

# Disciplinary Policy & Procedure for Professional Services staff

## 1. Introduction

- 1.1. LSE has clear expectations of behaviour and conduct from all employees. These expectations are communicated through inductions for new starters (both LSE-wide and local), day to day management processes, and other appropriate means.
- 1.2. The terms 'disciplinary' and 'misconduct' are used interchangeably throughout this policy and procedure; both terms refer to matters related to the disciplinary process. Disciplinary matters cover both situations of misconduct and those issues that arise from an employee's negligence or deliberate unwillingness.
- 1.3. For the purposes of this policy and procedure, a 'manager' is any member of LSE with line management responsibility for one or more professional services staff.
- 1.4. Where possible, concerns about an employee's behaviour and/or conduct should be resolved informally and between the employee and their line manager. Where this is not possible or appropriate, this policy provides a formal disciplinary procedure which allows for a number of stages until a matter is resolved.

1.5. In line with LSE's move to blended ways of working, many staff combine remote and on-campus working. The section **9. Managing disciplinary procedures remotely** sets out how formal meetings and hearings under the Disciplinary Procedure may be held when one or more participants is off campus.

## 2. Aims

2.1. This policy aims to:

- 2.1.1. Clarify expectations of conduct for professional services staff
- 2.1.2. Provide a clear procedure for addressing disciplinary concerns fairly, consistently and in a timely manner

## 3. Scope

3.1. This policy and procedure apply to all professional services staff outside review periods (see below). Disciplinary matters concerning academic staff should be addressed under the [Academic Annex](#).

3.2. This policy and procedure does not apply to new employees during their review period (including any extension); disciplinary concerns regarding such staff should be addressed under the Review Periods Policy and Procedure for Professional Services Staff.

3.3. Disciplinary concerns and underperformance may be linked, although this is not always the case. Where a manager has concerns about an employee's underperformance, they should consider the circumstances carefully (consulting HR as appropriate) before a decision is made about which LSE policy is applicable. In particular, it should be noted that this policy and procedure do not apply in cases of:

- Underperformance that can be attributed to a lack of capability, which should be addressed under the [Capability Performance Policy and Procedure for Professional Services Staff](#).
- Underperformance that can be attributed to a medical condition which may be more appropriately addressed under the [Capability Health Policy and Procedure for Professional Services Staff](#).
- Underperformance that may be due to a disability, such as dyslexia, in which case further advice should be sought from an HR Partner.
- Underperformance that can be attributed to alcohol or drug dependency which may be more appropriately addressed under the [Alcohol and Drugs Policy](#) and/or the Capability Health Policy and Procedure.

3.4. A breach of LSE's [Information Security Policy](#) may count as a misconduct issue and be addressed under this policy and procedure.

## 4. Responsibilities

4.1. Managers are responsible for:

- 4.1.1. Familiarising themselves with this policy and procedure
- 4.1.2. Ensuring that employees are aware of the expected standards of conduct
- 4.1.3. Providing appropriate feedback to employees and addressing any conduct issues as soon as they become apparent
- 4.1.4. Providing appropriate guidance, support or other assistance to help employees achieve expected standards of conduct.

4.2. Employees are responsible for:

- 4.2.1. Seeking clarification if they are unsure about expected standards of conduct
- 4.2.2. Understanding that their manager is obliged to address any shortfalls in conduct
- 4.2.3. Advising their manager of any issues that are affecting their conduct or behaviour, and/or seeking other sources of support (inside and outside LSE).

4.3. Employee representatives and companions are responsible for:

- 4.3.1. Offering support and assistance to employees, including attending formal hearings where requested, as outlined in this policy and procedure.

4.4. HR are responsible for:

- 4.4.1. Advising managers on the appropriate implementation of this policy and procedure at informal and formal stages
- 4.4.2. Advising where a suspension may be appropriate during a disciplinary process.

## 5. Principles

5.1. Certain standards of conduct apply to all LSE staff, as set out in the [Ethics Code](#) and [Effective Behaviours Framework](#), among other documents. The standards of conduct which apply to all staff should be communicated during the induction process and reinforced throughout employment with the School. If an employee is unsure of the required standards, they should discuss this with their line manager.

5.2. It is expected that concerns about an employee's behaviour or conduct will usually be first addressed by their line manager through informal approaches. This may include advice and encouragement, training or other means of support. Managers may intervene informally without

HR or the presence of employee representatives or companions, with a view to resolving minor concerns in a timely manner.

