

Disciplinary Policy and Procedure

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1. Introduction

- 1.1. SOAS expects satisfactory standards of behaviour, conduct and attendance from all its employees.
- 1.2. Most minor conduct issues can be resolved informally through early conversation with employees.
- 1.3. Where an informal approach is unsuccessful or deemed inappropriate due to the seriousness of the allegation, a formal disciplinary procedure will apply. This document sets out the procedure that will be followed and the roles and responsibilities of those involved.
- 1.4. The aim is to ensure prompt, consistent and fair treatment for employees and to enable an improvement in standards of conduct.

2. Scope

- 2.1 The procedure applies to all employees of SOAS, except those non-academic staff still within their probation period, in which case the SOAS Probation Procedure will apply.
- 2.2 Any concerns about performance capability will be addressed through the SOAS Performance Capability Policy and Procedure.

3. Definitions

- 3.1 Examples of misconduct and gross misconduct are provided in Appendix A. Gross misconduct is defined as behaviour that is deemed so serious that it may justify summary dismissal i.e. without notice or pay in lieu of notice.

4. Roles and Responsibilities

- 4.1 **Line managers** are responsible for setting clear expectations on acceptable conduct and providing feedback in one-to-one meetings. They are responsible for dealing with any misconduct issues promptly, seeking advice from HR at the earliest opportunity.
- 4.2 **Senior managers** are responsible for reviewing the initial facts of a case and deciding whether to invoke a formal disciplinary procedure following advice from the HR department. They are responsible for commissioning a formal investigation, appointing an investigating manager, providing them with clear terms of reference and ensuring the investigation is completed within a timely manner. On receipt of the investigation report, senior managers are responsible for making a decision on next steps, including whether the case should proceed to a disciplinary hearing.
- 4.3 **Investigating managers** are responsible for conducting a fair, thorough and objective investigation within a timely manner and in accordance with the terms of reference agreed. They will be required to produce a report of their findings and may be required to present these at any subsequent hearing.
- 4.4 **Hearing managers** are responsible for chairing disciplinary hearings in accordance with this policy and procedure, ensuring employees receive a fair hearing. They are responsible for making an objective and impartial decision, ensuring any sanction issued is proportionate.
- 4.5 All **employees** are expected to fully co-operate with the procedure, including making themselves available to attend meetings when invited, providing a full and honest account of the situation in question, and responding swiftly to any reasonable requests. Where an employee or their representative is unable to make a meeting, it will be rearranged once within a reasonable timeframe.
- 4.6 The role of trade union **representatives** and work colleagues accompanying employees at meetings is to support and/or represent employees.
- 4.7 The role of **HR** is to advise on the application of this policy and procedure, ensuring it is applied fairly and consistently across SOAS. They are responsible for supporting with the co-ordination of the process.

5. General Principles

5.1 Fairness and equity

- 5.1.1** The procedure will be applied fairly and consistently based on the circumstances of the case. Any individual needs will be taken into account to ensure equity and no unlawful discrimination relating to a protected characteristic.

5.2 Confidentiality

- 5.2.1** All individuals involved in a disciplinary procedure must ensure they maintain confidentiality at all times. Any breach of confidentiality will be taken seriously. This does not preclude confidential discussions taking place on a need-to-know basis e.g. where the employee is seeking support from their union representative, or a manager discussing the matter with their line manager or HR.

5.3 Right to be accompanied

- 5.3.1** Employees subject to a formal disciplinary procedure have the right to be accompanied by a trade union representative or a work colleague at a disciplinary hearing. In addition, they may request to bring such a representative to a disciplinary investigation meeting.

5.4 Grievances

- 5.4.1** Where an employee has a grievance that relates to ongoing disciplinary proceedings, they should raise this as part of the disciplinary procedure and not through the separate grievance procedure (for example during the disciplinary investigation meeting, disciplinary hearing or appeal stage). Depending on the nature of the grievance, it may be necessary to temporarily suspend the disciplinary process to deal with the grievance. If a grievance is raised during disciplinary proceedings that is unrelated to those proceedings, the disciplinary proceedings and grievance procedure will run independently in parallel.

5.5 Freedom of Speech

- 5.5.1** SOAS is committed to protecting and promoting freedom of speech. All staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of disciplinary proceedings. However, employees should be aware that the right of freedom of expression applies only to lawful conduct (e.g. it does not confer a right to incite others to violence or racial hatred nor does it confer the right to harass or bully other members of staff or students who happen not to share particular views or beliefs). SOAS expects that staff will always exercise the right of freedom of expression with due consideration for others' feelings and opinions.

