

# Disciplinary Policy and Procedure

## Research, Teaching-only and Professional Services Staff

### Introduction

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All employees are expected to conduct themselves in a professional manner in the performance of their duties, to foster an inclusive environment where all members of King's community are valued and able to succeed.

Everyone at King's is responsible for meeting the standards of conduct expected of them. The Disciplinary Policy and Procedure provides a framework to manage occasions where these standards are not met in a fair and consistent way.

Where appropriate, King's will seek to resolve issues informally by providing feedback and allowing opportunity to develop. Conduct issues will be managed impartially, constructively, with dignity and respect and employees should be given clear instruction and expectations on behaviour and standards.

Whilst action taken in line with this procedure is primarily taken to facilitate improvement, action including and up to dismissal, may be an outcome.

### Application

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The Disciplinary Policy and Procedure applies to all employees on research, teaching-only and professional services terms and conditions of employment. Any allegations concerning Research Misconduct will initially be dealt with under the [Research Misconduct Procedure](#), which may later refer to the Disciplinary Policy and Procedure. Academic employees should refer to the [Academic Staff Disciplinary Regulation](#).

The university [Probation Process](#) applies to employees who have not completed their probationary period.

Where formal action against a representative of one of our recognised trade unions is being considered, the [Head of Employee Relations](#) will be informed, so that, with the employees consent, the appropriate full-time union official and Senior Local Representative of the relevant union may be notified of the matter.

Formal investigations conducted concerning allegations of bullying, harassment, abuse and harm in relation to an employee undertaking Wellcome Trust funded work will be reported to the Director of

Research Funding at Wellcome Trust, in accordance with the Wellcome Trust Bullying, Harassment, Abuse and Harm Policy.

The university aims to treat conduct issues sensitively and with respect for the privacy of those concerned. All employees must treat any information communicated to them in connection with an investigation or disciplinary matter as confidential.

This policy does not form part of employees' contract of employment and the university has reserved the right to amend the terms of this policy, should the need arise, without further reference to employees.

## **Informal Guidance and Advice**

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Where a manager has grounds for concern regarding the conduct or behaviour of an employee which are considered minor, the matter will usually be dealt with informally in the first instance. The manager should contact the [Employee Relations Team](#) for advice.

The manager will meet with the employee, informally and confidentially, to discuss:

- the details of the concern,
- the standards of conduct required, and
- the timescale for achieving this improvement, if applicable.

The manager will also provide opportunities to resolve the issue informally through the exploration of appropriate options, such as:

- appropriate training or retraining,
- the employee writing a reflective statement,
- reminding the employee about university policies and/or guidance and asking them to familiarise themselves with them.

Following the meeting, the manager must provide a written summary of the discussion to the employee.

The employee can comment if they feel that the written summary does not reflect their understanding of the content of the meeting.

The informal meeting will not count as formal disciplinary action. However, if within an agreed timeframe, following an informal meeting;

- there is no improvement,
- there is further misconduct, or
- further information becomes available during discussions which make the matter sufficiently serious,

the formal disciplinary procedure may be initiated.

The informal meeting will not form part of an employee's disciplinary record or be taken into account in future disciplinary proceedings.

## Disciplinary Procedure

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Where the informal process has not led to resolution or where the alleged misconduct is of a more serious nature, the formal disciplinary process will be initiated.

The manager must take advice from the [Employee Relations Team](#) before initiating the formal procedure.

### Right to a Companion

All employees will be advised of their right to a companion (either a trade union representative, official or another King's employee) at any investigation meeting, disciplinary hearing or appeal hearing.

If the employee wishes to be accompanied, they will need to notify the [Employee Relations Team](#) of the name of their companion and if relevant the Trade Union they are from. The employee will be responsible for providing details of the scheduled investigation meeting, disciplinary hearing or appeal hearing and any related documentation to their companion.

If an employee's chosen companion will be unable to participate in the procedure within a reasonable timeframe the employee may have their request refused and be asked to find another suitable companion.

If the companion is unavailable at the time scheduled for an investigation meeting, disciplinary hearing or appeal hearing, the employee should propose an alternative time. This should be within 5 working days after the day originally scheduled and should be chosen so that it is mutually convenient to those involved.

At an investigation meeting, disciplinary hearing or appeal hearing the companion will be able to,

- address the investigation meeting or hearing to put and sum up the employee's case,
- respond on behalf of the employee to any views expressed at the meeting or hearing, and
- confer with the employee during the investigation meeting or hearing,

either orally or in writing as may be applicable.

The companion will not be able to:

- answer questions on the employee's behalf,
- address the meeting or hearing, if the employee indicates that they do not wish their companion to do so, or
- use their position, in a way that prevents the university from explaining its case, or any other person making their contribution.

