



London Metropolitan University
Students' Union

Disciplinary Procedure

Temporary Worker

Disciplinary Procedure

Purpose

The Students' Union (SU) aims wherever possible to informally resolve matters of potentially Unsatisfactory conduct without resorting to formal procedures. Recognising however that this is not always possible, the purpose of this procedure is to provide a formal means.

The procedure reflects the London Metropolitan University's (LMU) Disciplinary Procedures, as adapted and applied by the SU as stated within the Temporary Worker contract. These adaptations relate to SU structures, entity and the difference in the nature and terms of employment between LMU permanent staff and SU temporary staff.

General Guidance

- 1.1 The formal disciplinary procedure is for use in cases of alleged misconduct, ranging from minor misconduct to gross misconduct. Guidance on types of misconduct is provided at Appendix A of this document. The procedure will apply either where informal management actions have been exhausted or where conduct is of sufficient concern so as to warrant formal action. Normally the primary objective for managers in applying this procedure shall be to obtain improvement, to the required standard, from the member of staff in respect of their conduct. Consequently, the SU encourages managers to tackle early signs of possible misconduct by early informal interventions where practicable. However, in some circumstances it will be appropriate for a formal sanction such as a written warning to be applied. Where conduct is deemed to be of such a serious nature as to be detrimental to the SU, its staff or its students, the sanction of dismissal may be applied.
- 1.2 In order to ensure that this procedure is followed and applied consistently and fairly across the SU, the General Manager should be consulted at all stages by the line manager who is considering potential disciplinary complaint(s). All matters relating to the application of this procedure will be confidential to the parties concerned and any representatives.
- 1.3 Where a pattern of conduct is cause for concern and informal interventions have not achieved the desired outcome, the appropriate line manager may instigate formal disciplinary action which may or may not require a formal investigation but will involve as a minimum the marshalling of relevant existing evidence. This procedure provides detailed guidance (paragraph 2 below) of when an investigation is necessary, and how this should be conducted.
- 1.4 Where the conduct of a member of staff is such that it might warrant formal disciplinary action or an allegation or complaint is received regarding a member of staff's conduct which might warrant formal disciplinary action, the relevant line manager should, without delay, consider whether the evidence available clearly establishes the facts of the case or, if not, undertake an investigation of the matter in order to establish the facts and decide how the matter should be progressed.

2. Investigations

2.1 The level of investigation needed will vary from case to case. Some matters can be dealt with on paperwork alone, but usually it will be necessary to speak to those who have been directly involved, including the person accused of misconduct. Investigations will normally be conducted by the line manager but, if appropriate and with advice from the General Manager (for example where the line manager may have a conflict of interest), an alternative investigating officer may be nominated. This will not always be possible, and a practical view of whether a manager is able to undertake an objective and professional approach will guide the choice. An investigation need not follow any set procedure but shall be conducted fairly with the object of establishing:

- the exact nature of the complaint/allegation, including facts and details as they are known;
- the nature of any information to substantiate it e.g. documentation or witnesses to an event;
- what type of formal meeting to consider disciplinary action, if any, is needed, and; whether it is necessary or appropriate to suspend the member of staff for a period of time (paragraph 3 below provides information on suspensions).

2.2 In instances where a complaint has been brought, the basic investigation should at least involve an initial interview with the complainant, and the person complained about to establish and verify the facts of the complaint, and to assess what further investigation, if any, is needed.

2.3 The investigating manager will provide the member of staff under investigation with as much information as reasonably possible of the issue under investigation. Normally this would be done at the time of the first investigatory interview.

2.4 The investigating manager should be accompanied at any interviews by a note taker so that a record of what is said is available. This may be necessary regardless of whether the matter is taken to a formal hearing. The notes of the investigation, including interviews, may be used as supporting information for any formal hearing and the investigating manager should make this clear to those who provide documentation or who are interviewed as part of the investigation. A copy of the relevant notes may be sent to relevant parties, where the General Manager agrees that this would be appropriate and would not breach confidentiality.

2.5 The member of staff under investigation may be accompanied by a person of their choice other than a person acting as a legal adviser.

