

Disciplinary Procedure

November 2015

Document title			
Disciplinary Procedure November 2015			
Document author and department		Responsible person and department	
Sue Davies, HR Business Partner, Human Resources		Peter Brook, Director of Human Resources (HR)	
Approving body		Date of approval	
UEB 15/412 UNCC 15.6615.66 Human Resources Committee		30 June 2015 22 July 2015 17 September 2015	
Review date	Edition no.	ID Code	Date of effect
November 2018	5	48	1 November 2015
EITHER		OR	
For public access online (internet)? <i>Tick as appropriate</i>		For staff access only (intranet)? <i>Tick as appropriate</i>	
Yes <input checked="" type="checkbox"/>		Yes <input type="checkbox"/>	
For public access on request copy to be mailed <i>Tick as appropriate</i>		Password protected <i>Tick as appropriate</i>	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<p>External queries relating to the document to be referred in the first instance to the Corporate Governance team: email corporate-governance@port.ac.uk</p> <p>If you need this document in an alternative format, please email corporate.communications@port.ac.uk</p>			

The latest version of this document is always to be found at:

www.port.ac.uk/accesstoinformation/policies/humanresources/filetodownload,12777,en.pdf

Contents

Page no.

Summary	4
1. Introduction	4
2. Policy statement	4
3. Scope of Procedure	4
4. Definitions for the purposes of this Procedure	4
5. Procedure – informal action	5
5.1 Informal action	5
6. General principles – formal stages	5
6.1 Right to be accompanied	5
6.2 Confidentiality	6
6.3 Right to appeal	6
6.4 Record keeping	6
6.5 Disciplinary action against a trade union representative	6
6.6 Grievance	6
6.7 Sickness absence	6
6.8 Suspension during the disciplinary investigation	6
6.9 Appeal against suspension	7
6.10 Appeals against formal stages	7
7. Procedure – formal stages	7
7.1 Stage 1 – Formal Written Warning	7
7.2 Stage 2 – Final Written Warning	9
7.3 Stage 3 – Dismissal	10
Appendix A Flowchart of procedure	13
Appendix B Examples of misconduct/gross misconduct	14
Appendix C Other sources of information and support	15

Disciplinary Procedure

Summary

What is this Procedure about?

This document sets out the procedure employees and their managers are required to follow in the event of disciplinary issues that arise at work. It provides a clear and transparent framework to address misconduct which may arise as part of the employment relationship. The Procedure ensures that issues are managed fairly and reasonably.

Who is this Procedure for?

This Procedure is for all staff and managers.

How does the University check this Procedure is followed?

Human Resources maintain an overview of disciplinary procedures and reports are presented to the Governors' Human Resources Committee.

Who can you contact if you have any queries about this Procedure?

All enquiries should be directed to the appropriate HR Adviser and details are available via the HR webpages at www.port.ac.uk/departments/services/humanresources/contactus/hrbusinesspartnerhradvisers/.

1. Introduction

The aim of the Disciplinary Procedure is to provide a clear and transparent framework to address misconduct which may arise as part of the employment relationship. The Disciplinary Procedure ensures issues are managed fairly and reasonably and follows the ACAS Code of Practice for handling disciplinary issues. Employees need to know what is expected of them in terms of standards of conduct and the likely consequences of continued failure to meet these standards.

2. Policy statement

Managers are responsible for taking action to try to ensure that an employee performs to the standards of conduct expected of them. The responsibility for ensuring that these standards are observed and maintained by all employees rests with both the individual employee and with the appropriate manager in each Department.

3 Scope of Procedure

This Procedure applies to all University employees except for holders of senior posts as prescribed in the Articles of Government which can be found at www.port.ac.uk/accesstoinformation/policies/universitycirculars/filetodownload,77031,en.pdf.

This Procedure is intended to deal with disciplinary problems arising from allegations of misconduct. It is not intended for use in situations concerning work performance and capabilities. The Disciplinary Procedure is designed to help and encourage all employees to achieve and maintain satisfactory standards of conduct and to comply with the University Regulations.

4. Definitions for the purposes of this Procedure

- 4.1 Senior manager includes Dean, Head of Professional Service, Chief Operating Officer, Pro Vice-Chancellor or Deputy Vice-Chancellor.
- 4.2 Senior postholder includes Deputy Vice-Chancellor, Pro Vice-Chancellors, Chief Operating Officer and Director of Finance.
- 4.3 Independent manager is a manager not previously involved in the case.

5. Procedure – informal action

When an employee's conduct falls short of an acceptable standard, it is the responsibility of the manager concerned to inform the employee and to support and encourage improvement. Wherever possible, matters of minor misconduct should be resolved informally through discussion between the employee and the manager. It may not always be necessary to carry out a formal investigation, e.g. where the facts of the case are clear and not disputed. In such cases, it may be more appropriate to move straight to the relevant formal procedure and any evidence will be considered at that point.