The employee will not have the right to be accompanied or represented by a barrister or solicitor acting in a professional capacity at any stage of the disciplinary procedure.

### Precautionary Suspension

Where there is reasonable belief that in the circumstances there is a risk to; the employee, other individuals, the organisation, or the investigation process then precautionary suspension may be considered.

Precautionary suspension is not a disciplinary action and should only occur if there is no reasonable alternative.

A decision to suspend will be taken in consultation with the [Employee Relations Team](#) and the appropriate Head of Department/Division/School.

Temporary arrangements to avoid suspension, may also be considered. Where appropriate this could include a change to,

- a shift pattern
- work location
- particular work duties
- interactions with customers / students / staff
- access to a specific system or tool

Arrangements will be considered on an individual basis, taking into account the specific circumstances.

Where a decision to suspend is taken the following process will occur:

- The employee will be given the reasons for the suspension, verbally where possible, and this will be confirmed in writing. This communication will not form part of the investigation process.
- For the period of suspension, the employee will be paid in accordance with their contract of employment. During the period of suspension, the member of staff must be available to work and readily contactable.
- The suspension will be for no longer than is necessary to investigate any allegations of misconduct against the employee or while any disciplinary proceedings against the employee are outstanding and will be kept under review.

Where precautionary suspension is taken or temporary arrangements are made the manager should keep the reason for this confidential wherever possible. The manager should discuss what to tell others about the temporary change with the employee.

## **Investigation**

No formal disciplinary hearing will be conducted without an investigation to establish the facts of the case. This will usually include:

- an opportunity for the employee to comment (usually by means of an interview)
- identifying and interviewing any witnesses to events
- reviewing other sources of evidence, for example work records or emails
- exploring any mitigating circumstances
- exploring any other relevant points or information

The [Employee Relations Team](#) will appoint a manager, known as a Commissioning Manager or Investigation Officer, to oversee the investigation process, who will usually be a senior manager within the department of the employee who is under investigation.

It is recognised that incidents of poor behaviour may not always be a matter of misconduct but of capability, therefore the investigating manager may choose to redefine the matter as capability and the procedure may continue on that basis without the need to commence the chosen procedure from the beginning.

At the conclusion of the investigation the Commissioning Manager/Investigation Officer will decide whether to proceed to a formal disciplinary hearing.

## **Disciplinary Hearing**

Following a decision from the Commissioning Manager/Investigation Officer to proceed with a formal disciplinary hearing, the employee will be invited to attend.

The employee will be given at least 5 working days' written notice of the hearing, including details of the alleged misconduct, a copy of the investigation report, and any supporting evidence relied upon during the investigation. Where a witness's identity is to be kept confidential, the employee will be given as much information as possible while maintaining confidentiality.

If the employee wishes to present their own supporting evidence or call any witnesses, they are asked to present this information to the [Employee Relations Team](#) at least 3 working days before the scheduled hearing.

The employee will be informed of the right to be accompanied at the hearing and will be asked to notify the [Employee Relations Team](#) no later than 3 working days ahead of the scheduled hearing if they intend to be accompanied, the name of the companion and if relevant the trade union they are from.

Disciplinary Panels will normally comprise at least two members who have not had any direct involvement in the matter: the Chair, who will usually be the appropriate Head of Department/Division/School and another senior employee. There may be circumstances where the [Head of Employee Relations](#) or their designate considers it appropriate to include an independent external person on the Panel.

Disciplinary Panels may question all parties and make any additional inquiries or request additional information about the case under consideration as they see fit. The hearing may be adjourned if it is necessary to carry out any further investigations, such as re-interviewing witnesses, in the light of any new points the employee has raised. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

A member of the [Employee Relations Team](#) will normally be present to support the panel, in addition to an assigned note taker.

Notes of the hearing will be taken and held in the Human Resources Department. The employee (and companion if appropriate) will receive a copy and will have the opportunity to comment, if they feel that the notes do not accurately reflect the meeting.

The Panel will consider the information presented to the hearing and will consider whether, on the balance of probabilities, the allegation(s) is proven, and decide what action, if any, is necessary.

## **Outcomes**

The outcome will be confirmed in writing to the employee, usually within 5 working days of the disciplinary hearing. The outcome may be that the allegation(s):

- is not proven and no further action will be taken,
- is proven and disciplinary action is to be taken, or
- is proven and the member of staff will be dismissed.

Where disciplinary action is taken, the written outcome will specify:

- the level of disciplinary action(s) to be taken,
- any specific improvement in conduct required,
- the period of time allowed to demonstrate such improvement (which may be immediate),
- the support to be offered to the employee to meet the required improvement, where appropriate
- the consequences should no improvement be forthcoming or where there is further misconduct,
- information on the right to appeal.