3. Suspension

Although there are no guaranteed hours for Temporary workers there may be occasion when a suspension is advised

3.1 Suspension from duty may be considered necessary in various circumstances. These might include, for example:

- where the allegations are very serious and if proven could lead to dismissal, where the continued presence in the workplace of the employee under investigation is seen to be prejudicial to the conduct of the investigation and/or other individuals in the SU, or where the alleged misconduct calls for an extended or complex investigation to be undertaken; or
- where there are grounds for doubt as to the suitability of the member of staff to continue at work in the prevailing circumstances, which might include potentially serious health and safety issues affecting the member of staff and/or other individuals within the Union.

This is not an exhaustive list, and each case must be considered individually. Consideration will be given to the interests of the SU, its students, its staff (including the person under investigation) as part of the process. Suspension from duty is not a disciplinary sanction and does not imply that any conclusions have been reached about the disciplinary matter that is under investigation.

3.2 Any manager seeking to suspend a member of staff must seek the agreement of the General Manager (or their designated representative) before such action is taken. Where practicable, if suspension is being considered, the authorised officer will convene a suspension interview with the member of staff at which they will inform the member of staff of the allegation or complaint against them. The member of staff will be given the opportunity to respond to the allegation or complaint and, following a short adjournment for consideration of the case, the authorised officer will inform the member of staff of the decision to suspend or otherwise.

3.3 Suspensions will be conducted with due regard to sensitivity and confidentiality and, as far as reasonably practicable, away from the member of staff's immediate work environment. The member of staff may be accompanied by a representative by a person of their choice other than a person acting as a legal adviser. As Temporary workers have variable shift patterns they should be invited to an interview prior to their next session of work such communication should make clear the purpose of the meeting. Reasonable opportunity should be given to agree a mutually acceptable time and date. However should this not be possible or the staff member does not attend the meeting a decision can be made in their absence.

3.4 As soon as possible after a suspension has taken place a letter should be sent to the member of staff confirming the grounds for their suspension, the duration of the suspension, and when it will be reviewed.

3.6 A suspended member of staff may have access to union systems and equipment withdrawn and be expected to return any equipment for the duration of the suspension.

3.7 The period of suspension shall be the minimum necessary to investigate the allegation(s)/complaint(s) and, where appropriate, bring the matter before a disciplinary hearing.

3.8 If at any stage during the investigation it becomes apparent that the allegations or complaint cannot be substantiated, the member of staff will be advised that their suspension has been lifted and they will be invited to a meeting with the investigating manager for an explanation of the circumstances. Where they are exonerated, the member of staff will receive a letter of exoneration and all references to the matter will be expunged from their file. Where there is still an outstanding disciplinary matter this will be dealt with in accordance with the appropriate stages of this procedure.

4. Instances of Minor Misconduct

4.1 Matters of minor misconduct will normally be identified without the need for a detailed investigation. Where such misconduct occurs and it is considered to be sufficient to warrant formal action, the line manager will normally deal with the matter.

4.2 Where a line manager considers that a member of staff has conducted themselves in a way which constitutes minor misconduct, the member of staff should be informed in writing that they are required to attend a meeting with their line manager at which a complaint of alleged minor misconduct will be considered. There should be a minimum of five working days' notice of the meeting, and the member of staff must be informed of their right to be accompanied or represented by person of their choice other than a person acting as a legal adviser. Copies of any documents to be used at the meeting by the line manager must be enclosed with the letter. The member of staff should be notified of any others who will be invited to the meeting, and why

The member of staff will be required to provide any documents that they wish to be considered at the meeting at the earliest opportunity together with the name of her individuals that they wish to attend, and the reasons for this. There should not be any unreasonable delay on the part of either the manager or the member of staff in organising the meeting.

4.3 At the meeting, the line manager will outline the complaint and what information there is to substantiate it, inviting witnesses to speak at the meeting as appropriate. The member of staff and/or their representative may ask questions of the manager and witnesses. The member of staff and/or their representative will then be given an opportunity to make a statement in response and also invite witnesses to speak, as appropriate. Questions may be asked of the member of staff and their witnesses by the line manager. The member of staff or their representative may make a final statement. Notes should be taken of the meeting.

