

Staff Disciplinary Policy and Procedure

Policy control

Date approved	November 2018
Approving Bodies	HR Committee, Board of Governors
Supersedes	Disciplinary and Performance Management Policy and Procedure
Supporting Policy	Capability Policy and Procedure, Employee Support Procedure
Review date	November 2021
Author	Lesley Coyle
Date of Impact assessment	June 2017
Benchmarking	University of Abertay, Dundee University, University of Glasgow, University of Edinburgh, Glasgow Caledonian University

STAFF DISCIPLINARY POLICY AND PRODECURE

1. Purpose and scope

The Staff Disciplinary Policy and Procedure applies to all employees of the Glasgow School of Art (GSA).

The aim of this procedure is to ensure consistent and fair treatment for all staff. It is designed to clarify and reinforce rights and responsibilities and to help and encourage staff to achieve and maintain appropriate standards of conduct, as required by GSA. It is important that all employees comply with these standards and this Policy also outlines the action that will be taken when those standards are not met.

- 1.1 GSA will apply the procedures set out in this Policy if action is deemed to be necessary for any reason related to conduct, whether minor, serious or gross misconduct (see Appendix 1 for more details). The Policy does not apply to dismissal due to redundancy.

Advice should be sought from the HR Department by the relevant line manager regarding any circumstances which could potentially constitute serious or gross misconduct. Examples of serious and gross misconduct are provided in Appendix 1.

- 1.2 In disciplinary cases involving the Director, or staff line managed by the Director, Lay Governors (including the Chair) may be asked to lead disciplinary or disciplinary appeal hearings.

2. Procedure

For ease of reference this procedure is outlined diagrammatically in Appendix 2.

2.1 Informal Stage

Where possible, the preferred approach will be to resolve alleged minor misconduct issues through informal means as opposed to through formal disciplinary action. Examples of minor misconduct are provided in Appendix 1. The Employee Support Procedure should be utilised as a mechanism for dealing with issues of this nature.

- 2.1.1 As outlined in the Employee Support Procedure, staff will be required to engage in discussions with their line manager in an attempt to define the issue. If there are evident minor shortcomings in conduct, support will be considered to enable the employee to meet the required standards. The employee will be made aware of the improvements required, how this could be achieved, what support will be put in place, the timescales for review and the implications of failing to reach the agreed standards. An Employee Support plan will be agreed between the employee and the line manager.

A note of these informal meetings should be kept until the matter is resolved.

- 2.1.2 No formal action will be issued at the informal stage. Should it become clear during an informal meeting that the matter is more serious and should be dealt with through the formal stage of this procedure, the line manager should terminate the meeting and contact the HR department for guidance on proceeding

through the formal stage.

- 2.1.3 If the matter is not resolved through the informal stage, the line manager may proceed to the formal stage of this procedure. Depending on the severity of the allegations and whether serious or gross misconduct has potentially occurred, it may be appropriate to proceed directly to the formal stage. If in doubt, the line manager should contact a member of the HR department for guidance.
- 2.1.4 At the informal stage it may be necessary for the line manager to collate information and establish facts without conducting a formal investigation, in line with Section 9 of this Policy.

2.2 Investigation

In circumstances of alleged serious or gross misconduct it is important to carry out a full investigation of any potential disciplinary matters in order to establish the facts, in line with Section 9 of this Policy. In most situations this will require holding at least one investigatory meeting with the employee before proceeding to any disciplinary hearing, if the latter is required. In other cases the investigatory stage will be the collation of evidence for the use at a disciplinary hearing. No disciplinary action will be taken until the matter has been fully investigated and the employee has had the opportunity to respond to the allegations.

The investigation will normally be carried out by an independent senior member of staff who has no prior involvement in the case, and will be designated by the Head of HR. The senior member of staff responsible for conducting the investigation will be referred to as the investigating manager. During the investigation the investigating manager will not be able to discuss the matter with the employee being investigated, except during an investigatory interview.

During the investigation it may be necessary for the investigating manager to interview other employees or witnesses who are able to provide information relevant to the investigation. The employee being investigated may wish to identify witnesses who can provide relevant information and/or highlight any additional potential lines of inquiry.

Any investigation interviews will be carried out by the investigating manager and a member of the HR Department will be in attendance to take notes of the meeting and to provide advice and guidance to all parties.

