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| **Policy Name** | **Disciplinary Policy** | **Policy Number** | HR015 |
| **Approval date** | October 2019 | **To be reviewed** | Annually |
| **Approved by** | UCB Guild HR Subcommittee |
| **Noted/endorsed** | Guild Manager |
| **Applicable To** | Separate staff and officer policy, both contained within |
| **Related policies** |  |

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| **REVIEW HISTORY** |
| **Date** | **Name** | **Role** | **Notes** |
| 24/10/2019 | Sarah Kerton | Guild Manager, UCB Guild | Creation of new policy and approval by HR Subcommittee |
| DD/MM/YY |  |  |  |

**DISCIPLINARY POLICY – STAFF AND VOLUNTEERS**

1. **Disciplinary Procedures Relating to Staff and Volunteers**

In any working environment it is important that standards are set and rules and regulations developed to inform and protect all those involved. Sometimes situations arise when standards are not met or the rules and regulations are disregarded.

In most cases, when minor problems arise, it is possible to discuss the matter informally and overcome any difficulty with help and guidance from your line manager. Our aim is always to encourage you to improve and to help you reach and maintain the required standard. But if the informal approach is not effective or the matter is too serious to be classed as minor, formal action will be taken.

Accurate records will be kept of all matters relating to breaches of discipline or poor performance of staff.

The Disciplinary Policy is a statement of the Guild’s policy and does not form part of any contract of employment or otherwise have contractual effect.

**Principles of the Disciplinary Procedure**
Disciplinary action may be taken in respect of any conduct or performance related issue by an employee:

• On Guild and/or University premises;
• Whilst at a Guild event;
• Whilst representing the Guild at any event of any kind and wherever held;
• Which may adversely affect the reputation of the Guild (whether or not such breach occurs in the course of the employees work for the Guild, on Guild/University premises, at a Guild event, or whilst representing the Guild).

Any complaint made against you will be fully investigated. No disciplinary action will be taken until you have been informed of the nature of the complaint and been given the opportunity to make representations at a disciplinary hearing.

You will have the right to be accompanied by a work colleague or trade union representative of your choice at any disciplinary or appeal meeting. For the avoidance of doubt, staff are unable to be accompanied by an officer of the Guild. While the Guild will make all reasonable efforts to ensure that you are present at any disciplinary hearing, the Guild may hold the hearing in your absence if you are unable to attend pre-arranged meetings on a number of occasions, in which case you may make written representations.

It should be recognised that being the subject of a complaint can be a difficult time for an individual, and so the Guild will undertake the investigation with appropriate discretion, care and consideration. The Guild will endeavour to ensure all steps in the process remain fair and in line with equal opportunities policy and procedures.

The Guild will use its best endeavours to keep all details relating to any disciplinary investigation or procedure confidential. No staff member, officer or representative witness or other person involved should comment publicly on any incident that is being dealt with under this procedure.

If the matter is very serious or if it is thought the employee may influence the investigation, they may be suspended on full pay pending an investigation with the authority of the Guild Manager. The suspension itself is not classed as disciplinary action. During any suspension, an employee must not – without the express consent of Investigating Officer – attend work or contact any student officer, member or colleague.

**The Process**
The Guild reserves the right to depart from the precise requirements of its disciplinary procedure where it is expedient to do so and where the resulting treatment of the individual is no less fair.

***Informal Warning***
At this stage, the staff member will be made fully aware by their line manager of what steps need to be taken to address the disciplinary issue. They will also be told when this will be reviewed and over what period. Staff will be informed of what action will be taken if they fail to improve either their performance or conduct (see below). Informal warnings and /or counselling are not part of the formal disciplinary procedure and staff should be made aware of this.

***First Stage: Initial investigation***
Before deciding whether a formal disciplinary hearing is required, you may be asked to attend an initial investigatory meeting to assess whether or not there is a case to answer, for instance, whether there is an entirely innocent explanation for what has been alleged.

Before any such initial meeting you will be informed of the nature of the allegation(s). You will be told that what is taking place is an investigatory interview to assess whether a disciplinary hearing will be needed. No decision on the truth or otherwise of the allegation is being taken at this meeting, only whether there is "a case to answer".