4.4 The meeting will adjourn and the manager will decide whether the matter can be confirmed as minor misconduct, and whether a formal oral warning is appropriate. If, after this meeting, the line manager considers that the information provided, or the response of the member of staff, suggests that the matter may be more than minor, the procedure for pursuing all other types of misconduct (see section 5 below) should be followed. The decision reached, including the duration of any oral warning, should be communicated to the member of staff immediately following the adjournment. A formal oral warning must be confirmed in writing which will be issued to the member of staff within ten working days of the decision

4.5 In the event that minor misconduct identified through this process either continues or is repeated whilst a formal oral warning is in force, this may lead to more serious disciplinary action under this procedure.

- 4.6 In the event that the member of staff indicates that they are unable to attend the meeting due to sickness, the General Manager may request a medical certificate to enable the Panel to reach a decision as to whether or not to proceed. If the member of staff is unable to attend for sickness other reason these will be considered and if possible an alternate date will be considered. Since it is not appropriate for formal disciplinary matters to remain in abeyance indefinitely, the General Manager may advise that it is appropriate for a meeting to proceed where a member of staff is unable to attend on the scheduled date of the hearing or fails to attend.
- 4.7 In all cases relating to 5.9 members of staff will be informed that the Hearing may proceed in their absence. If this is the case, the member of staff will be invited to provide a written submission, although the absence of this written submission will not preclude the Hearing from taking place. Alternatively, they may choose to be represented by a person of their choice other than a person acting as a legal adviser.

5. Instances of Misconduct other than Minor Misconduct

- 5.1 If a line manager or investigating manager considers that a formal disciplinary hearing (beyond what is required for minor misconduct) is warranted on the basis of the behaviour of a member of staff, they shall refer their concerns to the General Manager with a recommendation for action. Consideration will then be given to the need for such a hearing and, if one is needed, who should make up the panel.
- 5.2 No person who has been involved in the formulation or investigation of a complaint or allegation shall conduct the hearing for that complaint. The Disciplinary Panel shall be advised by a representative from the SU.
- 5.3 The objective of disciplinary hearings is to determine all the relevant facts of a case, so that the decision is fair both to the member of staff and to the SU.
- 5.4 When a Disciplinary Hearing is convened, the Panel will be chaired by the General Manager or a named person (including LMU staff) who, dependent upon the circumstances, may be assisted in hearing the complaint by one or more managers from the SU or LMU staff.
- 5.5 The member of staff shall be notified in writing of the Disciplinary Hearing. This letter requiring the member of staff to attend the Hearing will:
- Normally give a minimum of ten working days notice (from the date of the letter), of the date, time and place for the Hearing, unless an earlier date has been mutually agreed. (*Requests for longer periods of notice of a Hearing should only be considered by where it can be demonstrated that the proposed time scale would materially disadvantage the member of staff under investigation*).
 - Name the Panel member(s) who will hear the disciplinary matter, the manager presenting the information and recommending disciplinary action and any person attending as an adviser
 - Outline the details of the complaint(s), indicating the alleged degree of seriousness and, where appropriate, explaining that dismissal could occur if the complaint or allegation is substantiated.

- Inform the member of staff of their right to be accompanied or represented by a representative of a trade union of which they are a member, or by a person of their choice other than a person acting as a legal adviser*.
- Inform the member of staff that either they or the manager may call witnesses and that relevant documentation may be considered at the Hearing, including a written statement by the member of staff in response to the complaint or allegation.
- Enclose copies of any documents to be used by or referenced by the manager at the meeting.
- Advise the member of staff that they are required to provide copies of any documents to which they intend to refer and the name of their representative, not less than five working days before the Hearing, to enable consideration to be given to them.
- Require all concerned to provide the person co-ordinating the meeting with the names of any witnesses that they intend to invite, no less than five working days before the meeting.
- Advise the member of staff that they will be responsible for making the arrangements for their witnesses and representative to attend the meeting.
- Draw attention to the fact that if the member of staff does not attend without good reason, the meeting may proceed in their absence or be adjourned at the discretion of the Panel if, in their view, there is good reason for the non-attendance. In the event that the member of staff is unable to be represented on the date specified and can authenticate this, the Chair of the Panel may exercise discretion and offer an alternative date and time. The meeting will only be rearranged on one occasion.
- Provide a copy of this Disciplinary Procedure.