The investigating manager will ascertain facts and produce a concise report that clarifies the issues under investigation and, if any, the standards that have been breached. The report will make a recommendation, to the employee's line manager and based on the standards breached, as to whether the matter should proceed through the disciplinary process. The employee will receive a copy of the report via their line manager, who will discuss the findings and recommendations with them before confirming to HR that the employee has received it.

Employees being investigated as part of this process do not have the statutory right to be accompanied at investigatory meetings. However, GSA would actively encourage employees to be accompanied by an appropriate representative (see 2.3.3) where possible.

The recommendations of the report could lead to one of three potential outcomes:

1. The process is concluded with no further action required; or
2. The matter progresses through the formal stage of this Policy; or
3. The misconduct is considered to be minor and the matter is referred to the Employee Support Procedure.

2.3 Formal Stage

2.3.1 Disciplinary Hearing

Step One – Invitation to disciplinary hearing

If it is decided that there is a need to progress to a disciplinary hearing the employee will be invited in writing, detailing sufficient information regarding the report findings and the possible outcomes of the hearing. This will enable the employee to prepare their response in advance of the disciplinary hearing. It would normally be appropriate to provide copies of any written evidence, which may include any witness statements, with the notification.

The invite will also detail the senior member of staff assigned by GSA to conduct the disciplinary hearing. Any potential conflicts of interest should be identified by the employee, or their representative, to a member of the HR team without any undue delay. Any issues raised will be considered by the Head of HR and alternatives identified where appropriate.

Step Two – Disciplinary hearing

Disciplinary hearings will normally be conducted by the employee's immediate line manager. However, should a final written warning be considered a potential outcome, the disciplinary hearing will normally be conducted by the next level of senior staff in the relevant School/Department. Should dismissal be considered a potential outcome, the most senior member of staff in the relevant School/Department will normally conduct the disciplinary hearing. GSA reserves the right to nominate other appropriate individuals to conduct the disciplinary hearing, dependant on suitability and availability, designated by the Head of HR. A member of the HR Department will also be in attendance at all disciplinary hearings (see section 5).

Should the Director of the School be invited to a disciplinary hearing, a Lay Governor will conduct the hearing.

At the disciplinary hearing, the employee will have an opportunity to respond to the allegations against them and to the circumstances surrounding their potential disciplinary or dismissal. The employee will also be offered the opportunity to outline any relevant mitigating circumstances.

The disciplinary hearing may be adjourned:

- to enable further investigation if necessary; or
- to allow a decision to be reached.

The senior member of staff chairing the hearing may confirm the decision orally at the conclusion of the meeting, if considered appropriate.

All decisions following a disciplinary hearing will be confirmed in writing within 5 working days of the date of the meeting. If action is to be taken the employee will be informed of the reason for the dismissal or disciplinary action. The right of appeal will also be outlined in this letter.

Where disciplinary action short of dismissal is to be taken, the letter will also contain information, where relevant, of any perceived shortcomings relating to the employee, details of any timescales within which improvement is to be achieved and the likely consequences should there be no improvement (in line with the timescales outlined in Section 3).

Step Three – Appeal

Should the employee wish to appeal against the outcome of the disciplinary hearing they should write to the Head of HR outlining their reasons for appeal, within ten working days from the date of the letter having been received at the conclusion of Step Two. The Head of HR will designate an appropriate senior member of staff to lead the appeal stage. The member of staff hearing the appeal will not have had any previous involvement in the case.

In cases where the outcome of the disciplinary hearing is dismissal of an employee, the appeal will be heard by an appeal panel, which will be determined by the Head of HR. The appeal panel will normally include a member of staff more senior to the manager who conducted the disciplinary hearing. The appeal panel will also include at least one other independent member of senior staff. None of the panel members will have any previous involvement in the case.

In all cases, the employee will be invited to attend an appeal hearing, generally within 20 working days of receipt of the appeal letter, at which stage the grounds for appeal can be considered in more detail.

If the reason for appealing is related to the decision to dismiss the employee, the appeal hearing may take place after the dismissal has taken effect.

At the appeal hearing, the employee will have an opportunity to outline:

- any new information if that was not available at the original hearing; and/or
- any complaints of a failure in the original decision making process e.g. a failure to follow procedures or a failure to provide a fair hearing.