5.6 Support

5.6.1 SOAS recognises that being under investigation can be stressful for employees.

Managers are expected to consider the wellbeing and mental health of their employees and offer support where needed. In addition, employees can expect the investigation to be completed as quickly as possible and to be notified of any delays through regular communication.

6. Informal Resolution

6.1 In cases of minor misconduct, (e.g. a short period of recurrent lateness) the manager will discuss the issue with the employee informally, in private, and without delay. As part of the discussion, they will seek to understand any underlying reason for the misconduct. They will ensure the employee understands the nature of the concerns, what the expectations are for improvement, what the expected timescales are for improvement and what support is available. Managers may seek further guidance from HR.

6.2 Managers should confirm the outcomes of the discussion in writing to the employee.

7. Formal Procedure

7.1 If concerns about conduct recur despite a previous attempt to resolve these informally, or if the matter is serious and not appropriate to deal with informally, the formal procedure may be invoked. The decision to invoke the formal procedure will be taken by a senior manager in accordance with the level of authority set out in Appendix B and after consultation with HR.

7.2 Where disciplinary action is being considered for an employee who is a representative of SOAS' recognised trade unions, the relevant union will be notified.

7.3 The formal procedure will consist of the following stages, which may reasonably be amended depending on the circumstances of the case.

7.4 Stage 1 – Notifying the employee

7.4.1 The manager will explain to the employee that they will be subject to a formal disciplinary procedure, what the allegation against them is, who will be investigating it, and what the likely timescales will be. This will be confirmed in writing to the employee, together with a copy of this policy and procedure document.

7.4.2 Deciding on suspension

7.4.3 In serious situations, for example where there is an allegation of gross misconduct or where there is a risk to the university, to others or to the investigation, an employee

may be suspended from work while an investigation takes place.

7.4.4 Any decision to suspend will be taken by a senior manager in accordance with the level of authority set out in Appendix B and after consultation with HR. The decision to suspend can be taken at any stage of the process and will be confirmed to the employee in writing.

7.4.5 Any suspension will be on normal pay and will be kept under review.

7.5 Stage 2 - Investigation

7.5.1 The senior manager who took the decision to invoke the formal procedure will be responsible for commissioning an investigation and identifying a suitable investigating manager in liaison with HR. They will ensure the investigation is completed in accordance with this policy and procedure.

7.5.2 An investigation will be carried out as quickly as possible to establish the facts of the case. The investigation may be carried out by the line manager, or in more complex cases an independent investigator may be appointed.

7.5.3 The investigator will write to the employee to arrange an investigation meeting to discuss the allegation. They may also meet with others who have relevant information, and they will also review any relevant documentation or electronic/digital records, emails or CCTV footage.

7.5.4 The investigating manager will aim to conclude their investigation as soon as reasonably possible, and no later than **one month**. Any delays will be communicated to the employee.

7.5.5 The investigating manager will produce a report of their findings and submit this to the senior manager who commissioned the investigation and to HR. The outcomes of an investigation may be:

- There is no case to answer
- The matter should be dealt with informally with appropriate support and/or training
- There is a disciplinary case to answer and a disciplinary hearing should be arranged

7.5.6 The employee will be notified of the outcome of the investigation and what the next step will be.

7.5.7 In cases where the employee admits to the allegation and there is no dispute concerning the facts of the case, further investigation may not be necessary before a disciplinary hearing is arranged. In cases where an investigation may have already been carried out, e.g. under the Grievance procedure, it may be appropriate to proceed straight to a disciplinary hearing.

7.6 Stage 3 – Hearing

7.6.1 Where there is a case to be heard at a formal hearing, the employee will be given **5 working days'** written notice of the disciplinary hearing, along with access to any documentation or evidence that will be referred to in the hearing. The invitation will confirm the allegation(s) to be heard and the possible sanction that may result.

7.6.2 If the employee is unable to attend the hearing or fails to attend the hearing, the hearing will be rearranged once. Where the employee does not attend the rearranged hearing, the hearing may proceed in their absence.

7.6.3 The hearing will be chaired by a senior manager with appropriate authority (see Appendix B) and will be advised by a HR representative.

7.6.4 The investigating manager will be present at the hearing to present their findings.

7.6.5 The employee will be given a fair opportunity to state their case, question the investigation process, evidence or findings, and present any mitigation for the chair to consider.