5.7 This letter will be prepared and sent by the General Manager and a copy shall be given before the meeting to each member of the Disciplinary Panel and to the person presenting the disciplinary case.

5.9 In the event that the member of staff indicates that they are unable to attend the meeting due to sickness, the General Manager may request a medical certificate to enable the Panel to reach a decision as to whether or not to proceed. If the member of staff is unable to attend these will be considered and if possible an alternate date will be considered. Since it is not appropriate for formal disciplinary matters to remain in abeyance indefinitely, the General Manager may advise that it is appropriate for a meeting to proceed where a member of staff is unable to attend on the scheduled date of the hearing or fails to attend.

5.10 In all cases relating to 5.9 members of staff will be informed that the Hearing may proceed in their absence. If this is the case, the member of staff will be invited to provide a written submission, although the absence of this written submission will not preclude the Hearing from taking place. Alternatively, they may choose to be represented by a person of their choice other than a person acting as a legal adviser.

6. Notification of a Disciplinary Hearing

6.1 A letter confirming disciplinary action will be prepared by Human Resources and must include:

- The date(s) and reference of the conduct giving rise to the action and relevant facts established at the Disciplinary Hearing.
- A statement indicating the nature of the disciplinary action to be applied.
- If appropriate, the period provided for improvement, and the review arrangements.
- An indication that further disciplinary action (which could include dismissal) may result if the member of staff's conduct continues to cause concern.
- Any other action or recommendations made by Disciplinary Panel.
- An explanation of the member of staff's right of appeal.

6.2 Written summary notes of the Hearing will be provided, within a reasonable time after the hearing. These notes will not constitute a verbatim account of the hearing and will not be treated as such.

7. Forms of Disciplinary Action

7.1 The following types of formal disciplinary action are available. They do not have to be applied sequentially, and judgement needs to be exercised by the disciplining manager as to what action is appropriate in an individual case.

The main categories are:

- A formal oral warning in relation to minor misconduct. Usually for continued minor misconduct or the first instance of misconduct /breach of contract by the member of staff:
- A written warning and final written warning Usually for continued misconduct or first instance of serious misconduct/ breach of contract by the member of staff
- dismissal from post either with notice (for serious misconduct) or without notice (for gross misconduct

7.2 Warnings - Period for improvement and review

Warnings issued against a member of staff shall normally cease to be valid and will be disregarded after a period of six months has elapsed,

8. Grounds of Appeal

8.1 In cases other than dismissal, a member of staff against whom disciplinary action has been taken may formally appeal in writing in the form of a hard copy letter (not email) to the General Manager within ten working days of the date of the letter notifying the member of staff of the decision. Any such appeal must be on the grounds specified

- Where the member of staff contends that a matter of fact has not been properly taken into account or new evidence which could not have been available at the Disciplinary Hearing has now come to light.
- Where the member of staff disputes the appropriateness of the disciplinary action decided upon.
- Where the member of staff is able to demonstrate that the procedure has not been properly followed and that this has materially affected the decision.
- In all of these cases the material grounds for the appeal must be clearly outlined in writing, in order that the Panel can fully understand the nature of the appeal.

9. Appeal Process

9.1 An appeal panel shall, unless exceptional circumstances arise, endeavour to meet to hear the appeal within 21 days of receipt of the appeal. Where this does not prove possible, it will be arranged as soon as is practically possible.

9.2 The appellant should submit to the General Manager any documentary evidence that they wish the appeal panel to consider at least 7 working days in advance of the appeal hearing.

9.3 Copies of the original letter confirming the disciplinary action, the notes of the disciplinary hearing, together with any supporting documentary evidence submitted by the appellant will be provided to the appeal panel and other participants in good time ahead of the hearing, preferably not less than 5 working days. Documentation which is not provided within this timescale will only be accepted by the appeal panel at the discretion of the Chair of that panel.

