procedures, its members and visitors to the University;
- theft, misappropriation or misuse of University property, or the property of the University's members or visitors;
- failure to respect the rights of others to freedom of belief and freedom of speech.

4.3. Behaviour outside of the working environment may lead to disciplinary action, for example, where Misconduct is serious and/or affects the University.

4.4. Misconduct of a sexual nature is additionally referenced in the [Sexual Misconduct Procedure](#) which, where relevant, should be read in conjunction with this *Procedure*. Behaviour such as unwanted touching, where it is not sexual in nature, will be dealt with under the [Staff Disciplinary Procedure](#).

4.5. Misconduct in the form of Harassment and/or Bullying is additionally referenced in the [Harassment and Bullying Procedure](#) which, where relevant, should be read in conjunction with this *Procedure*.

4.6. Misconduct carried out online using electronic media devices such as computers, laptops, smartphones or tablets is additionally referenced in the [IT Acceptable Use Procedure](#) and the [Staff Social Media Procedure](#) which, where relevant, should be read in conjunction with this *Procedure*.

4.7. If at any stage within this *Procedure* it becomes clear that the performance or conduct issue relates to capability (a Member of Staff's ability to satisfactorily do their job), the matter will be dealt with under the [Capability Procedure](#) and the disciplinary process will cease.

5. What is Ordinary Misconduct?

- 5.1. Ordinary Misconduct is inappropriate behaviour which would not necessarily lead to dismissal for a first offence by a Member of Staff. Repeated instances of Ordinary Misconduct can, however, lead to dismissal.
- 5.2. The examples of Ordinary Misconduct listed below are illustrative and not exhaustive. Some instances of Misconduct may feature in more than one category depending on the circumstances.
- 5.3. Examples of Ordinary Misconduct include, but are not limited to:
- condoning serious actions contrary to the interests of the University;
 - breach of safety procedures or regulations;
 - refusing to comply with reasonable instructions;
 - unauthorised absence from work;
 - breach of confidentiality at work;
 - inappropriate use of social media (see also the *Staff Social Media Procedure*);
 - failure to conform to any of the University rules, regulations or procedures;
 - unsatisfactory performance of the duties of the post (not due to a capability issue);
 - breach of any other condition of employment;
 - breach of the [Code of Practice on Allegations of Research Misconduct](#).
- 5.4. Examples of Ordinary Misconduct that may be considered minor include, but are not limited to, isolated instances of:
- poor time keeping;
 - non-compliance with sickness notification rules.

6. What is Gross Misconduct?

- 6.1. Gross Misconduct is severely inappropriate behaviour. Where Gross Misconduct is found to have occurred, the Responding Party may be dismissed immediately without notice or without pay in lieu of notice.
- 6.2. The examples of Gross Misconduct listed below are illustrative and not exhaustive. Some instances of Misconduct may feature in more than one category depending on the circumstances.
- 6.3. Examples of Gross Misconduct include, but are not limited to:
- Acting in a way that is incompatible with the discharge of the Member of Staff's duty to the University
 - Willful disobedience of a lawful order;
 - Theft or unauthorised possession of money or property belonging to any Member of the University, or to any other person legitimately present within University premises;
 - Using threatening behaviour or physical violence against any Member of the University or Visitor
 - Harassment and/or Bullying as defined by the [Harassment and Bullying Procedure](#);
 - Making false entries in University records or other official documents (including applications for employment);

- Willful damage to University property;
- Incapacity to perform the duties of the post in a manner consistent with the University's Health and Safety Policy because of alcohol consumption and/or illegal drug taking;
- Action liable to cause unacceptable damage to the University's reputation or bringing the University into disrepute;
- Serious breach of confidentiality of work;
- Downloading and/or watching and/or distributing illegal, offensive or unsavoury material from the internet at work and/or on University devices (unless pre-approved, exceptionally, for research and teaching purposes);
- Sexual Misconduct as defined by the [*Sexual Misconduct Procedure*](#);
- Engaging in a Prohibited Intimate Personal Relationship with a Student;
- Engaging in an Intimate Personal Relationship with a Student and failing to disclose this to the relevant party and/or failing to disclose within the specified timeframe for notification;
- Engaging in an Intimate Personal Relationship with a Student and failing to abide by measures put in place by the University to manage the Intimate Personal Relationship;
- A serious breach of health and safety that could endanger self or others;
- A serious breach of the *Code of Practice on Handling Allegations of Research Misconduct*.

7. Freedom of Speech

- 7.1. The University places significant weight on the importance of freedom of speech within the law and the importance of academic freedom and tolerance for controversial views in an educational context or environment.
- 7.2. Freedom of speech and expression are recognised as essential in the University's role in society and as an academic institution. Vigorous speech and comment and academic debate can be distinguished from the behaviours outlined in this procedure. Whilst free speech includes speech that may be offensive or hurtful, speech that amounts to Misconduct including (but not limited to) unlawful Harassment does not constitute free speech within the law and, therefore, will not be protected from disciplinary action.

8. Intimate Personal Relationships

- 8.1. Misconduct may occur in the course of an Intimate Personal Relationship between a Student and Member of Staff (including a Student acting in a staff capacity). This *Procedure* should be read in conjunction with the University's [*Code of Practice for Intimate Personal Relationships*](#).

9. Objective test

- 9.1. In considering allegations involving claims of harassment, bullying and/or offensive behaviour, an objective test will be used. The test assesses whether it was reasonable for the conduct in question to have had the effect described by the Reporting Party (for example, violating their dignity, or creating an intimidating, hostile, degrading, humiliating, or offensive environment for them). The context of the incident(s) will be

considered, including the circumstances in which the conduct arose, the reasons for the conduct and the relationship between the parties. The conduct under consideration will undergo an initial assessment to determine whether it meets the severity threshold necessary to be categorised as potential misconduct and therefore whether this warrants formal investigation under the appropriate University Procedures.

10. How can I raise an Incident of Misconduct involving a Member of Staff?

10.1. Below are the actions individuals may take in relation to Incidents of Misconduct. One step need not be completed before moving to the next. For instance, there will be some cases where early intervention is not appropriate or where an individual may not feel safe or comfortable engaging in early intervention.

10.2. Early intervention

10.2.1. Early intervention is not obligatory and will not always be appropriate, but it can lead to a resolution where an honest and constructive conversation is possible. Such conversations may enable the person who experienced the Misconduct to explain how and why something was hurtful and enable the Responding Party to understand the consequences of their actions. If an individual is unsure whether they should approach the situation in this way, they should seek support from their Human Resources representative or line manager (if staff), their supervisor/personal tutor or from other University support services (if a Student).