Disciplinary action may be:

**Guidance/Training**                      The purpose, timescales and review periods should be specified.

**First Written Warning**                Usually issued in the first case of misconduct or where there is accumulation of minor offences.

This will be retained on the employee's file, subject to satisfactory conduct, for 6 months after the date of issue.

**Final Written Warning**                Usually issued where:

- misconduct has taken place with an active First Written Warning on file,
- the misconduct is considered sufficiently serious to warrant only one warning, or
- gross misconduct has taken place; however dismissal is not considered appropriate.

This will be retained on the employee's file, subject to satisfactory conduct, for 12 months after the date of issue.

In exceptional cases, a Final Written Warning may state that it will remain active indefinitely.

**Dismissal**                                      In cases of gross misconduct, the university may dismiss an employee without notice (summary dismissal).

Dismissal with notice may be considered where misconduct is sufficiently serious to warrant dismissal, or if there is an active First or Final Written Warning to which the employee has not made an adequate response.

**Alternative action**                        In some circumstances the university may at its discretion consider alternatives to dismissal. These will usually be accompanied by a Final Written Warning, and could include (without limitation):

- delayed incremental progression,
- demotion to an alternative role, or
- transfer to another department/campus.

Demotion and/or transfer will not normally be applied unless it has been accepted by the employee as an alternative to dismissal.

Should the required improvement(s) not be achieved and/or sustained or there is further misconduct, the manager in consultation with the [Employee Relations Team](#) will determine whether a further formal process is required. This may result in further disciplinary action, up to and including dismissal.

## Right to Appeal

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An employee who has been subject to formal disciplinary action, including a First Written Warning, Final Written Warning or dismissal, will have the right of appeal.

An employee who wishes to appeal against any disciplinary action including dismissal must submit notice of the appeal in writing, including the grounds for the appeal and any supporting documentation, to the [Head of Employee Relations](#) within 10 working days of receipt of the written notice of the disciplinary action.

## Grounds for Appeal

The employee should clearly state the grounds for appeal, which may include:

- That the findings of the disciplinary investigation or hearing are unreasonable
- That the sanction applied is too severe
- That there is new evidence that was not previously available
- That the disciplinary procedure has not been applied correctly

## Appeal Procedure

The appeal will be heard by a Panel appointed by the [Head of Employee Relations](#) or their designate.

The appeal Panel will comprise up to three members who have not been previously involved in the particular case. There may be circumstances where the [Head of Employee Relations](#) or their designate considers it appropriate to include an independent external person on the Panel.

A member of the [Employee Relations Team](#) will normally be present, in addition to an assigned note taker.

The appellant will be given at least 10 working days' written notice of the appeal hearing, together with copies of relevant documents and reports presented at the disciplinary hearing.

The appellant can provide any new information concerning the grounds of the appeal that they wish the Panel to consider. This is to be presented to the Panel no later than 3 working days before the scheduled date of the appeal hearing.

The appellant will be informed of the right to be accompanied. They will be asked to notify the [Employee Relations Team](#) no later than 3 working days ahead of the scheduled appeal hearing if they intend to be accompanied, and to provide the name of the companion and if relevant, the trade union they are from.

## **Appeal Hearing**

The appeal Panel will review the information presented in relation to the grounds for appeal. This information will comprise:

- That which was previously submitted to the disciplinary hearing,
- The notes and decision letter from the disciplinary hearing,
- Any new information arising pertaining to the grounds of the appeal.

The appeal Panel may make any additional inquiries or request additional information about the case under consideration as they see fit.

The Panel Chair will determine the procedure for the appeal which should:

- adhere to the Disciplinary Policy and Procedure,
- ensure that all submissions made to the Panel (including written submissions made in accordance with the stipulated timeframes) are considered, and
- ensure that a decision is reached without undue delay.

## **Appeal Outcomes**

The outcome will be confirmed by the Panel Chair in writing to the appellant, usually within 10 working days of the appeal hearing.

For an appeal against action short of dismissal, this may be to

- Support the appeal and remove the warning, if appropriate,
- Support the appeal and modify the warning, its duration or any alternative action
- Reject the appeal and confirm the warning or any alternative action

For an appeal against dismissal, this may be to:

- Support the appeal and reduce the dismissal to a lesser action, or
- Reject the appeal and confirm the decision to dismiss.

An appeal will never result in any increase in the original action.

Should an appeal against dismissal be supported, the appellant will receive salary payment at the appropriate rate as if they had not been dismissed and there will be no break in their continuity of employment.

The decision of the appeal Panel will be final and there will be no further avenue for appeal within the university.



## Meetings

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Meetings will be conducted in-person or by using the appropriate technology such as Microsoft Teams.