9.4 An appellant may choose not to attend the appeal hearing, relying instead on their written submission(s) and/or representation by a person of their choice other than a person acting as a legal adviser*. Inability to attend, including for medical reasons, will not necessarily prohibit an appeal hearing proceeding

9.5 The Chair of the meeting will be appointed by the SU and may be a member of University staff

9.6 Normally, an appeal hearing will not constitute a rehearing of the original disciplinary hearing. Any new information raised at the appeal hearing will only be allowed after a short adjournment for all parties to apprise themselves of that information. The final decision over the admissibility of new information will rest with the chair of the panel. Witnesses may only be called to substantiate new information which is presented to the appeal panel.

10. Appeal Decisions

The Appeal Panel will, on behalf of the Union, have the power to:

- Find the action to have been unwarranted and, if withdrawn, written exoneration will issued
- Uphold the action or vary it as appropriate, which might include a lessening or increase in the level of action taken.

APPENDIX A

Disciplinary Terms and Examples of conduct which might lead to disciplinary action

1. Gross Misconduct

1.1 Definition

This is the commission of an act (or a number of separate acts) which will normally render it inadvisable or inappropriate for the member of staff to be allowed to remain at work. Gross misconduct is generally seen as an act (or a number of separate acts) which seriously and irreparably damages the contract of employment between the employer and the member of staff, making any further working relationship and trust impossible. Any member of staff suspected of committing an act (or a number of separate acts) of gross misconduct will normally be suspended pending investigation. If, after the Disciplinary Hearing, it is decided that the member of staff has committed an act (or separate acts) of gross misconduct, they may be dismissed without further warning or notice. In such circumstances, the member of staff will not be entitled to pay in lieu of notice.

1.2 Examples of Behaviour Constituting Gross Misconduct

This list is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment. Dependent upon the seriousness and circumstances of the offence, some of the examples listed below may be deemed serious misconduct or misconduct and attract the appropriate level of disciplinary action.

Examples include:

1.2.1 *Fraud and Theft*

- Asking for or accepting bribes or other corrupt practices.
- Fraud or breach(es) of the SU Financial Regulations.
- Theft, fraud and deliberate falsification of records (including computer based data).
- Unauthorised removal, possession or theft of property belonging to the SU, staff, student or member of the public.
- Misuse of SU property or name including unauthorised use, hire or sale of SU property or facilities.
- Falsification of qualifications or any other information (including employment history and previous remuneration) which is contained on an application form/curriculum vitae submitted to the SU.
- Deliberate falsification of timesheets, overtime, relocation, expenses claims or any other form of SU reimbursement for work or other activities.

1.2.2 Conduct Towards Others

- Serious harassment, victimisation or bullying, verbal abuse, intimidation or discrimination against staff, students or members of the public, including sexual and racial harassment, and harassment on grounds of disability, or other serious breaches of the Unions Equal Opportunities Policy.
- Serious infringements of safety rules or other negligent actions which seriously place the health and safety of other persons in danger.
- Serious negligence which causes or might cause unacceptable loss, damage or injury.
- Acts of violence (including physical assault) or vandalism in the course of employment.
- Serious abusive behaviour and/or offensive language which is considered to be of a serious nature towards staff, students or members of the public.
- Vexatious and/or persistent behaviour which causes serious disruption and/or disharmony within the workplace.