- 5.3. Where informal approaches are either ineffective (i.e. they do not result in a satisfactory improvement) or inappropriate (e.g. cases of alleged gross misconduct), this policy provides a formal procedure. To ensure consistency in the application of the formal procedure, managers must seek the advice of their HR Partner before making any decisions.
- 5.4. Where formal disciplinary action is being considered, an investigation should be undertaken to determine the relevant facts and any supporting evidence so that an informed discussion and decision can take place. HR (typically the relevant HR Partner) will provide case specific guidance and advice during any such investigation.
- 5.5. This policy sets out expected timeframes that apply to each stage of the disciplinary procedure. While each applicable stage should be followed without undue delay, it is acknowledged that there may be circumstances where it is appropriate to extend a particular timeframe, e.g. to allow further information to be gathered or where there are difficulties in scheduling meetings. Where an extension is necessary, the reasons for doing so will be communicated to all parties. An extension should not be (and should not be seen as) an attempt to delay a stage of the procedure and all participants are expected to show reasonable flexibility in such situations.
- 5.6. Employment contracts are governed by civil law. Decisions taken under the disciplinary procedure set out here will only be made after thorough investigation of the facts presented. Disciplinary sanctions (up to and including dismissal) will only be made where it is more probable than not that the misconduct occurred.
- 5.7. Information relating to an allegation of misconduct should only be divulged to parties directly involved in the disciplinary process and must remain strictly confidential to those people.
- 5.8. At every formal stage of the disciplinary procedure, the employee will be advised in writing of the nature of any allegations and will have the opportunity to state their case before a decision is made. Where a warning (or other sanction) is given, the employee will be provided with appropriate support to meet the agreed improvement objectives.
- 5.9. An employee who is the subject of a disciplinary investigation may be accompanied to any formal meeting under this policy and procedure by a representative of a trade union or work colleague. The investigating manager and HR should be informed in advance of any such companion.
- 5.10. Audio recording of meetings, by mobile phone or any other recording device, is not allowed under this policy and procedure. Any information obtained via audio recording will not be admissible as evidence.
- 5.11. Managers should keep in mind that behaviour, or changes in behaviour, may have a reasonable explanation (including related to a protected characteristic, e.g. where disability is a contributing factor) and may not necessarily constitute misconduct. Managers should therefore avoid making assumptions about potential misconduct and should endeavour to understand the full facts of case before taking formal action under the disciplinary process.

## **6. Equality of opportunity**

- 6.1. LSE is committed to equality of opportunity in the implementation of this policy and procedure.
- 6.2. Where a disability, as defined by the Equality Act 2010, is disclosed during a disciplinary process, arrangements for investigations (and any subsequent formal meetings) should include consideration of reasonable adjustments to accommodate the disability and enable the individual to play as full a part as possible. In such cases, the individual seeking a reasonable adjustment for a formal meeting held under this policy (e.g. a different companion) should submit their request in writing to the Chair in advance.
- 6.3. Where an employee has difficulties understanding written or spoken English, appropriate accommodations should be made at every stage of the process, including the provision of a translator where necessary. Further advice may be sought from HR.

## **7. Right to be accompanied**

- 7.1. Employees have the right to be accompanied to any formal meetings or hearings held under this policy and procedure by either a trade union representative or a work colleague. The employee will be advised of this right prior to any formal meeting or hearing. If the employee wishes to be accompanied and/or call witnesses, they are responsible for providing appropriate details (including the date, time and location of the hearing as well as the details and documentation relating to the matter) to the companion/witness.
- 7.2. In all cases, the companion should not be someone who is already involved in the issues (and who may therefore need to be interviewed).
- 7.3. Disciplinary hearings are internal procedures. Attendance as a companion will normally be restricted to trade union representatives or employees of LSE. Solicitors, family members and all other non-employees are usually not permitted to attend disciplinary hearings. The employee should advise the Chair of a hearing in advance of the name of the person who will be accompanying them.
- 7.4. If the employee wishes to be accompanied, they are normally required to provide their HR Partner with the names of their companion at least two working days before the hearing.
- 7.5. During the hearing, the companion may confer with the employee and will be allowed to address the hearing to put forward and summarise the employee's case, respond on the employee's behalf to views expressed during the hearing, and ask for clarification of any witness statements. The companion is not allowed to answer any questions that are directly asked to the employee.
- 7.6. The circumstances of any action to be taken against a representative of a recognised trade union will be notified to the branch secretary (or another individual with a position of office) of that union.