10.2.2. If an individual believes that they or another person has been subject to Misconduct by a Member of Staff, they may choose to:

- have an initial discussion with the Responding Party to raise their concerns (only when it is safe and considered appropriate to do so);
- have an initial discussion with their own line manager or supervisor/personal tutor to facilitate a constructive conversation or help address the situation;
- Members of Staff who do not feel comfortable approaching the relevant line manager or supervisor may ask for support from the HR Advisory team (HRAdvisory@surrey.ac.uk), their local HR Business Partner or other colleagues in support roles;
- Students who do not feel comfortable approaching the relevant Member of Staff may ask for support from a Personal Tutor, Senior Personal Tutor, Supervisor, the Student Success Team, the Students' Union, OSCAR or a member of the Campus Safety Team (this list is not exhaustive);
- Postgraduate Researchers may also approach the Postgraduate Research Director, the Associate Dean for the Doctoral College or the Doctoral College for support.

10.2.3. Visitors or third parties may also report concerns of Misconduct towards or by Members of the University using the following link: <https://www.surrey.ac.uk/visit-university/contact>.

10.3. Report + Support <https://reportandsupport.surrey.ac.uk>

- 10.3.1. This website offers direct help and guidance in confidence. Those who submit Formal Reports with contact details will hear back within three University working days and receive advice and support. All submissions are treated impartially, with the appropriate level of investigation.
- 10.3.2. Report + Support is available 24 hours a day, allowing for a time and place that feels safest to the individual, with clear information about their options and signposting to appropriate support services for what they have experienced. The University monitors Report + Support during University working days between 09:00 and 17:00, Monday to Friday (only). It is not intended as an emergency response tool and responses will not be immediate. In emergencies, the University's designated Campus Safety team can be reached 24 hours a day, seven days a week on 01483 682002.
- 10.3.3. Individuals can arrange a confidential conversation before submitting a Formal Report by emailing the Report + Support team at reportandsupport@surrey.ac.uk. The team can then speak to the individual via email, Microsoft Teams or in person (whatever works best for the individual). It is important to note that if the team believes that the individual, or someone else, is at risk of serious harm, then they may need to report that information to the University and/or the police even if the Reporting Party does not agree to this.
- 10.3.4. The Formal Report may result in action being taken in line with the relevant procedure and/or support services being signposted.
- 10.4. Anonymous Reporting to the University
- 10.4.1. If an individual has been subjected to Misconduct or is concerned that another individual has been subjected to Misconduct, they can report the concern anonymously using the following link: [Report + Support](#).
- 10.4.2. The University appreciates that for many reasons, people may not feel comfortable reporting and providing their details. Therefore, this online form allows anonymous reporting. These anonymous reports provide statistical information which is used to inform the University's proactive and preventative work. This also allows the University to monitor issues across the University. With anonymous reporting, the University will not be able to offer direct advice and is unlikely to begin any formal processes. If the report is very serious, it may be forwarded to relevant parties, but there will be limits to the University's response.
- 10.4.3. Anonymous Disclosures can be made at any time and can be made alongside any of the listed actions within this *Procedure*.
- 10.5. Grievances (staff only)
- Grievances may be raised by Members of Staff who have been subject to Misconduct such as Harassment and/or Bullying or who consider that another individual has been

subject to such behaviour. In addition, Managers may engage the [Staff Disciplinary Procedure](#) to deal with occurrences of Misconduct that they become aware of. It is not necessary for a grievance to have been issued for a manager to take this step.

10.6. Contact Line Manager (staff only)

An employee's Line Manager will be able to provide support and signpost the reporting options (such as Report + Support).

10.7. Contact the Human Resources Department (staff only)

<https://surreynet.surrey.ac.uk/staff-services/human-resources>

The HR Advisory Team will be able to advise and support colleagues across the University who feel that they are being impacted by any behaviours outlined within this procedure. The Advisory Team will be able to guide on the most appropriate reporting route, provide information on what support can be accessed and signpost to the other support teams/departments within the University.

10.8. Contact the Campus Safety Team

campus-safety@surrey.ac.uk

The Campus Safety Team can talk through how to make a Formal Report and what support is available.

10.9. Contact the Office of Student Complaints, Appeals and Regulation (OSCAR) via www.surrey.ac.uk/oscar

Students who wish to make an allegation in relation to staff Misconduct should contact OSCAR. If appropriate, HR and OSCAR will work together on cases involving both staff and Students.

10.10. Contact Early-Career Researchers (ECRs only)

The Doctoral College offers support and guidance to early career research staff (ECRs), broadly defined to include research staff on fixed-term contracts (postdocs), probationary lecturers, and teaching fellows. All staff who consider themselves ECRs can approach the Doctoral College for support and appropriate signposting.

10.11. There may be circumstances where a Student is both a Student and a Member of Staff. For example, where a Student is employed to work at the University. A Member of Staff may address a complaint about a Student acting in a staff capacity to Human Resources through the [Staff Grievance Procedure](#). Where an Incident arises that is specifically connected to the Student acting in a staff capacity, the Student will be dealt with in accordance with the [Staff Disciplinary Procedure](#). If the Misconduct is serious and has a direct bearing on the Responding Party's Student status, separate Student disciplinary proceedings may be initiated. This will be considered on a case-by-case basis. The University recognises the complexities in relation to these cases. The Doctoral College offers support and guidance to Postgraduate Research Students (PGR) Students and has dedicated PGR staff to support enquiries.

11. What support is available in relation to Incidents of Misconduct?

11.1. Misconduct can negatively impact everyone involved and, if left unaddressed, there is a risk of harm to mental health and wellbeing in both the short-term and longer-term. Support services are available to all Members of the University who are affected by an Incident of Misconduct.

11.2. Support is available regardless of whether a Formal Report is made and irrespective of the outcome of any investigation.

Everyone, whether Students or Members of Staff, will have equitable access to internal and external support and they will each have a Member of Staff assigned to them during any formal proceedings to offer welfare and pastoral support (as appropriate).

11.3. Comprehensive details of the support available can be found on relevant University webpages, including the [Report + Support website](#).

11.4. The Single Comprehensive Source of Information contains extensive information on the variety of support (both personal and academic) available to anyone who is a party related to an Incident of Misconduct in the form of Harassment, Bullying and/or Sexual Misconduct. The Single Comprehensive Source of Information should be consulted in conjunction with this *Procedure*.

11.5. The Employee Assistance Programme, BHSF RISE is a resource available to staff only: <https://myrisehub.co.uk/UK/>

The University's Employee Assistance Programme, gives Members of Staff access to free personalised, on demand advice and support from a team of mental health, financial and legal experts, 24 hours a day, 365 days a year. This includes face to face and online counselling as well as the MyMindPal app which contains exercises, tools and techniques to support employees' Mental Fitness needs.