Please refer to the Investigation Guidelines, e.g. stage 1 – Establishing the Facts, for further information on how to conduct an investigation at www.port.ac.uk/intranet/humanresources/conditionsofemployment/policiesandprocedures/.

The outline process is at Appendix A.

5.1 Informal action

Informal action will be considered, where appropriate, to resolve minor disciplinary problems before moving to the formal procedure. An informal discussion is often all that is required to provide clarification on expected standards which will allow the employee to improve their conduct. The informal discussion can be used to resolve problems quickly and confidentially.

The manager should discuss the concerns with the individual in the first instance before deciding whether to take any action.

This discussion is aimed at clarifying possible shortcomings in conduct and about encouraging and sustaining improvement. Through discussion it may become evident there is no problem and the manager will confirm this with the employee. Where improvement is required, the manager should ensure clarification and that the employee understands what changes are expected, how their conduct will be reviewed, and over what period. Notes should be made of any agreed informal action and a copy provided to the employee. There should be reviews of progress over specified periods. Although informal action is not part of the formal procedure, reference to informal action may be made in formal hearings where an informal approach has been tried and has not resolved the situation.

If, during the discussion, it becomes obvious that the matter may be more serious, the meeting should be adjourned and the manager should seek advice from the HR Business Partner or HR Adviser with a view to conducting or commissioning an investigation. There will be situations where matters are more serious or where an informal approach has been tried but has not resolved the situation.

6. General principles – formal stages

If informal action does not bring about the required improvement, or the misconduct is considered too serious to be classed as minor the manager should consider formal action. An informal approach would not be appropriate in cases of serious or gross misconduct.

Where a disciplinary process is being followed it is important to manage issues fairly and act consistently. The Disciplinary Procedure may be implemented at any stage if the employee's alleged misconduct warrants this. The principles of natural justice should apply to the procedure in that those against whom allegations are made should have: copies of the allegations and evidence in advance of meeting; the opportunity to challenge allegations and evidence before decisions are reached; and the right of appeal against any decision taken.

Feedback may be given on the outcome of the Disciplinary Procedure to the parties involved e.g. the complainant, but only if appropriate, within the principles of confidentiality and subject to any legal requirements.

Where an employee is persistently unable or unwilling to attend a formal meeting without good cause, the employer may make a decision on the evidence available in the absence of the employee but a representative i.e. a union representative or work colleague may be present if the employee chooses.

6.1 Right to be accompanied

At all stages of the formal procedure the employee will have the right to be accompanied by a trade union representative of their choice¹, or work colleague (University of Portsmouth employee)² during the disciplinary hearing. Any request made by an employee to be accompanied must be within reasonable timescales. What is reasonable will depend on the circumstances of each individual case.

¹ This is subject to the representative being available within a reasonable time frame and without causing unnecessary delays to the procedure.

² This is subject to the representative being available within a reasonable time frame and without causing unnecessary delays to the procedure.

The trade union representative or work colleague should be allowed to address the hearing to put and sum up the employee's case, and confer with the employee during the hearing. The trade union representative or work colleague does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case. If the employee's representative cannot attend on a proposed date for a meeting, the employee must notify the manager arranging the meeting as soon as possible and can suggest an alternative time and date so long as it is reasonable and it is not normally more than five working days after the original date.

6.2 Confidentiality

Throughout any proceedings under this Procedure, confidentiality must be maintained by all parties involved. However, this will not preclude the University from disclosing information where necessary for the discharge of duties or as required by law, nor will this preclude the University, where appropriate, from disclosing information about any outcome under this Procedure. Breach of confidentiality may be considered as misconduct.

6.3 Right to appeal

At every formal stage of the procedure, an employee will have the right to appeal. The final stage of appeal in the procedure is the appeal to Governors as outlined in section 7.3.4.

6.4 Record keeping

A record of all discussions and meetings should always be made and then the record should be kept meticulously by the appropriate manager. The types of records that should be kept are of meetings, emails, attendance notes, notes of telephone calls, copies of correspondence etc. These should include the names of the people involved, dates, the nature and frequency of incidents, action taken, follow-up and monitoring information. Employees will have the right to see any documents used as part of the process. All sensitive information should be treated confidentially and meet the requirements of the data protection law. The University Data Protection Policy can be found at www.port.ac.uk/accesstoinformation/policies/information/filetodownload,17472,en.pdf.

6.5 Disciplinary action against a trade union representative

Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with a senior representative or a full-time official of the trade union, after obtaining the employee's agreement.