7.7. All parties are expected to behave in a professional and respectful manner throughout the duration of a disciplinary process. Further detail about what this means in practice is provided in Section 8 of the procedure.

## **8. Witnesses**

- 8.1. Witnesses may be called during any formal disciplinary hearing held. Individuals who are not LSE staff will not be interviewed as standard under this policy, although exceptions may be made, e.g. where an individual from outside LSE can provide information about a formal disciplinary matter without which the disciplinary panel's decision would be different. In such cases, the witness may submit a written statement to the Chair.
- 8.2. Where an employee wishes to call witnesses for a formal hearing, they are normally required to provide their HR Partner with the names of the witness(es) at least two working days before the hearing is due to take place.
- 8.3. Witnesses are not obliged to attend any formal stages of a disciplinary procedure, and they must not under any circumstances be pressured into doing so.

## **9. Managing disciplinary procedures remotely**

- 9.1. On occasion, it may be appropriate to hold a formal meeting or hearing either remotely or in a hybrid manner (i.e. where one or more participants join remotely to a meeting which is being held on campus).
- 9.2. All provisions of the Disciplinary Policy and Procedure apply to hearings and meetings undertaken remotely, including the employee's right to be accompanied and right of appeal.
- 9.3. Proceeding with one or more stages of a disciplinary procedure remotely may mean using video (e.g. via Teams). In such circumstances, it should be ensured that:
  - 9.3.1. Everyone involved has access to the appropriate technology, including computer equipment and internet connection (as required). Equipment may be required where necessary and should be appropriate to the stage of the process. Where required, a substitute technology may be used – for example, a mobile phone in the event that a laptop is unavailable.
  - 9.3.2. Reasonable adjustments are made as required, e.g. if a participant has a disability or accessibility requirement which may affect their ability to use a particular technology.
  - 9.3.3. Audio of meetings held remotely are not recorded.
  - 9.3.4. Participants still have access to relevant information, including any witness statements or other evidence.
- 9.4. During an online meeting:

- 9.4.1. Where an employee is accompanied, separate 'room' facilities should be arranged so that they can speak in confidence away from the main 'room'.
- 9.4.2. Participants should be aware of the potential challenges of communicating remotely. In particular, participants should be given time to respond to information provided, as well as any decisions, in the same way as during a face-to-face meeting.
- 9.4.3. Where a participant is finding it difficult to maintain a consistent on-screen presence during a meeting (e.g. if there are internet connection difficulties), consideration should be given to postponing and rearranging the meeting.
- 9.4.4. Participants should be offered breaks in the same way as for an in-person meeting.
- 9.4.5. Summary notes should be taken and circulated to participants to ensure that all key issues have been understood.

## **10. Suspension from work**

- 10.1. In certain cases, for example where there is a serious allegation which may constitute gross misconduct, it may be appropriate to suspend an individual from work for a period of time so that an effective investigation can take place. Suspension is a neutral act and does not in itself imply that there has been any misconduct.
- 10.2. A suspension should be for the shortest period of time possible whilst allowing an investigation to be carried out. While the length of suspension will vary in individual cases, during all suspensions the employee will be kept updated through regular reviews about the timeline of the suspension. In all cases, the decision to suspend must be approved by the Director of HR (except where the Director of HR is unavailable in which case a reasonable delegation may be made) and will be confirmed to the individual in writing.
- 10.3. A decision to suspend should not be taken lightly, and alternative measures may also be considered depending upon the circumstances, e.g. a part suspension where the employee is still able to undertake a more restricted or different set of duties. Effective suspension will also be applicable where an employee no longer has a legal or statutory right to work, and therefore pay will be stopped; the HR Immigration Compliance team should be consulted in such circumstances.
- 10.4. LSE reserves the right to suspend an employee at any stage of a disciplinary investigation where it emerges that the matter is potentially one of gross misconduct, or where the employee's presence at work is affecting the conduct of the investigation. Suspension may also be considered in circumstances where the investigation is causing distress for the employee.
- 10.5. Where more than one employee is involved in an allegation of misconduct, careful consideration should be given regarding fairness if only one individual is suspended due to operational requirements.
- 10.6. The manager should consult first with their HR Partner if they are considering the suspension of an employee. If the suspension is approved by the Director of HR (or appropriate delegate), the manager will then meet with the employee to explain the reasons for the decision;

an HR Partner may also attend. The employee will be sent written confirmation of the suspension within three working days of the meeting, along with a copy of this policy and procedure. The written confirmation will also advise the employee of the expected duration of their suspension, an appropriate point of contact during this period and any conditions about attending the workplace and making contact with other staff or witnesses.