11.6. There are three recognised trade unions that represent Members of Staff at the University: Unison, Unite and UCU. More information is available here (internal webpage): <https://surreynet.surrey.ac.uk/staff-services/trade-unions>

12. What level of proof is required for the University to find that Misconduct has happened?

12.1. The University applies a different, lower standard of proof to that used by the criminal justice system. In matters of staff Misconduct, the standard of proof applied is that of the balance of probabilities. This means that the University will consider Misconduct to be proven if, on the evidence put forward, it is more likely than not that Misconduct took place.

12.2. In the initial stage of a staff Misconduct matter, the burden of proof is on the University. This means that it is for the University to show that it is more likely than not that the Responding Party committed the Misconduct. The burden of proof switches to the Responding Party if they appeal the outcome of the initial stage of this process.

12.3. Please note, the University uses some legal definitions implemented in English law (such as in relation to Harassment and Sexual Misconduct) to make decisions and appropriately characterise conduct in relation to University processes only. The University cannot, and does not, make judgements as to whether alleged conduct constitutes a criminal offence. The decisions of the University are not legal rulings in this regard. In the event of police involvement, any determination as to potential criminal liability will be dealt with separately and externally via the criminal justice system.

13. What is expected by the University in relation to those participating in its disciplinary processes?

13.1. It is expected that Members of Staff, their supporters and all other participants will act reasonably and fairly towards each other and will treat the disciplinary process with respect. A failure to respect the disciplinary process may result in a separate disciplinary investigation with the potential for a separate finding of Misconduct.

13.2. All Members of Staff must co-operate fully and promptly with any disciplinary investigation. This includes informing the Investigator of the names of relevant witnesses, disclosing any relevant documents and attending investigation interviews when required.

14. Reasonable Adjustments

14.1. A request for a reasonable adjustment to the processes within this *Procedure* will be considered on a case-by-case basis and upon the production by the individual of relevant third-party evidence which demonstrates the necessity for an adjustment or adjustments. The determination as to whether the request is reasonable will be made by the relevant Investigator/HR advisor. When considering whether a request for an adjustment is reasonable, the relevant Investigator/HR advisor will consider factors including, but not limited to, the potential impact of the adjustment on the Reporting Party and on the integrity of the process.

15. Exceptional Circumstances

15.1. In exceptional circumstances, it may be appropriate to amend the procedures set out in this document, for example, where strict application of the *Procedure* would result in substantial unfairness to a Responding Party or a Responding Party is in some way at risk because of health or disability. Such cases will be rare, and each case will be treated on its own merits.

16. Timeliness

16.1. The University will make every effort to deal with Misconduct allegations as quickly as possible, at the appropriate management level. Implementation of any stage of the formal disciplinary procedure will be discussed first between the line manager and the Human Resources department.

16.2. Whilst every endeavour will be made to comply with timescales, due to the complexity and/or specific circumstances of cases, timescales may be extended. In such circumstances the Responding Party will be advised of the reasons for any delay. Complexity can result from factors including, but not limited to, a high volume of evidence, the involvement of multiple parties and where there are particularly sensitive aspects to the case.

16.3. Where an investigation involves Misconduct or fraud in research, the University will endeavour to complete investigations as quickly as possible and normally will not exceed six weeks to comply with RCUK requirements.

17. Directly Affected Parties

17.1. Reasonable steps will be taken to inform a person identified as a Directly Affected Party about certain decisions relating to an Incident and the reasons for those decisions.

17.2. The determination as to who constitutes a Directly Affected Party in any given case will be made by the Human Resources manager/advisor as appropriate.

17.3. Where it is indicated that a reasonable and proportionate summary, in writing, of the outcome and the reasons for the decision will be provided, what is considered reasonable and proportionate will depend on the facts of the individual case and the Directly Affected Party's involvement. This determination will be made by the Human Resources manager/advisor as appropriate.

17.4. Where there is a named Formal Report, the following will usually be considered to be a Directly Affected Party:

- the Responding Party;
- the Reporting Party;
- an eyewitness.

17.5. A Directly Affected Party may opt out of being informed of decisions they would otherwise be notified of. To opt out, the Directly Affected Party should contact Human Resources. If no contact is made by the Directly Affected Party, it will be assumed that the Directly Affected Party wishes to be informed of the relevant outcome.

17.6. Communications with a Directly Affected Party will usually be sent via the individual's University email account, if a Member of the University, or the email address provided if otherwise. Where a Responding Party is a member of staff, Human Resources may communicate with them via the personal email address held in the University's records.

17.7. If an individual is not identified as a Directly Affected Party, and they wish to gain access to information pertaining to a case that has been administered, in full or part, by Human Resources, they may make a request to Human Resources which will be considered on a case-by-case basis. An assessment will be made as to the potential risks/benefits to the Directly Affected Parties of sharing the requested information. This would be in accordance with relevant privacy notices, and normally in consultation with the

Information and Governance team, if appropriate. Individuals can contact the Information and Governance team directly if they have any queries or concerns.

18. The process in cases of possible Misconduct by staff

18.1. Disclosures

18.1.1. Where a Disclosure has been made, the individual making the Disclosure will usually be given time to make an informed choice about whether to make a Formal Report to the police, to the University or to both the police and the University. However, there may be cases where the individual making the Disclosure is assessed to be at risk of harm or there is risk of harm to others. In such circumstances, the University may refer the matter to police without prior consultation with the disclosing party.

18.1.2. If an individual makes a Disclosure but decides not to make a Formal Report to the University and indicates that they do not want the matter to be progressed, the University will assess whether, despite the indication given, the Incident requires further investigation. Factors for consideration when determining this include (but are not limited to):

- the ability to investigate without the involvement of the disclosing party including whether, and to what extent, there are identifiable and reasonable avenues for investigation;
- the reasons given by the disclosing party for deciding not to make a Formal Report;
- the potential impact, if any, on the disclosing party of investigating the matter without their participation;
- whether Incidents of a similar nature involving the same Responding Party have been raised previously;
- the nature and seriousness of the alleged conduct.

18.1.3. The outcome of this determination will either be that the Disclosure will be investigated, notwithstanding the views of the disclosing party, or that the Disclosure will not be progressed. There is no right of appeal in relation to this determination.

18.2. Anonymous Formal Reports

18.2.1. In relation to anonymous Formal Reports, the University's ability to progress the Formal Report will be limited. The University will assess whether, despite the anonymous nature of the Formal Report, further investigation is required. Factors for consideration when determining this include (but are not limited to):

- the ability to investigate without the details of the Reporting Party, including whether, and to what extent, there are identifiable and reasonable avenues for investigation;
- the reasons given, if any, for making the Formal Report anonymously;

- whether allegations of a similar nature involving the same Responding Party have been raised previously;
- the nature and seriousness of the alleged conduct.

18.2.2. The outcome of this determination will either be that the Formal Report will be investigated notwithstanding its anonymous nature, or that the Formal Report will not be progressed. There is no right of appeal in relation to this determination.