The recording of meetings held in relation to this policy will not normally be permitted. Any deliberate recording of meetings obtained without the express agreement from all participants before the commencement of the meeting may result in disciplinary action.

## Criminal Offence

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A criminal offence which is committed outside of employment may lead to dismissal if it is considered to have a bearing on the work which the employee undertakes for the university or impacts negatively on the reputation of the university. Any such action will only be taken following a disciplinary process in accordance with the Disciplinary Policy and Procedure.

## Adjustments to proceedings

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Under the Equality Act 2010, the university has a legal responsibility to consider reasonable adjustments in the application of this policy, to ensure that employees with disabilities or specific needs can fully participate and understand the process.

Reasonable adjustments will be considered on an individual basis, taking into account the specific needs and circumstances of an employee, this could include adjustment to the location and timing of meetings, use of a translator and accepting written submission of statements.

Employees facing difficulty at any stage of the procedure due to a disability should contact the [Employee Relations Team](#) for advice.

## Version Control

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Policy name	Disciplinary Policy and Procedure; Research, Teaching-only and Professional Services staff
Implementation date	4 September 2023
Next review	01 July 2024
Policy owner	Remuneration and Policy Team

## Appendix 1: Examples of Misconduct/Gross Misconduct

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### Misconduct

Misconduct refers to behaviour that falls below the expected standards at King's. This includes behaviours that are considered inappropriate or detrimental to the workplace environment.

The following is a non-exhaustive list of examples of matters which the university will normally regard as misconduct.

- Lateness: Habitually arriving late to work or meetings without a valid explanation
- Unauthorised absence: Repeatedly and without valid reasons, being absent from work or failing to report for scheduled shifts.
- Insubordination: Refusing to follow reasonable instructions or showing a disrespectful attitude towards others or behaving in an offensive or disruptive manner.
- Damage to or misuse of university resources: Improper use of university property, equipment, or time for personal purposes or unauthorised activities.
- Negligence in the performance of assigned duties.
- Minor breaches of an employment contract not covered by the above.
- Minor violations of a university rule, regulation or code: Including but not limited to the university, Financial Regulations, Data Protection Policy or any established safety protocols and procedures.
- Research Misconduct: Actions or behaviours that undermine the integrity, objectivity, or credibility of the research process.

Instances of such misconduct may ultimately lead to dismissal if, following application of the procedure, improvement is not forthcoming.

Examples of misconduct may also be classed as gross misconduct depending on the severity of the alleged offence.

### Gross Misconduct

Gross misconduct generally involves behaviour that seriously breaches the employment contract, significantly undermines the employment relationship, irreparably damages the trust between the university and the employee, or poses serious harm to the university's business or reputation.

- Violence or threats of violence: Physical assault, threats, or intimidating behaviour towards colleagues, students, or others associated with the workplace.
- Theft or the unauthorised removal of university property or the property of a colleague, student or member of the university community.
- Fraud, dishonesty, bribery or embezzlement: Engaging in intentional and deceptive acts to deceive the university or gain personal financial benefits; accepting or offering a bribe or other undisclosed payment.
- Substance abuse: Being under the influence of alcohol or illegal drugs during working hours or engaging in drug-related activities that adversely affect work performance and / or the safety of others.

- Sexual misconduct: Engaging in any form of sexual assault, coercion, or non-consensual sexual activity in the workplace.
- Harassment: Engaging in any form of harassment, such as sexual harassment, bullying, or creating a hostile work environment.
- Discrimination: Treating employees less favourably because of a protected characteristic.
- Victimization: subjecting an employee to detrimental treatment because they have done or may do a protected act under the Equality Act 2010, or because they have raised concerns, made a complaint or given evidence or information as part of a grievance or whistleblowing complaint or similar process.
- Serious breaches of confidentiality: Disclosing or failing to keep secure, highly sensitive or confidential information without authorisation or using it for personal gain.
- Repeated or serious acts of insubordination: refusing to follow lawful and reasonable instructions, causing significant disruption to the work environment.
- Wilful and serious damage to property: Intentionally and seriously damaging or vandalising university property or the property of others within the workplace.
- Misuse of technology: unauthorised access to computer systems, hacking, spreading malware, or using technology for illegal activities.
- Gross negligence: Exhibiting serious negligence or recklessness causes loss, damage or injury, or puts at risk the safety of oneself, others, or the university.
- Serious violation of Terms and Conditions of Employment, university rule, regulation or code: Failure to comply with Financial Regulations, Data Protection Policy, UK Visas and Immigration compliance checks.
- Research Misconduct: serious ethical breaches or violations of professional standards in the conduct of research, including actions or behaviours that undermine the integrity, objectivity, or credibility of the research process.

## Appendix 2: Disciplinary Flowchart