A trade union representative or work colleague may accompany you. The role of the representative is to offer you support, and if necessary to present your case but they cannot answer questions for you. The representative can ask questions on behalf of the employee and consult with them.

In order for the Guild to investigate any allegations thoroughly, as well as speaking to you, this will often involve speaking to others (e.g. employees, student officers, students) to obtain information, including witness statements.

***Second Stage: Formal disciplinary hearing***
If, as a result of the investigation, it is felt that there is a case to answer and a formal disciplinary hearing is required you will receive a letter that will outline the allegations against you and invite you, accompanied if you wish by your trade union representative or work colleague, to a disciplinary hearing.

The letter will set out the date, time and place of the meeting, who will be in attendance, what is being investigated and the potential level of consequence if the allegation is proved. You and/or your trade union representative or work colleague will be provided with any evidence that has been collated so you can adequately prepare your response.

The disciplinary hearing will consist of an Investigating Officer and a note taker present. The Investigating Officer will usually be your line manager, however another Investigating Officer may be appointed depending on the specifics of the case.

Prior to the hearing, you and the Investigating Officer will receive all of the documents relevant to the case, which will be referred to during the hearing. At the hearing the Investigating Officer will outline the complaint, after which you will have the opportunity to make representations and state your case. The hearing will have 3 choices:

• Ask for further investigation or to hear further evidence, in which a further hearing date will be arranged;
• Decide that there is no case to answer;
• Decide whether you have committed the breach of discipline alleged and, if so, consider what, if any, disciplinary sanction they deem appropriate. Should the Investigating Officer decide that the disciplinary action is Level 4, this must be referred to a further hearing.

**Sanctions for Breaches of Discipline**Depending on the nature and seriousness of the situation the Disciplinary Procedure can be commenced at any of the below four stages.

 ***Level 1: Verbal Warning***If your conduct or performance has been unsatisfactory, you may be given a formal verbal warning. You will be informed of the reason for the warning and a record of the verbal warning will be kept on file.

You have a right of appeal against a verbal warning.

This will be considered "spent" for disciplinary purposes after a period of six months unless otherwise specified.

***Level 2: Written Warning***
If a more serious disciplinary matter occurs or if there has been a failure to improve following a previous verbal warning, you will be given a formal written warning. The written warning will give details of the complaint, the improvement required from you and the period in which it has to be achieved. It will also warn that a final written warning may be issued if there is no satisfactory improvement within the required period and will advise of the right to appeal.

A note of the warning will be kept on file but will be considered "spent" for disciplinary purposes after 12 months unless otherwise specified.

***Level 3: Final Written Warning***
If there is insufficient improvement following a written warning or if there is misconduct that is serious enough to warrant it, a final written warning may be given to you. This will give details of the complaint and will warn that dismissal, or some other action short of dismissal, may result if there is no satisfactory improvement within a particular period. It will also advise of the right to appeal.

A note of the warning will be kept on file but will normally be considered "spent" for disciplinary purposes after a period of 12 months unless otherwise specified.

***Level 4: Dismissal***
If you fail to meet the standards required of you, or if you are found guilty of Gross Misconduct, dismissal will normally result. A decision to dismiss can only be taken by the Guild Manager or, in the case where the dismissal relates to the Guild Manager or an Officer Trustee, the Trustee Board.

If you are dismissed, you will be provided with written reasons, the date your employment terminated and, where appropriate, details of any notice pay to which you are entitled. You will, also, be informed of your right to appeal.

**Appeals**You have the right to appeal against any warning, demotion, suspension or dismissal within 10 working days. An appeals panel will be convened consisting of a senior member of staff and 2 trustees who, where possible, have not been involved in the case up to that point. This may require the involvement of a senior staff member from another Union, where the Guild is unable to provide the required number of appeal panellists.

To avoid any doubt, if your appealing against an action, the action will remain in force until the completion of the appeal. This means that should you have been dismissed, you will remain dismissed throughout the appeal. If your appeal is upheld, you will be reinstated to your position from the point of dismissal, and there would be no break in your period of continuous employment.

You will be informed in writing of the date of any appeal hearing and you will be entitled to bring a colleague or a trade union representative with you. The matter may be decided at the hearing or adjourned for further investigation or for further consideration. You will be informed of the outcome of any appeal hearing, in writing, as soon as possible. The resulting decision is final.