18.3. Suspected Incidents

18.3.1. In circumstances where the University has not received a Disclosure or Formal Report but reasonably considers that there are grounds for suspecting that staff Misconduct has taken, or is taking place, consideration will be given as to how best to proceed.

18.3.2. Ordinarily, where the Responding Party is a Member of Staff, Human Resources will make the determination as to how to proceed.

18.3.3. The outcome of this determination will either be that the suspected Misconduct will be investigated, or that it will not. There is no right of appeal in relation to this determination.

18.4. Named Formal Reports

18.4.1. If an individual makes a Disclosure followed by a Formal Report to the University or provides a Formal Report straight away, and their contact details are provided, the Formal Report will be progressed as outlined below.

18.4.2. The University will consider in each context, and on a case-by-case basis, the actions that are appropriate to address an Incident depending on the circumstances in which it is raised.

19. The Informal Procedure

19.1. Where a manager is acquainted with or identifies matters of actual or possible Misconduct under this *Procedure*, they must take appropriate action as early as possible.

19.2. Whilst the views of a Reporting Party will be taken into account, there may be instances where the Reporting Party does not support a formal investigation but the University proceeds with one, nonetheless. This will be addressed on a case-by-case basis.

19.3. Where appropriate, steps will be taken to resolve issues on an informal basis in the first instance. Where an issue is resolved on an informal basis, there will be no formal procedure.

19.4. Cases of less serious Misconduct should be dealt with by the Responding Party's line manager informally and without delay. The Responding Party's line manager will speak

to the Responding Party in private and will encourage them to conduct themselves in accordance with the required standards. The relevant line manager will ensure that the Responding Party understands:

- the nature of the concerns;
- the expectations in relation to improving the Responding Party's conduct, including that the matter could progress to formal disciplinary action should they not address their conduct satisfactorily;
- where appropriate, timescales and the nature of available support.

19.5. Following an informal meeting of this nature, the manager should confirm the outcomes of the discussion in writing to the Responding Party. This document should include:

- a clear statement that it relates to the informal stage of the disciplinary procedure;
- any objectives agreed in the meeting;
- any expectations raised in the meeting;
- any timescales for review.

19.6. This document in relation to the informal stage of the disciplinary procedure will be retained by the relevant line manager.

19.7. Directly Affected Parties other than the Responding Party will not normally be provided with details of the outcome in cases of staff Misconduct dealt with informally. However, they may make a request to Human Resources for these details and such requests will be considered on a case-by-case basis. An assessment will be made as to the potential risks/benefits to all Directly Affected Parties of sharing the requested information. This would be in accordance with relevant privacy notices, and normally in consultation with the Information and Governance team, if appropriate. Individuals can contact the Information and Governance team directly if they have any queries or concerns.

19.8. There is no right of appeal against the outcome of the informal stage of this *Procedure*.

19.9. If there is a satisfactory improvement in the conduct of the Responding Party following the informal disciplinary stage, the matter will be considered resolved. The Responding Party will be notified of this in writing.

19.10. If there is not a satisfactory improvement in the conduct of the Responding Party following the expiry of the timeframe for improvement agreed at the informal disciplinary stage, or further Misconduct has occurred, the matter will usually be progressed to the formal stage of this *Procedure*.

20. The Formal Procedure

20.1. Matters will usually be dealt with under the formal disciplinary procedure where:

- a Responding Party has been through the informal disciplinary procedure and has not satisfactorily improved their conduct,
- a Responding Party has been through the informal disciplinary procedure and a similar disciplinary issue has occurred within 12 months of the Responding Party being notified in writing to attend an informal disciplinary meeting,

- the matter involves an allegation or allegations of Misconduct which warrant a formal response, or
- the Responding Party is alleged to have repeatedly committed minor Misconduct.

20.2. The University may implement the formal procedure at any stage, taking into account the allegation of Misconduct, the nature and seriousness of the alleged Misconduct and any previous disciplinary action in relation to the Responding Party.

20.3. **Suspension**

20.3.1. A Head of Department (or nominated representative) may, after consultation with an appropriate Human Resources representative, suspend a Responding Party on full pay pending the outcome of an investigation or a disciplinary hearing. A suspension does not signify a view on the part of the University that the Responding Party has committed any alleged Misconduct. It is not a disciplinary sanction.

20.3.2. Suspension should be for the minimum period possible and will be reviewed regularly.

20.3.3. Suspension may be appropriate in the following circumstances (including but not limited to):

- to facilitate the Misconduct proceedings which may be inhibited by the presence of the Responding Party;
- when there are strong reasons for doubting the ability or willingness of the Responding Party to work in the usual way;
- if the Responding Party is the subject of criminal proceedings which may affect their work;
- where the presence of the Responding Party is detrimental to others and/or may increase the likelihood of further Misconduct;
- where it is deemed to be in the Responding Party's or the University's best interests.

20.3.4. Alternatives to suspension may be available, such as temporarily moving the Responding Party to another location / role whilst the proceedings are on-going. If this is not possible, the individual will be given formal written notification of the suspension and, where possible, an indication of the length of the suspension.

20.3.5. A breach of a suspension and/or any temporary arrangements put in place pending the outcome of an investigation or disciplinary hearing may, of itself, constitute Misconduct for the purposes of this *Procedure*. This may therefore result in separate proceedings, the range of potential outcomes of which includes dismissal.

20.4. **Investigation**

20.4.1. Where a matter of actual or possible Misconduct cannot be resolved on an informal basis, the formal procedure will be initiated, and an investigation will be undertaken.

Matters are investigated fairly, and enquiries are made in proportion to the seriousness of the matter.

- 20.4.2. The purpose of an investigation is to:
- establish the nature of the allegations;
 - gather evidence to enable a decision to be taken on whether there is a disciplinary case to answer;
 - consider if the matter should proceed to a formal hearing.
- 20.4.3. Investigations are normally undertaken by the appropriate line manager. However, in complex or potentially serious cases, or cases where there is a potential or actual conflict of interest, an independent Investigator will be appointed by Human Resources.
- 20.4.4. The Responding Party will be advised in writing of the nature of the allegations and that an investigation to establish the facts will be undertaken.
- 20.4.5. An Investigator will:
- ensure that, where practicable, all relevant facts and witness statements are obtained in relation to the allegation(s);
 - decide the range and number of witnesses necessary to interview and invite them to an investigation meeting. Interview statements which are signed and dated will be produced;
 - complete the investigation with due regard for confidentiality, within an appropriate timescale;
 - provide a written report outlining the findings of the investigation;
 - present the findings of the investigation at any subsequent formal hearing.
- 20.4.6. The Responding Party will be asked to attend an investigatory interview. The Responding Party will be given the opportunity to provide any information that they wish to be taken into consideration and to make representations verbally and/or in writing to the Investigator about the possible Misconduct identified.
- 20.4.7. A Responding Party may be accompanied at meetings by an appropriate person to provide support where the Responding Party has a disability or language issue. The Responding Party is responsible for informing Human Resources of their specific requirements in this respect so that the University can source this support and consider reasonable adjustments.
- 20.4.8. A Responding Party does not normally have the right to bring a representative to an investigative interview, although such requests will be considered, provided that timescales for the meetings are not negatively affected.
- 20.4.9. An investigation may result in one of the following outcomes:
- it is concluded that there is no case to answer and therefore no disciplinary action is taken;

- it is concluded that the matter will be dealt with informally with, if appropriate, relevant support and/or training to assist the Responding Party;
- that there is a disciplinary case to answer and that the matter should proceed to a disciplinary hearing.