10.7. In certain cases, it may be appropriate for a manager other than the employee's immediate line manager to undertake the suspension. In these circumstances, the employee will be advised of the reasons during the meeting and afterwards in writing.

10.8. Suspension will be on full pay (including overtime payments where the individual works regular overtime) and may be in place until the investigation is concluded and/or a formal disciplinary hearing is convened.

10.9. During any period of suspension from work, regular contact should be maintained by the Chair of the relevant part of the process, so that the employee is kept updated about the progress of the investigation and timeline of the suspension.

10.10. The employee should be notified in writing when their suspension is due to end. If no further action is to be taken as a result of the investigation, a meeting should be arranged so that the employee is supported with any outstanding workload as well as any other developments (e.g. training) that they may have missed during their suspension.

## **11. Police or other legal proceedings**

11.1. LSE reserves the right to take appropriate disciplinary action in circumstances where the police are investigating a matter which involves one or more employees, or where legal proceedings have commenced, should such circumstances or proceedings have a bearing on an employee's performance in their role or contractual obligations. It may be necessary to take disciplinary action before the outcome of the police investigation or legal proceedings is known.

## **12. Misconduct and gross misconduct**

12.1. The following examples of misconduct and gross misconduct are for indicative or illustrative purposes only and are not exhaustive.

### **12.2. Misconduct**

12.2.1. 'Misconduct' is considered to be behaviour which is in breach of LSE's expected standards of conduct, as expressed in LSE documents including (though not limited to) the Ethics Code and Effective Behaviours Framework.

12.2.2. Examples of misconduct may include:

- Unauthorised absence and unsatisfactory timekeeping
- Refusing to comply with reasonable instructions from a supervisor or manager

- Breach of confidentiality, LSE regulations or conditions of employment.

### **12.3. *Gross misconduct***

12.3.1. ‘Gross misconduct’ is conduct serious enough to destroy the contract between the employee and the employer, making any further working relationship or trust between the two parties impossible. If, on completion of a disciplinary investigation and subsequent hearing, LSE is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or pay in lieu of notice.

12.3.2. Examples of gross misconduct include:

- Acts of theft, fraud or deliberate falsification of records, or use of LSE premises or assets for personal gain
- Physical or verbal abuse of a colleague, member of the public or employee of an organisation that has business with LSE
- Bullying (including cyber bullying) and/or harassment
- The possession of illegal drugs or incapacity due to drunkenness or unauthorised drug taking on LSE premises or on LSE business
- Racial, sexual or other acts of harassment or discriminatory behaviour, including sexual misconduct on LSE premises or on LSE business
- A failure to abide by LSE’s Personal Relationships Policy
- Acts of gross insubordination, or refusal to comply with reasonable management requests
- Serious negligence
- Soliciting or the acceptance of bribes
- Wilful or negligent misuse or damage to LSE property or the property of employees causing unacceptable financial loss
- Serious breaches of confidentiality, LSE regulations or conditions of employment (including knowing or reckless disclosures of personal data in breach of the General Data Protection Regulation (GDPR))
- Conviction for an offence outside of work affecting staff or external relations, or the employee’s ability to perform effectively in the role for which they were employed.

## **13. Right of appeal**

- 13.1. Employees have the right of appeal against all formal written decisions made under this policy and procedure (up to a final appeal decision) in accordance with the separate Appeals Procedure for Professional Services Staff. This right will be included in the written confirmation of such decisions, along with the name of the person to whom an appeal should be addressed and the timescale for doing so.
- 13.2. Usual grounds for an appeal will be the coming to light of new information, procedural irregularities or alleged unreasonableness of the decision. The scope of an appeal hearing is to:
  - 13.2.1. Review whether the matter under consideration was adequately investigated and substantiated
  - 13.2.2. Review whether LSE's procedures were correctly and fairly implemented
  - 13.2.3. Consider any new evidence (if any is presented)
  - 13.2.4. Consider whether the disciplinary action was reasonable given the circumstances known to management at the time of the hearing.
- 13.3. If new evidence is introduced during an appeal hearing, that evidence may be referred to the original formal hearing so that the level of sanction may be reviewed.
- 13.4. If an appeal results in the reinstatement of an employee who has been dismissed, this will be done in a manner which maintains continuous service and without any loss of pay.
- 13.5. The appeal decision is final and there is no further internal right of appeal.