The employee may be advised of the decision orally at the conclusion of the appeal hearing, if considered appropriate.

Appeal decisions will be confirmed in writing, within five working days of the meeting, outlining the final response. The individual/panel hearing the appeal may either:

- uphold the original decision and confirm the original outcome; or
- confirm the original decision to take disciplinary action but substitute a new outcome (this

could increase or decrease the level of action decided upon originally); or

- entirely overturn the original disciplinary decision.

There is no right of appeal from this decision. The Grievance Policy and Procedure may not be used as a mechanism for appealing against the decision of the disciplinary appeal outcome (see section 7).

2.3.2 Throughout the formal stage, the timing and location of hearings will be reasonable and the location will be accessible to all parties. Hearings will be conducted in a manner that allows the employee to explain their case appropriately. All involved parties must take reasonable steps to attend hearings that they are requested to attend. If they are unable to attend they should explain this without unreasonable delay to a member of the HR department.

2.3.3 At any hearing the employee attends they have the right to be accompanied by a single representative who must be either:

- a colleague who works at GSA; or
- a trade union representative (local or full-time).

A representative may explain the employee's case and summarise the employee's views in relation to the allegations, respond to any views expressed at the hearing and confer with the employee during the hearing. A representative cannot answer questions on the employee's behalf.

If the employee reasonably requests that a representative attends a hearing with them but that person is not available to provide representation within the timescales, the hearing will be postponed to give the employee the opportunity to make alternative arrangements. Normally the postponement will not be any longer than five working days. If the employee seeks a longer postponement they should explain this to a member of the HR department without unreasonable delay.

2.3.4 Should an employee persistently be unable or unwilling to attend a disciplinary hearing without good reason, GSA reserves the right to make a decision in their absence based on the evidence available.

3. Outcomes of the Formal Stage

Although the disciplinary sanctions outlined in this section are staged it may be deemed necessary and appropriate, depending on the seriousness of the misconduct identified, to proceed directly to Stage Two or Stage Three.

3.1 Stage One - Written Warning

The employee will be provided with the reason for the written warning, in writing, and informed of the action necessary to reach the required standard of conduct. If appropriate, the employee will be offered additional support. The employee will always be given specific timescales for improvement and will be advised of the implications should the required standard of conduct not be met.

A record of the written warning will remain active on file within the HR department for six months after

which time it will be expunged.

3.2 Stage Two - Final Written Warning

A final written warning will be considered where: -

- a) An employee's conduct fails to improve and there are further instances of misconduct, having been first given a first written warning. Under these circumstances demotion may also be considered, dependent on the individual case; and/or
- b) An employee's actions (whilst falling short of gross misconduct justifying dismissal) are deemed to be serious enough to warrant only one written warning.

The employee will be provided with the reason for the final written warning and informed of the action required to reach a standard of conduct that is acceptable to GSA. The employee will also be reminded that if the required standard is not achieved (i.e. if further misconduct occurs), the implications could lead to dismissal. If appropriate, the employee will be offered additional support. The employee will always be given specific timescales for improvement.

A record of the final written warning will remain active on file within the HR department for 12 months, after which time it will be expunged.

3.3 Stage Three - Dismissal

Dismissal will be considered where:

- a) An employee's conduct fails to improve and there are further instances of misconduct, having been given a final written warning; and/or
- b) The circumstances of the case are considered to be an act of gross misconduct.

The employee will be provided with, in writing; the reasons for dismissal (see section 2.3.1).

3.3.1 If an employee is dismissed for gross misconduct they will be dismissed summarily and will have no entitlement to notice or pay in lieu of notice.

3.3.2 Summary dismissal may also be applicable in circumstances where an employee is imprisoned for any offence and thus unable to attend their normal work place.

3.3.3 In cases where it is deemed that dismissal may be a potential outcome, employees will be given at least five working days' notice to attend the disciplinary hearing. Should the employee be unable to attend, they should contact the HR Department without any unreasonable delay explaining the reasons for this, in order that another hearing can be arranged.

4. Suspension

GSA may, where it is considered appropriate, suspend the employee with pay and without prejudice, pending an investigation and/or the conclusion of the formal stage of the process. In such cases, written confirmation of the suspension details will be sent to the employee.