20.4.10. Human Resources will inform the Responding Party, in writing, of the outcome of an investigation.

20.4.11. The Responding Party does not have a right to appeal the outcome of an investigation.

20.4.12. In these circumstances, reasonable steps will be taken to inform a Directly Affected Party through a reasonable and proportionate summary, in writing, of the decision and the reasons for the decision within five working days of the decision having been made.

21. Disciplinary Hearing

21.1. A disciplinary hearing provides a Responding Party with the opportunity to respond to the allegation(s) made under this procedure.

21.2. Where an investigation results in a conclusion that there is a disciplinary case to answer and that the matter should proceed to a disciplinary hearing, the Responding Party will be notified in writing of the date of the disciplinary hearing, with a minimum of 10 working days' notice of the hearing date.

21.3. The notification of a disciplinary hearing will include:

- the allegations/nature of the alleged Misconduct;
- whether the alleged Misconduct is considered to be potentially Gross Misconduct which could, if found to have occurred, result in dismissal of the Responding Party;
- notification of the right to be accompanied by a work colleague or recognised trade union representative at the disciplinary hearing;
- a copy of the Investigator's report and any other relevant evidence;
- the names of witnesses (unless their identity is to be kept confidential for exceptional reasons) who will be attending the disciplinary hearing.

21.4. The Responding Party can, if they wish, submit any evidence and/or a written statement to Human Resources. This must be received by Human Resources at least two working days before the day of the disciplinary hearing. Anything received from the Responding Party after this date will be accepted at the discretion of the Chair.

21.5. A Responding Party has the right to be accompanied at any formal disciplinary hearing by a recognised trade union representative or work colleague. It is the Responding Party's responsibility to arrange this if they wish to be accompanied. The Responding Party must inform Human Resources of the name of any representative they wish to attend at least five working days before the disciplinary hearing. The Responding Party may be required to choose an alternative representative if the chosen representative is

unavailable for the scheduled hearing and will not be available for more than five working days after the date on which the hearing was first scheduled to take place.

- 21.6. A representative may make representations and sum up the Responding Party's case, but they are not allowed to answer questions on the Responding Party's behalf.
- 21.7. There is no requirement for a work colleague to accept a request to accompany a Responding Party.
- 21.8. The Responding Party can, if they wish, invite a witness or witnesses to attend the disciplinary hearing. The Responding Party must inform Human Resources of the names of any witnesses they wish to attend and an explanation of why their witness's evidence is required, at least five working days before the disciplinary hearing.
- 21.9. On the basis of the information submitted, the Chair of the Panel will determine whether or not such witness evidence is required and will confirm the witnesses to be called. In certain cases, the Chair may decide that a witness statement is sufficient, and the witness will, therefore, not be required to attend in person.
- 21.10. Where they have not previously been interviewed as part of the investigation process, any witness called by the Responding Party should provide a signed and dated witness statement prior to the hearing, which will form the basis on which they may be questioned.
- 21.11. The Responding Party is responsible for making arrangements for their witnesses to attend. Where witnesses are Members of Staff, appropriate time off will be facilitated.
- 21.12. Requests for additional witnesses shortly before or at the hearing will be considered and decided by the Chair on a case-by-case basis.
- 21.13. A Responding Party will be given at least five working days' notice of any witnesses that the University will be inviting to attend a disciplinary hearing.
- 21.14. If a Reporting Party attends the hearing, measures can be put into place to safeguard this individual, for example, screening them from the Responding Party's view and prohibiting direct questioning of the Reporting Party by the Responding Party.
- 21.15. Members of a Disciplinary Panel
- 21.15.1. Panel members will be independent of the investigatory process and are asked to declare any potential conflict of interest.
- 21.15.2. A note taker will be present to record the hearing, and these notes will be circulated to the attendees. Recording devices will not be permitted without prior permission from the Chair.
- 21.15.3. In cases where dismissal is not a potential outcome, the Panel will normally comprise:
- as Chair, a Senior Manager independent from the case;

- a Human Resources representative;
- if designated by the Chair, a third Panel member who will be a manager independent from the case.

21.15.4. In cases where dismissal is a potential outcome and the Responding Party is a non-academic Member of Staff, the Panel will normally comprise:

- as Chair, a Senior Manager independent from the case;
- another manager independent from the case;
- A Human Resources representative.

21.15.5. In cases where dismissal is a potential outcome and the Responding Party is an academic Member of Staff, the Panel will normally comprise:

- as Chair, a Senior Manager independent from the case;
- a senior member of academic staff (e.g. An Associate Dean, a Head of Department, a Head of School, or another senior Member of Staff who holds an academic contract of employment);
- a Human Resources representative.

21.16. What if I cannot attend a hearing?

21.16.1. The Responding Party must make every effort to attend a hearing. Failure to attend without good reason may be treated as Misconduct.

21.16.2. If the Responding Party and/or their representative cannot attend at the time of the specified hearing, the Responding Party must inform their line manager and/or Human Resources immediately. If the inability to attend is considered to be for a good reason, an alternative time will be arranged.

21.16.3. If the Responding Party is persistently unable to attend a hearing and/or the Responding Party's reason for not being able to attend is not considered a good reason, the hearing may be heard in the Responding Party's absence on the evidence available.

21.17. Conduct of the disciplinary hearing

21.17.1. The disciplinary hearing will be conducted as follows:

- The Chair conducting the hearing will introduce those present and explain the process that will be undertaken.
- The Investigator will present the findings, and answer questions relating to the investigation.
- The Responding Party (or their representative) will be able to put questions to the Investigator about their findings. The Investigator may then leave the hearing.
- Any witnesses called by the University will answer questions from the Panel relating to the allegations.
- The Responding Party (or their representative) will be able to put questions about the allegations to the University's witnesses. The witnesses will then leave.
- The Responding Party (or their representative) will respond to the allegations.

The Panel will ask questions of the Responding Party about their case.