## **14. GDPR and case records**

- 14.1. Notes and records of matters addressed under this policy and procedure should be handled on a confidential basis and stored securely in line with LSE's General Data Protection Regulation (GDPR) obligations and the School's own data protection guidance.
- 14.2. The written outcomes of all disciplinary actions taken will be monitored centrally by HR. Spent disciplinary records may be retained in a separate file for reference in the event of a dispute or legal proceedings, but not for reference in the event of further actions considered under this policy and procedure. The retention and subsequent removal of such records will be carried out in accordance with GDPR.

## **15. Criminal Offences**

- 15.1. If an employee is charged with or convicted of a criminal offence (other than a driving offence), they must inform their line manager immediately. The conviction is not normally in itself reason for disciplinary action; however, consideration will be given to what effect any charge or conviction has on the employee's suitability to do the job and their relationship with LSE, colleagues and service users. Managers should consult HR for advice about how to proceed in these circumstances.

## **16. Further support**

- 16.1. Managers and employees are encouraged to seek further clarification and advice as required from HR on the application of this policy and procedure. Staff can also contact LSE's recognised trade unions as well as the School's staff networks.
- 16.2. Throughout all stages of a disciplinary process, staff and managers are encouraged to access, and to signpost others to, relevant support within LSE, including Staff Counselling services and the Employee Assistance Programme (EAP) as appropriate.

# Disciplinary Procedure for Professional Services Staff

## 1. Introduction

- 1.1. Where there are concerns about an employee's conduct, their line manager should, in the first instance, discuss these with the relevant HR Partner. The HR Partner will consider the issues and advise on the options for addressing them, depending on the nature of the alleged (mis)conduct. Clarification of what constitutes misconduct, as well as examples of potential offences of gross misconduct, may be found in **Section 12. Misconduct and gross misconduct** of the policy.
- 1.2. Except in cases of alleged (or proven) gross misconduct, the employee should have reasonable time to meet the agreed improvement objectives.
- 1.3. If, at any point in a disciplinary process, it is determined that there is no case to answer, this will be confirmed in writing.

## 2. Informal action

- 2.1. Managers should bring to the attention of employees any incidences of failure to meet expected standards of conduct as part of normal line management. Cases of minor misconduct should be addressed informally and promptly via a confidential one-to-one discussion between the employee and their line manager. This discussion enables the manager to provide constructive feedback and the employee to express their views.
- 2.2. Where the manager identifies a need for improvement, they should explain to the employee what needs to be done, how the employee's conduct will be reviewed in a given period, and the nature of any support available. Support may include any necessary learning or training opportunities to help the employee reach the required standard.
- 2.3. Following the meeting, the manager should make a brief confidential note of what was discussed, including details of any required actions or improvements, and share this with the employee.
- 2.4. At the end of the agreed timescales, or earlier if it becomes apparent that the improvements required cannot be achieved within the defined time period, the employee's conduct will be reviewed and a decision taken as to whether any further action (including formal action) is necessary.
- 2.5. Where informal action satisfactorily resolves a conduct concern, the matter will be considered finished and will not be recorded on the employee's file. Informal action is not part of the formal disciplinary procedure and employees are not entitled to representation at these meetings.
- 2.6. Where informal action does not lead to improved behaviour, or where the alleged misconduct is more serious so that informal action is inappropriate (e.g. gross misconduct), the formal procedure may be initiated. The formal procedure will typically begin with an investigation.