The suspension is not applied as a punitive measure, and will only be applied where there is a need to ensure that individuals and employees are protected and/or to ensure that a full and fair investigation can be carried out unimpeded. Consideration will be given to overall appropriateness of suspension and individual risk for all parties involved.

The period of suspension will be as brief as possible, normally lasting no longer than 10 working days. However, there may be cases where a longer suspension period is required to allow a necessary investigation and/or procedure to take place. The suspension will be reviewed periodically and the employee will be informed in writing should the suspension period be extended, including an outline of the reasons for the extension and an indication of likely timescales. The suspension will end when the employee is informed of the outcome of the investigation or the decision reached following the disciplinary hearing.

5. Roles and responsibilities

5.1 Human Resources department

The role of the Human Resources department is to:

- provide advice to staff and senior staff on this Policy;
- provide information to senior staff on comparative cases or decisions which should be taken into account in deciding on a particular case to ensure fairness and consistency;
- provide advice to senior staff on the application of the procedure with the aim of promoting clear and effective use of the Policy;
- attend all disciplinary hearings and appeals in an advisory capacity and take notes of the meeting;
- provide training on implementing the procedure for senior staff;
- record and retain statistical information relating to disciplinary action for monitoring and reporting purposes.

5.2 Senior Staff

In order to ensure fair and effective operation of the procedures outlined, GSA will ensure that any senior staff involved in their application are appropriately trained. The role of senior staff members is to:-

5.2.1 Investigation

Any senior staff member who has been requested by the Head of HR to conduct an investigation under the Staff Disciplinary Policy and Procedure, has a responsibility to:

- Carry out a full and thorough investigation in order to ascertain the facts of the case, taking into account all relevant circumstances;
- Produce a written report on the investigation findings, including recommendations, within a reasonable time frame, and submit this to the HR department;
- Ensure that the employees being interviewed are aware that the information may be utilised in the context of the Staff Disciplinary Policy and Procedure;
- Consult the HR department for advice, where required, whilst conducting the investigation.

5.2.2 Disciplinary Hearing

Any senior staff member, who has been requested by the Head of HR to conduct a disciplinary hearing under the Staff Disciplinary Policy and Procedure, has a responsibility to:

- Ensure that a full and thorough investigation has been carried out by the investigating manager. Where there is doubt, clarify the facts, or if necessary request the investigating manager carries out further investigation;
- Liaise with the HR department to ensure that all employee statutory rights are given
- Provide the employee with an opportunity to state their case and keep them informed in writing throughout the process;
- Ensure that employees understand the possible outcomes of the Staff Disciplinary Policy and Procedure;
- Take responsibility for the final outcome of the disciplinary hearing;
- Ensure that a typed narrative is submitted to the HR department clearly indicating the outcome of the hearing and the circumstances taken into consideration;
- Ensure that the decision of the hearing is communicated to the employee in writing within the appropriate timescales (see section 2.3.1).

5.3 Witness

The role of the witness is to:

- provide a clear and accurate account;

- attend an investigatory meeting if required;
- respond to any questions arising from their statement.

6. Criminal convictions

If an employee is charged with, or convicted of a criminal offence not related to work, and that does not lead to imprisonment, this is not normally in itself reason for disciplinary action. However, consideration will be given to the effect the charge or conviction on the employee's suitability to undertake their job and their relationship with GSA, colleagues, clients and stakeholders. In such circumstances the facts of the case will be carefully considered by the Head of HR, in consultation with the line manager, before any disciplinary action is considered.

7. Relationship to the Staff Grievance Policy and Procedure

In the course of disciplinary proceedings an employee may choose to raise a grievance about the behaviour of the senior staff member handling the case. Where this occurs, the Head of HR will give consideration as to whether it is appropriate to suspend the disciplinary procedure for a short period until the grievance can be considered.

Consideration might also be given by the Head of HR to engaging an alternative senior staff member to deal with the disciplinary case. However, generally the raising of a grievance will not automatically suspend any disciplinary hearing or action. The disciplinary appeal procedure (detailed in section 2) should be utilised where an individual believes they have been unfairly treated during a disciplinary process.

The final decision about such matters rests with the Head of HR.