**DISCIPLINARY POLICY – FULL TIME OFFICERS AND OFFICER TRUSTEES**

1. **Disciplinary procedures relating to full time officers and officer trustees**

There is generally uncertainty around whether elected Officers are 'office holders' or 'employees' and, therefore, what procedures should be followed in the event of any performance-related issues.

It is recognised that the post of Full-time Officer Trustee is a unique one that doesn't always fit exactly into one HR process or procedure, such as those relating to core members of Guild staff. Guidance produced by NUS has been utilised in drawing up this procedure.

Disciplinary action may be taken in respect of any breach of discipline:

• On Guild and/or University premises;
• Whilst at a Guild event;
• Whilst representing the Guild at any event of any kind and wherever held;
• Which may adversely affect the reputation of the Guild (whether or not such breach occurs in the course of the employees work for the Guild, on Guild/University premises, at a Guild event, or whilst representing the Guild).

A breach of discipline means (but is not limited to) an act that could be deemed to constitute misconduct or gross misconduct, as detailed above.

The Trustee Broad shall annually appoint a Supervising Trustee to oversee procedures relating to the misconduct of full time officers. The Supervising Trustee shall annually report to the Trustee Board on any matters dealt with.

Accurate records will be kept of all matters relating to breaches of discipline or poor performance of Officers.

**The Process**In normal circumstances, complaints and grievances about an elected Officer will be made to the President, with the exception of complaints about the President, which will be made to the Guild Manager. Members and elected officers should refer to the Guild Manager if unsure, who will advise on this procedure.

***Initial Procedure***
When a disciplinary matter arises, or a complaint is made, the President with the support of the Guild Manager shall first determine whether the policy is appropriate for the matter/s being raised. In making the judgement, the President and/or Guild Manager will be careful to ensure that matters of misconduct are handled through this procedure but that matters of political performance (in their elected, representative capacity) are rightly referred to the appropriate accountability procedure.
In the first instance, the President or in the case of a procedure against the President, the Guild Manager, will decide whether a matter should be dealt with informally or formally under the disciplinary procedure. If necessary, they will confer with the Supervising Trustee in order to make this judgement. Minor cases of misconduct are best dealt with informally.

It may be necessary to issue an informal warning, but the President and/or Guild Manager will ensure that these areas are discussed with the objective of helping the officer to make appropriate improvements.

*Suspension from employment*
In certain circumstances, for example cases involving gross misconduct, where relationships have broken down or where it is considered there are risks to property or Guild responsibilities to other parties, consideration should be given to a period of suspension of membership rights with or without entitlements whilst an unhindered investigation is conducted.

Such a suspension should only be imposed after careful consideration and should be reviewed regularly to ensure that it is not unnecessarily protracted. Excluding an Officer from participation in Guild activities is not in itself a form of disciplinary action whilst the investigation is progressing.

*Legal Advice*The Officer will be entitled to seek advice, for example legal advice, the cost of which will be met by themselves.

***Informal Warning***
Should an issue be resolved informally, the officer will be made fully aware of what steps need to be taken to address the disciplinary issue. They will also be told when this will be reviewed and over what period. Officers will be informed of what action will be taken if they fail to improve either their performance or conduct (see below). Informal warnings and /or counselling are not part of the formal disciplinary procedure and officers should be made aware of this.

***First Stage: Formal investigation of disciplinary complaints about Full-time Officers***If using this procedure, the Supervising Trustee or an impartial third party appointed by the Supervising Trustee will investigate the matter. This is to establish the facts and, where appropriate, obtain statements from any available witnesses.

At the start of the investigation, the officer under investigation will receive a letter of formal notification detailing the disciplinary complaint being investigated and the name and contact details of the person dealing with the investigation.

They will be invited to an investigatory meeting at which they may submit any supporting documents or accounts to enable them to fully respond to the allegations. Should the officer under investigation not respond to communications or refuse to engage with the investigation process, they will be deemed to have nothing to add to the investigation.

The investigation will consider statements and any other documents received from the complainant and the officer under investigation as soon as practicable. The Guild aims to confirm the outcome of its investigation to the complainant, the officer under investigation and other interested parties within 10 working days of the date of the formal notification of the investigation, subject to having been able to contact all relevant parties within this time.