- The Responding Party (or their representative) may then call any witnesses that they have invited (subject to appropriate notice of attendance or approval having been granted).
- Any witnesses called by the Responding Party will answer questions from the Responding Party relating to the allegations. The Panel will also be able to ask questions of the witnesses. The witnesses will then leave.
- The Responding Party (or their representative) will be invited to make any closing remarks.
- The Panel will adjourn to consider the evidence and the facts of the case. The Chair may decide to reconvene the hearing to question other witnesses or clarify evidence to aid the decision-making process. It may be necessary to further adjourn the hearing so that this can take place.

21.17.2. Reasonable requests for adjournments made by any party will be allowed by the Chair.

21.18. Findings of a Panel in a disciplinary hearing

21.18.1. The Panel will consider whether, on the balance of probability, there is a genuine belief that Misconduct occurred, based on reasonable grounds and following a reasonable investigation.

21.18.2. The Panel may come to one of two findings:

- that no Misconduct has been committed;
- that Misconduct has been committed.

21.18.3. If Misconduct has been proven, the Panel will determine the level of sanction.

21.18.4. If Misconduct is not proven, the case will be dismissed, and no sanction will be applied.

21.18.5. Additionally, if Misconduct is proven, but the offence is considered to be of a less serious nature, it may be decided that no sanction is required.

21.18.6. Where Misconduct is not proven and no sanction is applied, no record of the disciplinary action will be kept on file.

22. Disciplinary Sanctions

22.1. In determining the appropriate sanction, the Panel will take into account the Responding Party's previous conduct and any aggravating and mitigating circumstances. The available sanctions are as follows:

- First Written Warning
- Final Written Warning
- Dismissal or actions short of dismissal

22.2. First Written Warning

22.2.1. A First Written Warning will be considered where:

- the Misconduct is serious, or

- further Misconduct occurs after the informal stage of the disciplinary procedure has been completed.

22.2.2. The First Written Warning will contain:

- details of the allegation
- the findings of the Panel
- the action(s) required of the Responding Party
- any relevant timescales
- details of the right of the Responding Party to appeal the outcome of the disciplinary hearing
- a warning of further disciplinary action in the event of further Misconduct
- notification that, due to unsatisfactory conduct, any automatic increment due on 1 April next will be halted whilst the warning remains in force.

22.2.3. A First Written Warning will normally remain in place for 12 months from the date of issue in writing to the Responding Party. The First Written Warning will be disregarded on its expiry subject to the Responding Party having taken satisfactory action to address the contents of the First Written Warning and the absence of any further action in relation to the original Misconduct.

22.2.4. Human Resources will permanently retain the first written warning and associated documents on the Responding Party's personal record.

22.3. Final Written Warning

22.3.1. A Final Written Warning will be considered where:

- the Misconduct is serious, or
- further Misconduct occurs before the expiry of a First Written Warning.

22.3.2. The Final written warning will contain:

- details of the allegation
- the findings of the Panel
- the action(s) required of the Responding Party
- any relevant timescales
- details of the right of the Responding Party to appeal the outcome of the disciplinary hearing
- a warning of further disciplinary action in the event of further Misconduct
- notification that, due to unsatisfactory conduct, any automatic increment due on 1 April next will be halted whilst the warning remains in force.

22.3.3. A Final Written Warning will normally remain in place for 12 months from the date of issue in writing to the Responding Party. The Final Written Warning will be disregarded on its expiry subject to the Responding Party having taken satisfactory action to address the contents of the Final Written Warning and the absence of any further action in relation to the original Misconduct.

22.3.4. Human Resources will permanently retain the Final Written Warning and associated documents on the Responding Party's personal record.

22.4. Dismissal or actions short of dismissal

22.4.1. Dismissal will be considered where:

- the Misconduct is considered to constitute Gross Misconduct, or
- further Misconduct occurs before the expiry of a Final Written Warning.

22.4.2. In appropriate cases, the University may consider some other sanction short of dismissal, such as demotion, a transfer to another department or job, loss of seniority or a reduction in pay. These sanctions may be used in conjunction with a Final Written Warning (see above).

22.4.3. A decision to dismiss a Responding Party can only be reached with the approval of the Director of Human Resources (or their designated representative).

22.4.4. The written decision to dismiss or apply actions short of dismissal will contain:

- details of the allegation
- the findings of the Panel
- the reason(s) for dismissal or application of actions short of dismissal
- in the event of dismissal; The date on which the Responding Party's employment will terminate (taking into account appropriate notice periods as per the terms and conditions of the Responding Party's employment)
- details of the right of the Responding Party to appeal the outcome of the disciplinary hearing.

22.4.5. Dismissal will not be an outcome for a first breach of discipline except in the case of Gross Misconduct. A Responding Party can be dismissed for Gross Misconduct without having first received a First Written Warning and/or Final Written Warning.

22.4.6. Dismissal for Gross Misconduct will usually be summary. This means that dismissal will result in the immediate termination of the employment contract without a notice period and without pay to compensate for the lack of notice.

23. Who will the University inform about the outcome of a disciplinary hearing?

23.1. The Responding Party will be informed, if possible, verbally, of the decision and the reasoning for the decision of the Panel. In any event, the Responding Party will receive confirmation of the outcome, in writing, within seven working days of the outcome being reached. The Responding Party will be informed of their right to appeal against any findings or sanctions. A Panel decision remains in force until the outcome of any appeal is known.

23.2. The Reporting Party (as appropriate) does not have the right to appeal such an outcome.

23.3. Reasonable steps will be taken to provide any Directly Affected Parties with a reasonable and proportionate summary, in writing, of the outcome and the reasons for the decision. This will be provided within seven working days of the outcome being reached.

24. How do I appeal?

24.1. A Responding Party will have the right to appeal against any finding/sanction imposed under the formal disciplinary procedure. There is no right to appeal at the informal stage of this Procedure.

24.2. Sanctions or warnings issued will remain in force pending the outcome of any appeal.

24.3. Please note, for a Responding Party who is an academic Member of Staff, the applicable appeals process is set out in *Ordinance 11.2.26 Appeals* which ought to be read in conjunction with this *Procedure*.

24.4. If the Responding Party wishes to appeal any aspect of the Disciplinary Panel hearing findings, they should appeal to the Director of Human Resources in writing, within 10 working days of receiving the written decision, stating the grounds for appeal (see grounds of appeal at 23.6 below).

24.5. The Responding Party must be specific about the grounds of appeal; these will effectively form the agenda for the hearing. Only the grounds listed below can be used to appeal the outcome of a disciplinary hearing. Where the appeal does not meet any of the grounds of appeal set out in section 24.6 below, the appeal will be rejected, and Human Resources will write to the Responding Party explaining the grounds for rejection and that this communication constitutes the end of the University's formal disciplinary process.

24.6. The available grounds for appeal are as follows:

- i. Procedural - a failure to follow procedure had a material effect on the decision;
- ii. Error/Inconsistency - the evidence did not support the conclusion reached or was inconsistent with other decisions within the University;
- iii. Evidential – new evidence has genuinely come to light since the first hearing. Where new evidence is raised, further investigations may need to be carried out which may require the appeal hearing to be delayed pending the outcome of these investigations and to give the Responding Party an opportunity to consider any new information obtained.