6.6 Grievance

In the event of an employee raising a grievance or complaint during the disciplinary process that is related to the disciplinary both issues will be dealt with concurrently. An independent manager will be nominated by the Director of HR to carry out the Grievance Procedure and/or to continue the Disciplinary Procedure as appropriate.

6.7 Sickness absence

If an employee who is subject to any of the stages of the Disciplinary Procedure has a period of sickness absence, a reasonable adjustment will be made to arrangements to accommodate the period of absence. However, this may not be appropriate in all circumstances e.g. a case of gross misconduct, or where an employee is persistently unable or unwilling to attend a formal meeting. The employer may make a decision on the evidence available in the absence of the employee but a representative, i.e. a union representative or work colleague may be present. Advice may be sought from Occupational Health on whether the individual is fit to participate in HR processes.

6.8 Suspension during the disciplinary investigation

The Vice-Chancellor/senior postholder may suspend the employee from duty without prejudice on full pay, depending on the nature of the allegations. The employee will be informed of the nature of the allegations and confirmation of the suspension should be put in writing to the employee under the signature of the Vice-Chancellor/senior postholder. Suspension will be for the minimum time necessary. Suspension during the disciplinary process will not be used as a formal or informal sanction.

Some examples of circumstances which could lead to suspension are set out below:

- preserve evidence;
- avoid the intimidation of witnesses;
- separate protagonists where work relationships have broken down;
- protect a victim of alleged harassment; or
- protect an employee's or the organisation's property.

This list is not exhaustive. Alternatives to suspension including a reallocation of duties on a temporary basis may be considered.

6.9 Appeal against suspension

Paragraph 10.4 of the Articles of Government provides that:

- i) any person who has been under suspension for three weeks or more may appeal in writing to the Board of Governors against the suspension;
- ii) any appeal made under Article 10.4 (a) shall be considered as soon as practicable;
- iii) a suspension against which an appeal is made shall continue to operate pending the determination of the appeal.

6.10 Appeals against formal stages

Where an employee feels that disciplinary action taken against them is wrong or unjust they may appeal against the decision. The notice of intention to appeal must be lodged no later than ten working days after the date of issue of the letter of Warning or Dismissal.

Appeals will be heard without unreasonable delay. Employees should state the grounds for their appeal in writing. The appeal should be dealt with impartially. Employees have a statutory right to be accompanied at appeal hearings. Employees should be informed in writing of the results of the appeal hearing normally within ten working days.

7. Procedure – formal stages

The University management should as far as possible make known to employees the type of offence that will normally lead to disciplinary action. The assessment of the seriousness of a particular misconduct must be left in the first instance to the judgement of the manager concerned in consultation with the HR Business Partner/HR Adviser. See Appendix B for examples of misconduct.

7.1 Stage 1 – Formal Written Warning

7.1.1 Definition

This is a first Formal Written Warning for misconduct if conduct does not meet acceptable standards. This warning will be in writing and would include the nature of the misconduct, the change in behaviour required and the right of appeal. The warning will also inform the employee that a Final Written Warning may be considered if there is no sustained satisfactory improvement or change in behaviour. A record of the warning will be kept, but it will normally be disregarded after 12 months subject to achieving and sustaining satisfactory conduct or performance.

7.1.2 Procedure

After establishing the facts through an investigation the manager, having discussed with the HR Business Partner/HR Adviser, may decide that it is necessary to proceed to a formal meeting and the employee should be notified of this in writing providing a minimum of five working days' notice. Exceptionally, these times may be extended by mutual consent. Where a manager or employee intends to call relevant witnesses they should give advance notice that they intend to do this.

i) The notification to the employee will include:

- information about the alleged misconduct and its possible consequences to enable the employee to respond to the case at a formal meeting;
- any supporting documentation, including the investigation report;
- details of the time and venue for the formal meeting;
- the right to be accompanied at the meeting;
- the procedure to be followed;
- the names and roles of those who will attend the meeting including witnesses if applicable.

Any formal meeting should be chaired by the appropriate senior manager unless they are implicated in the matter in which case it should be a manager at an equivalent level within the Faculty or Professional Service.

Before the meeting, the employee will be expected to:

- confirm attendance;
- witnesses will be confirmed within two working days;
- confirm who is accompanying the employee.

ii) At the meeting the employee will be:

- given the right to be accompanied (see section 6.1);
- allowed to set out their case and answer any written allegations that have been made;
- given a reasonable opportunity to ask questions, present evidence and call relevant witnesses;
- able to request adjournments to the meeting;
- given an opportunity to raise points about any information provided by witnesses.

iii) The Chair of the meeting will:

- ensure detailed notes are taken;
- never pre-judge the outcome of the meeting before hearing the employee's perspective;
- start the meeting by stating the complaint to the employee and referring to appropriate statements;
- give the employee ample opportunity to put forward their position and call any supporting witnesses; the Chair may also call witnesses if appropriate. Witnesses can only be in the room for the relevant part of the meeting – not the duration;
- make use of reasonable adjournments to consider and obtain any extra information needed before reaching a decision;
- after the meeting decide whether the alleged misconduct did take place, if any action is justified and inform the employee accordingly in writing.