If it is not practicable to comply with these deadlines, for example due to relevant parties being on holiday, they may be extended by discretion of the Supervising Trustee, normally up to a maximum of 7 further working days.

The Supervising Trustee or appointed investigator will then make a report from which the Supervising Trustee will decide whether to:
• Take no further action and drop the matter;
• Arrange informal coaching, advice or counselling;
• Arrange for the matter to be dealt with through the next stage of the disciplinary procedure.

It should be recognised that being the subject of a complaint can be a difficult time for an individual, and so the Guild will undertake the investigation with appropriate discretion, care and consideration. The Guild will endeavour to ensure all steps in the process remain fair and in line with equal opportunities policy and procedures. No officer or representative should comment publicly on any incident that is being dealt with under this procedure.

Failure to observe this requirement will result in disciplinary action being taken under this procedure.

***Second Stage: Disciplinary Hearing***Should the Supervising Trustee decide to deal with a matter through the next stage of the disciplinary procedure, then before a decision is reached or any disciplinary action taken there will be a disciplinary hearing.

The officer under investigation will be notified of a disciplinary hearing in advance and will be provided copies of statements given by any witnesses or other written evidence to be used. Hearings will be arranged as far as possible at a mutually convenient time and place and the officer under investigation will have the right to be accompanied by a colleague or representative of their choice.

The Supervising Trustee will appoint a panel at disciplinary hearings, to consist of:
• An External Trustee from the Guild;
• A student officer from another Union;
• A staff member from another Union.

At the hearing, the officer under investigation will have an opportunity to state their case to the panel and answer the allegations that have been made. The appointed investigator or Supervising Trustee will also be asked by the panel to detail the allegations against the officer under investigation.

If the officer under investigation challenges the substance of any statements by witnesses, those witnesses may be called to the hearing where the officer under investigation or their representative and the panel will have the opportunity to ask questions.

Where disciplinary action is necessary, the member will be informed of the decision in writing. This will include:
• Details of the misconduct that has resulted in the disciplinary action;
• The level of the disciplinary action;
• Any recommendations or action required to prevent future disciplinary action;
• The consequence of failing to comply with any recommendations or action;
• Details of how to appeal;
• If appropriate, the length of time the warning will last before it is disregarded.

**Types of Disciplinary Action**
There are different types of action that can be taken that vary in their severity. The disciplinary hearing will decide the severity of the misconduct and the appropriate action and these are as follows:

• *Level 1: Formal verbal warning*
This can be given by the panel in cases of minor infringements. A record of the warning will be kept on file for six months but then disregarded for disciplinary purposes. The warning will be given in the presence of the panel and the member will be entitled to have a colleague or representative present when the warning is given.

• *Level 2:* *Formal written warning, which may be a final written warning*
This can be given by the panel at their discretion when the infringement is more serious or is a failure to improve whilst of the previous warning. A copy of the written or final written warning will be kept on file for 12 months but then disregarded for disciplinary purposes.

• *Level 3: Recommendation of termination or temporary suspension of all or part of membership entitlements*
Suspension or termination of membership entitlements can be given to Officers (as members of the Guild) if there is a failure to improve. In rare cases involving acts of gross misconduct or a major breach of duty or conduct that brings the organisation into disrepute, a summary termination of entitlements can be applied. Acts that may constitute gross misconduct are listed (but not exhaustively) below.

Due to the fact that the ability to hold elected office in the Guild is dependent upon membership status and the rights and privileges of membership, termination of all entitlements would represent a termination of the holding of office. In the case of employed elected officers, this would therefore represent a termination of contract.

A decision of this nature will need to be referred back to the Trustee Board by the Disciplinary Panel via the Supervising Trustee. This decision will require the agreement of the majority of the Trustee Board i.e. over 50%.

• *Level 4: Recommendation of removal from office as a Trustee*As above, the implementation of a recommendation of this nature would render the Officer unable to fulfil the post of Executive Officer. A decision of this nature will need to be referred back to the Trustee Board by the Disciplinary Panel via the Supervising Trustee. This decision will require the agreement of the majority of the Trustee Board i.e. over 50%.