24.7. Where Human Resources have requested the Responding Party to provide additional information and the Responding Party fails to do so within 10 working days of the request being sent to the relevant email address for correspondence, the Responding Party will be sent a further reminder and warned that their appeal will be closed if a response is not received within a further calendar month.

24.8. If, at any stage, evidence put forward to support the appeal can be shown to have been dishonestly acquired or is itself dishonest, the appeal will be closed and the evidence

submitted to the University's disciplinary procedures (as appropriate). The same approach will be taken if it can be shown that the Responding Party has tried to mislead the University about their case.

- 24.9. The Director of Human Resources, or their designated representative, will arrange a meeting of the Appeals Committee at the earliest convenient date. This should normally be within one month after the matter has been formally raised with the Director of Human Resources.
- 24.10. The Responding Party will be notified in writing of the date of the Appeals Committee hearing, with a minimum of 10 working days' notice of the hearing date.
- 24.11. A Responding Party has the right to be accompanied at an Appeals Committee hearing by a recognised trade union representative or work colleague. It is the Responding Party's responsibility to arrange this if they wish to be accompanied. The Responding Party must inform Human Resources of the name of any representative they wish to attend, at least five working days before the Appeals Committee hearing. The Responding Party may be required to choose an alternative representative if the chosen representative is unavailable for the scheduled hearing and will not be available for more than five working days after the date on which the hearing was first scheduled.
- 24.12. A representative may make representations and sum up the Responding Party's case, but they are not allowed to answer questions on the Responding Party's behalf.
- 24.13. There is no requirement for a work colleague to accept a request to accompany a Responding Party.
- 24.14. Members of the Appeals Committee
- 24.14.1. Panel members will be independent of the investigatory process and are asked to declare any potential conflict of interest.
- 24.14.2. A note taker will be present to record the hearing, and these notes will be circulated to all attendees. Recording devices will not be permitted without prior permission from the Chair.
- 24.14.3. In cases where the Responding Party has appealed a First Written Warning, the Panel will normally comprise:
- as Chair, a Senior Manager independent from the case;
 - a Human Resources representative.
- 24.14.4. In cases where the Responding Party is a non-academic Member of Staff and has appealed a Final Written Warning, the Panel will normally comprise:
- as Chair, a Senior Manager independent from the case;
 - a second Senior Manager independent from the case;
 - a Human Resources representative.
- 24.14.5. In cases where the Responding Party is an academic Member of Staff and has

appealed a Final Written Warning, the Panel will normally comprise:

- as Chair, a Senior Manager independent from the case;
- a suitably qualified individual, not employed by the University or an external member of Council, selected from a maintained pool of suitably qualified individuals;
- a Human Resources representative.

24.14.6. The Responding Party will be informed of the composition of the Appeals Committee prior to the hearing. Should they have any concerns, these should be raised with the Director of Human Resources who will consider the Responding Party's concerns and may reconstitute an agreed Panel in response.

24.15. Findings of an Appeals Committee hearing

24.15.1. The Appeals Committee will consider whether, on the balance of probabilities, any of the grounds of appeal are met.

24.15.2. The Appeals Committee may come to one of five findings:

- i. that the findings of the Disciplinary Panel should be confirmed and the appeal dismissed;
- ii. that a finding and/or penalty imposed by the disciplinary Panel should be varied. This could result in the same, a lesser or more severe penalty being imposed;
- iii. that there has been a failure to follow the University's regulations and/or procedures or to follow them with due care such as to materially affect the decision;
- iv. that the evidence did not support the conclusion reached by the Disciplinary Panel, the decision of the Panel was unreasonable or was inconsistent with other decisions within the University;
- v. that relevant new evidence, that was not available to the Disciplinary Panel at the time for valid reasons, should be taken into account.

24.15.3. Where the finding is as in (ii), (iii), (iv) and/or (v) above, the Disciplinary Appeal Panel may:

- direct that the matter be heard anew by a differently constituted Disciplinary Panel,
- substitute the findings and/or penalty of the Disciplinary Panel with its own findings and/or penalty. This could result in the same, a lesser or more severe penalty being imposed,
- or, where the unfairness to the Member of Staff is extreme, nullify the findings of the Disciplinary Panel, end the disciplinary procedure and, if relevant, reinstate the Member of Staff.

24.15.4. Decisions of the Appeals Committee are final. There is no further right of appeal following the conclusion of an Appeals Committee.

25. Who will the University inform of the outcome of an Appeals Committee hearing?

25.1. Following a hearing by an Appeals Committee, a Responding Party will be informed, if possible, verbally, of the decision and the reasoning for the decision of the Appeals Committee. In any event, the Responding Party will receive confirmation of the outcome, in writing, of the decision and the reasoning for that decision within seven working days of the outcome being reached. The communication will be sent via the Responding Party's personal email account as held by HR.

25.2. Reasonable steps will be taken to provide any Directly Affected Parties with a reasonable and proportionate summary, in writing, of the outcome and the reasons for the decision. This will be provided within seven working days of the outcome being reached.

26. How can I complain if I am dissatisfied with the disciplinary proceedings?

26.1. Nothing in this procedure removes the right of a Responding Party to invoke the relevant *Grievance Procedure*. Should a Responding Party believe they have been treated unfairly, or that work-related problems outside of their control have been inadequately dealt with, they have the right to raise a grievance.

26.2. In the event that any formal grievance is raised against the University and/or named individuals whilst formal disciplinary proceedings are being instigated under this procedure, the disciplinary process may be held in abeyance pending the conclusion of any connected grievance proceedings.

27. Where Misconduct involves or may involve the police and/or criminal proceedings

27.1. Misconduct within the scope of employment

27.1.1. If, in the course of their work and enquiries, it becomes apparent to an Investigator and/or a Human Resources representative that alleged Misconduct may also constitute a criminal offence, they will consult with the Head of the Campus Safety Team to determine whether the matter has been or needs to be referred to the police and whether to continue with their investigations.

27.1.2. The University will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where a Responding Party is unable or has been advised not to attend a disciplinary hearing due to pending criminal action, the Responding Party will be informed that, unless further information is provided, the University may make a disciplinary decision on the evidence available.

27.1.3. Internal investigations will not be bound by the outcome of any external criminal investigation, unless the University deems it appropriate to do so.

27.2. Misconduct outside the scope of employment

27.2.1. If a Member of Staff is charged with, or convicted of, a criminal offence (outside of employment) this will not in itself be considered a reason for disciplinary action. Consideration will be given to the relevance and the effect the charge or conviction

has on the Member of Staff's suitability to do their job, and their relationship with the University, work colleagues, Students and customers.