### 3. Investigation

- 3.1. Where formal disciplinary action is being considered, it is LSE policy that an investigation is undertaken to determine the facts and gather any supporting evidence so that an informed discussion and decision can take place. The nature and duration of the investigation will vary depending on individual circumstances, although the following provides general guidance about what is expected. Depending upon the circumstances, it may be appropriate to suspend one or more employees for a period of time while the investigation is carried out (see **Section 10. Suspension from work** in the policy).
- 3.2. The investigation should be undertaken by a named individual (the 'investigating officer'). This will normally be the immediate line manager although an alternative individual may undertake the role, e.g. if the line manager is directly involved in the substance of an allegation, in which case the employee will be advised of the reasons. The investigation will typically include discussions with the employee and any relevant witnesses about the matters under consideration. Written records will be taken of the discussions and any necessary documentation gathered. In complex cases, it may be necessary to meet again with a witness or member of staff, or request written submissions from them if information needs to be corroborated or clarified. The timetable for gathering evidence should be discussed with all parties and an update should be provided to the employee within a maximum of ten working days (where the evidence gathering stage is expected to take longer).
- 3.3. Disciplinary investigations should be given priority and every effort should be made to minimise delays. Where the investigating officer considers that an extension is necessary (i.e. where they need more time to gather sufficient information), this should be agreed with the relevant HR Partner and the employee should be advised in writing of the reasons for the extension as well as the likely timescale for completion.
- 3.4. The investigating officer should liaise with the HR Partner so that a formal meeting can be set up to interview the employee in question as well as any witnesses who may be able to shed light on the alleged misconduct. These meetings should be undertaken promptly and the findings noted in writing. These written notes are not a verbatim record but will contain the key representations made at the meeting. Each person interviewed will be provided with a copy of the notes following the meeting and will be asked to confirm that the notes are an accurate record.
- 3.5. The employee in question (as well as any witnesses) has the right to be accompanied to any formal meeting held as part of the investigation (or subsequent hearing). An HR representative will also be present in an advisory role and a separate HR representative may also be present to take a summary note of the meeting.
- 3.6. Following the investigation meetings, the investigating officer (with advice from HR) will review the notes and any other evidence. In complex cases, it may be necessary to meet again with one or more individuals, or request written submissions from them, if any information needs to be corroborated or clarified.
- 3.7. Based on their investigations, the investigating officer may recommend that:

- There is no case to answer, or
- The matter is appropriately addressed through informal actions that fall short of a disciplinary hearing (e.g. training), or
- There are sufficient grounds to progress to a formal disciplinary hearing.

3.8. If the investigating officer recommends no formal action or informal actions only, the employee will be informed of this in writing.

3.9. If the investigating officer decides to refer the matter to a formal hearing, a hearing should be convened without undue delay. In line with the policy, the formal procedure may be entered at any stage, depending on the seriousness of the case. Ahead of the hearing, the investigating officer will need to prepare a report which summarises the investigation and makes a recommendation. This should include the notes of all investigation meetings as well as any other evidence gathered during the investigation. HR may assist with the preparation of the report, if necessary.

## **4. Stages of disciplinary action**

4.1. The formal procedure allows for a total of four stages of disciplinary action. These stages will typically be followed in order until a matter is resolved, although the appropriateness of the sanction may also be determined by the seriousness of the disciplinary hearing findings (e.g. in cases of gross misconduct).

4.2. The outcome of each stage will be confirmed in writing to the employee. This written confirmation will include any improvement targets that have been agreed, and will advise the employee that further action under the next stage will be considered if these improvement targets are not met. The confirmation letter will also advise the employee of their right of appeal, and be accompanied by a copy of the Appeals Procedure for Professional Services Staff.

4.3. Written confirmation of first warnings and written warnings will be retained on the employee's file for a specific period of time (see Sections 10, 11 and 12 of this procedure as relevant), after which they will be removed. If no formal disciplinary action is to be taken as a result of a disciplinary hearing, the employee will be notified in writing.

## **5. Arranging a disciplinary hearing**

5.1. The formal stages of the disciplinary procedure are designed to allow a case to progress through the normal management chain. The hearing will therefore normally be chaired by the line manager's manager. Where an alternative arrangement is required, a written explanation will be provided.

5.2. The manager chairing the hearing will be accompanied by a HR Partner acting as advisor and a second HR representative, who will take a written record of the meeting.

## **6. Notification of disciplinary hearings**

6.1. Where it is considered that a disciplinary hearing is necessary, the manager convening the hearing will write to the employee, normally within ten working days of receiving the investigation report, giving the employee at least five working days' notice so that they have sufficient time to prepare a response. The written notification of the hearing must include:

- The time, date and location of the hearing
- Details of the matter to be considered
- Any documentation relevant to the matter (including the line manager's report and any witness statements)
- The employee's right to be accompanied
- Who will be in attendance from Human Resources
- Whether translation services are required (where necessary)
- The requirement to confirm attendance, usually within 48 hours of the meeting
- The requirement, where relevant, that documents which are to be submitted in advance to the Chair, should be sent within 48 hours of the meeting
- Support services provided by LSE

6.2. The employee (and their companion if they are to be accompanied) should take all reasonable steps to attend the hearing. If the employee is unable to attend on the given date, they should request an alternative date and time which should be within five working days of the original date.