***Next steps***
At Level 3 and 4, should the Trustee Board not agree this course of action, the Officer in question would receive a Formal Written Warning.

If the Trustee Board do agree, The Panel with the approval of the Trustee Board will inform the Officer in writing:
• The reasons for the termination or suspension of entitlements;
• The date on which the agreement regarding any suspension of entitlements between the Guild and the Officer will terminate;
• Information on the right of appeal and how to do so.

At any of the above stages, the panel may also resolve to recommend that the Officer undergo training and/or exclusion from some or all future Guild events.

**Appeals**
An appeal is designed to remedy any defects in the disciplinary process, not to repeat the investigation. Grounds for appeal, therefore, are:
• Unfairness of judgement;
• The severity of the penalty;
• New evidence coming to light;
• Procedural irregularities;
• Extenuating circumstances;
• Bias of a disciplinary officer;
• Unfairness of the interview.

An Officer must notify the panel of their intention to appeal against any disciplinary action within 5 working days of receipt of the confirmation letter.

The appeal should be made in writing to the Supervising Trustee stating the grounds upon which the appeal is to be made and must be received by the panel within a further 10 working days. An appeal hearing will normally be held within 10 working days of receipt of the letter of appeal.

An appeal will be heard by a panel who have had no previous involvement in the case and who will consist of:
• An External Trustee or if not possible, another Trustee of the Guild;
• A student officer from a Union;
• A staff member from a Union

An officer will have the right to be accompanied by a colleague or representative of their choice.

Possible outcomes of an appeal are:
• The appeal is upheld and the disciplinary sanction is either removed or reduced;
• The appeal is upheld and a re-investigation or re-hearing is required;
• The appeal is denied and the original decision upheld.

1. **Examples of Misconduct for both staff and officers**

**Misconduct**
The following is a non-exhaustive list of examples of misconduct:
• Failure to work in accordance with Guild policies and procedures;
• Poor timekeeping;
• Unauthorised absence from work or absence without a valid reason;
• Refusal to comply with legitimate management instructions;
• Not performing duties in a satisfactory manner;
• Carelessness with Guild or other people’s property;
• Potentially dangerous or offensive pranks or horseplay;
• Unreasonable standards of dress or personal hygiene.

**Gross Misconduct**
An employee or officer who commits gross misconduct could find themselves liable to dismissal without notice or payment in lieu of notice. The following is a non-exhaustive list of examples of gross misconduct:

• Any serious breach of the Guild’s Health and Safety procedures or policy or failure to disclose such a serious breach;
• Theft, fraud, deliberate falsification of Guild documents, including timesheets and expenses claim forms) or otherwise dishonestly providing false information to the Guild or any other dishonest act in the course of your employment (including the consumption or giving away of stock without payment) or failure to disclose such a serious breach;
• Using your position to give improper advantage to friends or relatives;
• Fighting, assault or intimidation of another person in the course of your employment;
• Unlawful discrimination relating to any protected characteristic or any other serious breach of the Equal Opportunities policy;
• Bullying or harassment;
• Unauthorised use or disclosure of confidential information;
• Deliberate damage to property of or in the Guild, or of a third party;
• Acceptance of a bribe or offering a bribe – should have an anti-bribery policy so could refer to any serious breach of that policy;
• Being under the influence of drugs or alcohol in the course of your employment;
• Negligence which causes or could cause significant loss, damage or injury or other serious consequences (such as criminal or civil liability or damage to the Guild’s reputation);
• A serious act of insubordination;
• A serious breach of Guild policies and procedures;
• Indecent or immoral behaviour in the course of your employment or outside of your employment which brings or is likely to bring the Guild and/or University into disrepute;
• Conviction of an offence which may adversely affect your continued employment;
• Bringing the Guild or University into disrepute;
• Deliberate falsification of records, reports or expense claims (including time sheets, clock-in cards, absence records and so on, in respect of yourself or any fellow employee);
• Unauthorised disclosure of confidential Guild information;
• Refusal or persistent failure to carry out working instructions or Guild rules and procedures;
• Failing to report to management any medical condition or medication/drug taken (whether prescribed or not) which could interfere with your ability to perform your work competently and safely;
• Undertaking private work on the premises and/or in working hours without express permission;
• Working in competition with us.