7.6.6 The chair will confirm their decision in writing to the employee within **5 working days** of the hearing. Any delays will be communicated to the employee. Outcomes from the hearing may include:

- no formal action
- a formal warning (see *Sanctions*)
- dismissal (see *Sanctions*)

7.6.7 Sanctions

7.6.7.1 **First Written Warning** – This will usually be appropriate for instances of misconduct that are sufficiently serious to warrant disciplinary action, but where there is no current warning in place. The warning will set out the nature of the misconduct and explain that any further misconduct (similar or otherwise) during the live period will be likely to result in further disciplinary action. The warning will remain live for **12 months** from the date it was confirmed in writing to the employee.

7.6.7.2 **Final Warning** – This will usually be appropriate in cases of serious misconduct or where further misconduct arises while there is a live first written warning in place. The warning will set out the nature of the misconduct and make it clear that any further misconduct (similar or otherwise) during the live period will be likely to result in dismissal. The warning will remain live for **24 months** from the date it was confirmed in writing to the employee.

7.6.7.3 **Dismissal (with notice)** – This will usually be appropriate where further misconduct arises while there is a live final written warning in place.

7.6.7.4 **Dismissal (without notice or pay in lieu of notice)** – This will usually be appropriate as a last resort in cases of gross misconduct, examples of which are given in Appendix A, even where there have been no previous warnings issued.

7.7 **Stage 4 – Appeal**

7.7.1 An employee can submit an appeal against any formal warning or dismissal outcome. Appeals should be submitted in writing to the HR Director within **5 working days** of receipt of the hearing outcome letter, clearly stating the grounds for appeal, e.g. procedural error, lack of a thorough investigation, severity of sanction.

7.7.2 An appeal hearing will be arranged as soon as possible. The employee will be given **5 working days'** written notice of the appeal hearing.

7.7.3 An appeal hearing will usually be chaired by a manager more senior to the manager who chaired the disciplinary hearing (see Appendix B) or by an independent manager with no previous involvement in the case. They will be advised by a HR representative.

7.7.4 The chair of the original disciplinary hearing will be present at the appeal hearing to explain their decision.

7.7.5 The appeal hearing chair will consider the grounds for appeal and whether the original decision made was fair and proportionate.

7.7.6 The appeal hearing chair will confirm their decision in writing to the employee within **5 working days** of the hearing. Any delays will be communicated to the employee. There will be no further internal right of appeal.

Appendix A: Examples of misconduct/gross misconduct

The following examples are not exhaustive but indicative of conduct that SOAS considers may warrant disciplinary action up to and including summary dismissal in the case of gross misconduct.

Examples of misconduct

- Unsatisfactory attendance at work e.g. unauthorised or unreported absence or persistent lateness.
- Misuse of internet, email and other university facilities.
- Refusing or failure to carry out a reasonable management instruction.
- Failure to comply with agreed working practices; or
- Failure to take reasonable care of university property or using it for personal use without necessary authorisation.

Any misconduct of a sufficiently serious nature may be deemed to be gross misconduct and dealt with accordingly. Examples of behaviour that may constitute gross misconduct are shown below. These examples are not exhaustive.

Examples of gross misconduct

- **Academic misconduct** – such as falsification of research data
- **Verbal or physical assault**
- **Gross negligence**
- **Breach of confidentiality** – such as the covert recording of meetings
- **Dishonesty** – Theft, fraud, falsification of records or withholding of information for personal gain
- **Harassment, bullying, discrimination or victimisation**
- **Behaviour or offences inside or outside employment with SOAS which, by their nature may:**
 - a) prevent the employee from continuing to do the job for which they were employed;
 - b) seriously call into question the employee's fitness to continue in the job which they were employed; or
 - c) have a damaging effect on the reputation and integrity of SOAS.

Appendix B: Indicative levels of authority to take disciplinary action

Action	Level of Authority Required (a deputy may be nominated)
To invoke the formal disciplinary procedure	Head of Department/Senior Manager in consultation with their Director/Assistant Director/Dean and HR
Decision to suspend	Director/Assistant Director/Dean in consultation with HR
Commission a formal investigation	Head of Department/Senior Manager in consultation with HR
Chair a disciplinary hearing where a formal warning could be issued	Head of Department/Senior Manager
Chair a disciplinary hearing where dismissal could be an outcome	Director/Assistant Director/Dean For academic staff refer to Standing Order X.
Chair an appeal hearing following a formal warning	Director/Assistant Director/Dean
Chair an appeal hearing following dismissal	Director/Member of the Executive Board For academic staff refer to Standing Order X
Any action in relation to a member of the Executive Board	Vice Chancellor in consultation with the Director of HR