8. Timescales

GSA will deal with all cases promptly and, wherever possible, in line with the timescales outlined within this Policy. It is recognised that there are occasions when it will be impossible to meet the timescales set out within the Policy due to leave or other unforeseen circumstances. Where timescales cannot be met owing to such exceptional circumstances, a written explanation of the reasons for exceeding the time limits will be provided to the employee, accompanied by a revised timetable for progression of the case.

9. Confidentiality

So far as is reasonable, confidentiality will be maintained throughout the course of the procedures outlined in this Policy. However, employees should be aware that it may be necessary to disclose certain information so that GSA can fully investigate the circumstances of a case. Similarly, GSA cannot be bound by its obligation of confidentiality or a request to take no action where it is advised of wrongdoing that it considers it appropriate to take action on.

10. Records

- 10.1 The HR department will keep a record of disciplinary action taken, including all correspondence in relation to the case and any written statements provided by employees or witnesses. These records will be expunged in line with the timescales outlined in Section 3.
- 10.2 Notes of disciplinary hearings and appeal hearings will be taken by an HR representative and will be used only for reference by the individual conducting the hearing.
- 10.3 All records will be maintained in accordance with the GSA's obligations in terms of data protection requirements and, as such, will be held for no longer than is necessary for the purposes for which they were obtained.

11. Questions or complaints

Clarification on the terms or operation of this Policy may be obtained from a member of the HR department. Any complaints in relation to the Policy or its operation should be directed to a senior member of the HR department.

12. Monitoring

The number and profile of staff who have been subject to disciplinary action will be monitored by the HR department. The outcomes of the monitoring process will be presented along with other performance indicators to the relevant committees within the GSA.

MISCONDUCT

Misconduct may be minor, serious or gross.

The type of action taken will be decided in accordance with individual circumstances, including the seriousness of the misconduct and whether it is a first occurrence of unacceptable conduct.

Minor Misconduct

The following is a non-exhaustive list of examples of minor misconduct:

- minor damage to, or unauthorised use of, GSA property
- a single act of unauthorised leaving of the workplace, or failure to attend work without reasonable excuse
- minor absenteeism/poor timekeeping
- minor carelessness, negligence or incompetence in performing normal duties
- failure to notify the line manager within the first day of sickness or a minor failure to comply with the absence procedure
- refusal or failure to fulfil minor contractual obligations

Serious Misconduct

The following is a non-exhaustive list of examples of serious misconduct:

- failure to carry out lawful, reasonable and safe instructions from an appropriate senior staff member
- failure to respond adequately to previous warnings
- rudeness to clients, colleagues or external partners
- smoking in the workplace
- unauthorised use of GSA telephone for personal international calls
- careless disregard of GSA rules or a breach of policies and procedures

Gross Misconduct

Gross misconduct can be defined as any act or omission on the part of an employee, which represents a breach of the contract of employment and is so grave that the mutual trust necessary between the employee and GSA is destroyed.

The following is a non-exhaustive list of examples of gross misconduct:

- serious breaches of security or confidentiality, including misuse or disclosure of confidential information
- unauthorised possession, copying, alteration or destruction of GSA records
- serious breaches of safety rules which endanger the health and safety of others
- contravention of safe working practices, established procedures or regulations dictated by current legislation or authorities
- conduct likely to bring GSA into disrepute, including abusive language, violent behaviour, fighting, threatening violence, immoral or obscene conduct, whether within or outside the workplace
- physical assault on persons carried out on GSA premises or whilst engaged on GSA business
- excessive or inappropriate use of foul or abusive language or threats made to employees or clients
- negligence or incompetence causing or likely to cause substantial loss, damage or injury
- theft, fraud, damage or unauthorised possession of property belonging to GSA
- being under the influence of substances such as alcohol or drugs, being in possession of unauthorised substances or misusing substances at work or whilst driving on GSA business
- conviction of a criminal offence considered potentially damaging to GSA, or preventing the individual from performing their work
- any act of unlawful discrimination against any person during the course of the employee's work
- any act or behaviour constituting any form of unlawful harassment or victimisation
- knowingly breaching legislation governing the operations of GSA business
- misrepresentation or falsification of records of any sort (e.g. sickness records, timesheets, expense claims, employment applications)

- deliberate interference with GSA operations, work or service
- excessive use of GSA internet and e-mail connections for purposes not related to work