1.2.3 Other

- Gross negligence in failing to attend to, or carry out, legitimate instructions.
- Serious insubordination, for example serious instances of inappropriate conduct towards their line manager which undermines their authority.
- Disclosure of confidential matters, or the unauthorised use or disclosure of any computer or paper held or generated information from which a living individual can be identified.
- Disclosure of other confidential information, such as examination questions to examiners or interview questions to candidates for appointment.
- Wilful unauthorised disclosure of information classified as strictly confidential which could be harmful to the SU its students or staff by staff who in the course of duty have access to such information, for example personal information on staff, students etc.
- Serious misuse of information technology equipment and systems including:
 - Accessing and/or downloading and/or circulating via the University email system unacceptable and/or inappropriate material from the Internet which might include pornography (whether legal or not)
 - Deliberate refusal to carry out the legal requirements and/or reasonable instructions regarding the normal duties of the job
 - Violence, racist or sexist material. This is not an exhaustive list but an indication of the type of material which is unacceptable/inappropriate.
 - Using the University's information technology facilities to conduct unauthorised business ventures without prior authorisation from the University.
 - Any other inappropriate and/or unacceptable usage of the University's information technology and its systems (including email) which impacts upon the trust and confidence that can be placed in a member of staff.
- viii) Serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998).
- Being under the excessive influence of alcohol, other intoxicants or non-prescribed/classified drugs during working hours, which affect a person's ability to carry out their normal work duties. This includes instances where staff may report for work already under the influence of any such substance(s). In such cases, regard should be had to the University's Policy on Alcohol and Drug Misuse.
- Behaviour or offences within or outside (i.e. off duty) which, by their nature, may have a damaging effect upon the reputation and/or integrity of the SU.
- Dishonesty associated with the place of work or job being undertaken e.g. deliberate falsification of timesheets or expenses claims for pecuniary advantage; or
- failure to disclose criminal convictions or warnings.

2. Serious Misconduct

2.1 Definition

This is conduct that is not as serious as gross misconduct but serious enough for no further instances to be tolerated and to warrant a final written warning (which may or may not be the first and final warning),

2.2 Examples of Behaviour Constituting Serious Misconduct

This list is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment. Dependent upon the seriousness of the offence, some of the examples listed under section 1) may at times be deemed serious misconduct and warrant a first and final written warning. Likewise, some of the examples below may, in some circumstances and given the gravity of the allegation, be deemed gross misconduct and warrant dismissal from the SU. Examples of serious misconduct include:

- Insubordination
- Abuse of the SU Sickness Absence Procedure and/or falsifying sickness absence self-certification forms.
- Serious misuse of SU and or University facilities, such as, excessive use of the telephone or email system for personal calls/messages.
- Serious neglect of duty.
- Failure to comply with SU Financial Regulations at a level deemed not to warrant an allegation of gross misconduct.
- Serious act(s) of harassment, victimisation and/or bullying against other staff, students or members of the public in the course of duty at a level deemed not to warrant an allegation of gross misconduct.
- Serious act(s) of discrimination against other staff, students or the public in the course of duty in contravention of the SU and or University's Equal Opportunities Policy at a level deemed not to warrant an allegation of gross misconduct).
- Abusive behaviour and/or offensive language towards others at a level deemed not to warrant an allegation of gross misconduct.
- Misuse of the information technology and systems (including email) to such a degree of seriousness it is deemed not to constitute gross misconduct.
- Serious off-duty misconduct that results in loss of professional credibility.

3. Misconduct

3.1 Definition

This is misconduct of a degree less serious than that which warrants dismissal or a final written warning. Such misconduct may nevertheless lead to a higher level of disciplinary action (including dismissal) if persistent.

3.2 Examples of Behaviour Constituting Misconduct

This list is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment. Dependent upon the nature and extent of the offence, some of the examples listed below may not represent misconduct but be deemed gross misconduct, serious misconduct or minor misconduct and will warrant the appropriate disciplinary action:

- Repeated absenteeism and lateness.
- Off-duty misconduct that results in loss of professional credibility.
- Neglect of duty e.g.
 - failure to adopt safe working practices/use protective equipment when required by law or management; or
 - negligent use of Union property in such a way as is likely to cause serious damage or loss.

- Abusive behaviour and/or offensive language at the workplace and which is directed at other staff, students or members of the public
- Any act(s) of discrimination in contravention of the SU Equal Opportunities Policy.
- Misuse of SU and or University facilities, such as the telephone system and photocopying provision.

4. Minor Misconduct

4.1 Definition

This is behaviour of a less significant nature than misconduct, which can result in an oral warning or, if the minor conduct continues or is repeated, a formal written warning.

4.2 Examples of Minor Misconduct

This list is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

- Petty wrongs,
- Minor misuse of facilities.