6.3. If an employee's chosen companion is unavailable on the given date, the employee should request a postponement by proposing an alternative date and time which should be within five working days of the original date. Where this is not possible, the employee should choose an alternative person to accompany them.

6.4. Where all reasonable efforts to secure an alternative date have been unsuccessful, LSE reserves the right to hold disciplinary hearings in absentia. This must be communicated to the employee in writing in such circumstances.

## **7. Composition of panel at disciplinary hearings**

7.1. A formal disciplinary hearing will normally include the following:

- A manager who will act as Chair and decide on the appropriate action
- The employee who is the focus of the hearing
- The employee's companion (if applicable)
- The investigating officer (normally the employee's line manager)
- An HR Partner
- Another HR representative (where required) who attends in an administrative capacity to take notes

## **8. Conduct during disciplinary hearings**

- 8.1. All parties are expected to behave in a professional and respectful manner during any hearings held under this procedure. In particular, while disciplinary hearings or meetings can be stressful and tense occasions, all parties can help by:
  - 8.1.1. Preparing in advance so that there are no undue delays and all parties have access to the relevant information
  - 8.1.2. During the hearing itself, keeping discussions to the matter at hand (following a structured outline should help to make sure that the discussions stay relevant)
  - 8.1.3. Behaving in a constructive and considerate manner by giving others the chance to respond, minimising interruptions, and avoiding any behaviour which could be seen as unreasonably influencing anyone's participation in the process or the outcome.
- 8.2. Section 9 of the policy includes further details that are applicable when conducting a hearing in which one or more parties are participating remotely.

## 9. Procedure at disciplinary hearings

*This section sets out the general procedure to be followed at disciplinary hearings.*

- 9.1. The Chair will introduce the hearing by explaining the purpose of the hearing, introducing the parties and outlining the procedure to be followed. The hearing should be an objective review of the case which allows all parties to hear and comment on the matters under consideration before a decision is made.
- 9.2. Following the Chair's introduction, the employee's line manager or investigating officer (as relevant) will present their case. They may then be asked questions by the Chair for the purpose of clarification, by the employee (and/or companion) and by the HR representative.
- 9.3. The employee (or companion if the employee is accompanied) will then have the opportunity to state their case, including whether there are any special circumstances to be taken into account. The employee may also present evidence and raise points about any information provided by witnesses. The employee may then be asked questions by the Chair, by the investigating officer and by the HR representative. Any questions put directly to the employee should be answered by them and not by their companion.
- 9.4. Both employees and investigating officers can call witnesses, either during their statement or after questioning has taken place. If witnesses are called, they may only be present for the period of their statements and any questions that they are asked. Witnesses will be questioned first by the person who called them, then in turn by the other side, the Chair and the HR representative, as necessary. The Chair reserves the right to call further witnesses at any stage of the hearing if they feel that it would be helpful to do so for clarification.
- 9.5. During the hearing, it may be appropriate to arrange an adjournment to seek further information. All parties can request an adjournment through the hearing's Chair.
- 9.6. After each side has presented their case, and each side has had the opportunity to ask questions of clarification, the Chair will ask the employee and then the investigating officer to sum up.
- 9.7. The Chair should consider what was said at the hearing, re-reading any documentation if necessary, before making a decision. Factors that may be taken into account include the employee's overall disciplinary and general record, length of service, actions taken in any

previous similar cases, the explanations provided by the employee and whether the intended action is reasonable in the circumstances. HR can provide guidance as appropriate.

- 9.8. If appropriate (e.g. if the amount of documentation is relatively brief), the decision can be made on the same day as the hearing, following a period of adjournment. At the latest, the decision should be confirmed to the employee in writing within 5 days of the hearing. The written confirmation of the decision will include the employee's right of appeal along with a copy of the Appeals Policy and Procedure for Professional Services Staff.

## **10. Stage 1 – first written warning**

- 10.1. If, following the hearing, the Chair finds that misconduct (short of gross misconduct) has occurred, they may issue a first warning to the employee. The warning will be confirmed in writing and a copy placed on the employee's file for a period of one year. The warning will include the improvement(s) required and their timescales.