28. Training

- 28.1. The University will provide training to Heads of Department, managers and supervisors in the appropriate handling of disciplinary issues under this procedure, through the Human Resources department and formal Staff Development training events.

29. Confidentiality/Information Sharing

- 29.1. All parties involved in these procedures must ensure that they maintain, as appropriate, the confidentiality of the process within and outside the University. All disciplinary records will be treated as confidential and will be kept in accordance with the data protection legislation.
- 29.2. The University collects information sensitively and treats it with appropriate confidentiality, irrespective of the mechanism used to raise an Incident by Members of Staff, Students, Visitors and/or third parties.
- 29.3. All information relating to the disciplinary case will be treated confidentially and maintained in compliance with the Data Protection Act 2018. Information relating to the complaint will be shared with only those who have a legitimate requirement to see the documentation as part of resolution to the disciplinary or any consequent procedure.
- 29.4. It is expected that all parties will be sensitive to the nature of such proceedings, including matters discussed and any evidence provided. Breach of confidence by any party involved in the proceedings may compromise the integrity of the procedure and may be subject to disciplinary action. This does not preclude individuals from seeking appropriate advice, support and information in relation to the case.
- 29.5. Where the University continues to investigate any matter as a duty of care or a legislative requirement then it may be necessary to share the information with appropriate external authorities.
- 29.6. The University deals with staff disciplinary matters in confidence, to the extent that this is compatible with making enquiries and holding meetings to consider the matter. The University collects and processes a variety of personal data in order to fulfil relevant regulations and procedures. This personal data may be provided by the Responding Party or collected from other departments within the University or taken from publicly available sources such as social media. The University processes personal data for this purpose in its legitimate interests. Some Regulations will require the sharing of sensitive personal data (defined as "special category" data by data protection legislation). The University processes and shares special category data in the substantial public interest and only where it is necessary to enable the University to fulfil its duties of care to the Responding Party, other Students or Members of Staff, or to safeguard third parties.

29.7. Under data protection legislation, the University may share personal data with the consent of the data subject, unless there is a stated exception. If, during any proceedings in which an individual is involved, they request access to such data as being relevant to the proceedings, the individual may be referred to the “Make a Privacy Request” web form at: <https://www.surrey.ac.uk/information-governance/make-privacy-request>.

29.8. In exceptional circumstances, information may be shared with appropriate authorities, including external entities (e.g. Police, Social Services), without the consent of the data subject. This includes, but is not limited to, where it is necessary to protect the vital interests of the data subject and/or where a safeguarding concern has been raised. This may include information of a personal and/or sensitive nature. With respect to safeguarding concerns, this would normally be in consultation with a member of the University’s Safeguarding Team.

30. Governance Requirements

30.1. Implementation: Communication Plan

This procedure will be communicated in a variety of ways:

- The Single Comprehensive Source of Information
- A Leader’s Alert
- Senior Leaders Pledge
- Inclusion at Staff Induction
- Inclusion at Faculty/Department Induction
- Referenced in the Staff Handbook
- Referenced in the Student Handbook
- Data will be gathered, monitored and used to address ongoing concerns and ensure effectiveness of procedures. Mechanisms include: Annual Report and Support report <https://reportandsupport.surrey.ac.uk/support/analysis-of-report-support-submissions>; EDI dashboard including a Harassment and Bullying KPI; Staff survey data (quantitative and qualitative monitoring); Equality networks/Union/FEDIC feedback.

30.2. Implementation: Training Plan

Training and learning will be provided for all staff to set expectations of behaviour and for managers to equip them to respond and support. The principles of this procedure will be embedded within the following staff training:

- Diversity in the Workplace e-learning module
- Race Equity e-learning module
- Allyship in HR module
- LGBTQIA+ Awareness Training
- Anti Bias Training
- Personal Tutor training
- Disciplinary Panel Member briefing
- Investigator briefing

30.3. Advice about this procedure

Advice about the operation of this procedure can be obtained via the Human Resources Department.

30.4. Failure to comply

The following may be treated as Misconduct under the [Staff Disciplinary Procedure](#) or [Student Disciplinary Regulations](#):

- failing to comply with this procedure;
- making false, malicious, or vexatious allegations under this procedure; or
- retaliating against or victimising Members of Staff, Students, Visitors and/or third parties who make complaints or participate in good faith in investigations under this procedure.

30.5. Review

30.5.1. Major changes may be reviewed and agreed by the CSO/CPO before becoming operational.

30.5.2. Minor changes will be agreed by the operational owners before becoming operational.

30.5.3. This procedure will be monitored on an ongoing basis by Equality, Diversity and Inclusion. Equality, Diversity and Inclusion reports to the Executive Board and Council regularly via the EDI Executive.

30.6. Legislative Context and Higher Education Sector Guidance or Requirements

- Equality Act 2010
- Sexual Offences Act 2003
- Protection from Harassment Act 1997
- Children Act 1989 and Children Act 2004 and Care Act 2014
- Mental Capacity Act 2005
- Data Protection Act 2018 and the UK General Data Protection Regulation 2016/679
- Condition E6: Harassment and sexual misconduct, Office for Students (2024)
- [Statement of expectations](#) for preventing and addressing harassment and sexual misconduct affecting students in higher education, Office for Students (2021)
- [Changing the culture: our work on tackling harassment](#), UUK Guidance (2022)
- [UUK guidance on tackling staff-to-student sexual misconduct](#), UUK Guidance (2022)
- Higher Education (Freedom of Speech) Act 2024.
- ACAS Code of Practice on disciplinary and grievance procedures
- ACAS Guidance on conducting workplace investigations

30.7. Sustainability: The Sustainable Development Goals (SDGs), particularly SDG 16 (Peace, Justice and Strong Institutions), apply directly to a disciplinary procedure by promoting fairness, transparency, accountability, and respect for human rights. A disciplinary process that aligns with the SDGs ensures due process, treats all individuals with dignity, and fosters a safe, inclusive, and ethical academic environment. By

upholding these values, the University contributes to a just and peaceful institution, reinforcing its role in shaping responsible global citizens.

31. Stakeholder Engagement and Equality Impact Assessment

31.1. An Equality Impact Assessment was completed on 09 July 2025 and is held by the Authorised Co-ordinator.

31.2. Stakeholder Consultation was completed, as follows:

Stakeholder	Nature of Engagement	Request EB Approval (Y/N)	Date	Name of Contact
Governance	Review of circulated procedure	N	13 May 2025	Kelley Padley, Governance Officer
Health & Safety	Review of circulated procedure	N	12 May 2025	Matthew Purcell, Director of Health & Safety
Sustainability	Review of circulated procedure	N	2 May 2025	Martin Wiles, Head of Sustainability
Academic Freedom / Freedom of Speech	Review of circulated procedure	N	16 May 2025	Abigail Bradbeer

Disciplinary Policy Flowchart