## **11. Stage 2 – second written warning**

- 11.1. A second written warning applies to more serious acts of misconduct, or to a repeat of misconduct for which the employee has previously received a warning under Stage 1.
- 11.2. The warning will be confirmed in writing and a copy placed on the employee's file for a period of one year. The warning will include the improvement(s) required and their timescales.

## **12. Stage 3 – final (or first and final) written warning**

- 12.1. A final written warning is appropriate for a repetition of misconduct for which the employee has previously received a written warning under Stage 2 of the procedure.
- 12.2. A first and final written warning is appropriate for acts of misconduct so serious that LSE would wish to dismiss the employee were those acts to be subsequently repeated.
- 12.3. A final (or first and final) written warning will remain on the employee's file for a period of two years. The warning will give details of the misconduct, the improvements required and their timescales.
- 12.4. Written confirmation of a final written warning will advise the employee that dismissal under Stage 4 of the procedure will be considered if there is no satisfactory improvement.

## **13. Stage 4 – dismissal or summary dismissal**

- 13.1. 'Dismissal' may apply to third, second or first repetitions of minor, serious or major misconduct respectively.
- 13.2. 'Summary dismissal' (dismissal without notice) applies to acts of gross misconduct only.

## 14. Dismissal

- 14.1. If the employee's conduct is still unsatisfactory following a warning under Stage 3, and this is upheld at a disciplinary hearing, the employee will be dismissed as long as the relevant amount of time for the sanction to remain on file has not passed. The employee will be provided with a written explanation for the dismissal by the Chair of the hearing.
- 14.2. If dismissal is confirmed, the employee will receive pay in lieu of their contractual notice, as well as any other outstanding monies due, unless the dismissal was a summary dismissal (see above). For calculation purposes, the employee's final date of employment will be the date on which the employee was first informed of the outcome of the disciplinary hearing; this could be verbally at the hearing itself or subsequently in writing.

## 15. Summary dismissal

- 15.1. Summary dismissal only applies in cases of gross misconduct. In such cases, the employee will normally be suspended on full pay (see **Section 10. Suspension from work** in the policy) whilst their line manager completes an investigation.
- 15.2. If it is found that an act of gross misconduct has taken place, the employee will be summarily dismissed without notice (or pay in lieu of notice) and the decision will be confirmed in writing. The last day of service will be the date on which the employee received the outcome of the disciplinary hearing.

## 16. Appeals and grievances

- 16.1. Employees are entitled to appeal as set out in **Section 13. Right of appeal** in the policy.
- 16.2. If an employee raises a grievance during an ongoing disciplinary procedure, the procedure may be paused so that the grievance can be addressed first. Alternatively, it may be appropriate to address both at the same time where the grievance and disciplinary cases are related.

## Review schedule

Review interval	Next review due by	Next review start
3 years	November 2025	May 2025

## Version history

Version	Date	Approved by	Notes
1	August 2017	JNICC	
2	November 2022	JNICC	

## Links

Reference	Link
Capability Performance Policy and Procedure for Professional Services Staff	<a href="https://info.lse.ac.uk/staff/services/Policies-and-procedures/Assets/Documents/capPerPolPSSSta.pdf">https://info.lse.ac.uk/staff/services/Policies-and-procedures/Assets/Documents/capPerPolPSSSta.pdf</a>
Capability Health Policy and Procedure for Professional Services Staff	<a href="https://info.lse.ac.uk/staff/services/Policies-and-procedures/Assets/Documents/capHeaProAcaSupSta.pdf">https://info.lse.ac.uk/staff/services/Policies-and-procedures/Assets/Documents/capHeaProAcaSupSta.pdf</a>
Alcohol and Drugs Policy	<a href="https://info.lse.ac.uk/staff/services/Policies-and-procedures/Assets/Documents/alcDruPol.pdf">https://info.lse.ac.uk/staff/services/Policies-and-procedures/Assets/Documents/alcDruPol.pdf</a>
Information Security Policy	<a href="https://info.lse.ac.uk/staff/services/Policies-and-procedures/Assets/Documents/infSecPol.pdf">https://info.lse.ac.uk/staff/services/Policies-and-procedures/Assets/Documents/infSecPol.pdf</a>

## Contacts

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## Communications and Training

Will this document be publicised through Internal Communications?	Yes/ No
Will training needs arise from this policy	Yes/ No
If Yes, please give details Training will be arranged for line managers on the implementation of this policy and procedure	