Normally the investigating manager, usually the manager, will be at the meeting to present the facts and will typically stay for the duration of the meeting.

The Chair, seeking advice from HR as necessary, must give the decision with reasons; taking into account any mitigating circumstances. They must confirm review periods and give details of how to appeal if necessary. The confirmation of the Formal Written Warning will be in writing normally within five working days of the meeting. If the Chair decides that no further action is necessary they will confirm this in writing.

iv) A Formal Written Warning will be issued in writing stating:

- the nature of the unsatisfactory matter(s) dealt with at the meeting;
- the action required by the employee to remedy the issue with timescales;
- the disciplinary consequences which may follow if there is no improvement;
- the manager from whom the employee may seek guidance in improving their conduct;
- the date(s) at which the employee's conduct will be reviewed;
- the right to appeal;
- that a record of the Formal Written Warning will normally be kept on the employee's HR file for a period of 12 months.

If it is considered that the nature of the offence is such that a specified review period is not appropriate, this will specifically be drawn to the attention of the employee in the Formal Written Warning.

The responsibility for the issue of all letters, disciplinary correspondence and the organisation of meetings and reviews lies with the Chair who may seek advice from HR.

The Formal Written Warning, incorporating the right of appeal, will be handed or sent to the employee normally within five working days of the disciplinary meeting and a copy placed on the employee's personal file held in HR. An additional copy of this letter will, where the employee has given consent, be provided for the trade union representative or work colleague. The manager concerned, in conjunction with HR will review the matter(s) on any specified dates, which should normally be within 12 months and, if appropriate, will meet the employee. Where the review period is for longer than six months, interim reviews should be undertaken.

Where an employee is persistently unable or unwilling to attend a formal meeting without good cause the employer may make a decision on the evidence available in the absence of the employee but a representative, i.e. a union representative or work colleague may be present.

7.1.3 Appeal against Formal Written Warning

If an employee wants to appeal against a Formal Written Warning they must write to the Director of HR stating their reasons. The employee should set out in full the grounds of his or her appeal, and if they are proposing to rely on new evidence, he or she should provide details and a copy of any relevant documentation. The appeal must be lodged with the Director of HR not later than ten working days after the issue of the Formal Written Warning.

The Director of HR will arrange for the nomination of an independent manager not involved in the case to re-examine the matter and chair the meeting. The Chair will meet the employee who may be accompanied by a trade union representative or a work colleague. The Chair of the meeting will advise the employee of the outcome of the appeal normally within five working days. The result of the appeal may take the form of confirmation of the Formal Written Warning or withdrawal of the Formal Written Warning.

7.2 Stage 2 – Final Written Warning

7.2.1 Definition

If the offence is sufficiently serious, or if there is further misconduct or a failure to improve performance during the currency of a warning, a Final Written Warning may be given to the employee. The Final Written Warning will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal. The Final Written Warning, incorporating the right of appeal, will be handed or sent to the employee normally within five working days of the disciplinary meeting and a copy placed on the employee's personal file. A record of the warning will be kept, but it will normally be disregarded after 12 months subject to achieving and sustaining satisfactory conduct.

7.2.2 Procedure

This will consist of the employee attending a meeting chaired by the Dean, Head of Professional Service, Pro Vice-Chancellor or Deputy Vice-Chancellor as appropriate, in conjunction with the Director of HR or senior HR representative who will act as adviser and secretary. The employee should be notified of this in writing, providing a minimum of five but not more than ten working days' notice.

i) The notification to the employee will include:

- information about the alleged misconduct and its possible consequences to enable the employee to respond to the case at a formal meeting;
- any supporting documentation;
- details of the time and venue for the formal meeting;
- the right to be accompanied at the meeting;
- the procedure to be followed;
- the names and roles of those who will attend the meeting including witnesses if applicable.

ii) At the meeting the employee will be:

- given the right to be accompanied (see section 6.1);
- allowed to set out their case and answer any allegations that have been made;
- given a reasonable opportunity to ask questions, present evidence and call relevant witnesses;
- able to request adjournments to the meeting;
- given an opportunity to raise points about any information provided by witnesses.

iii) The Chair of the meeting will:

- ensure detailed notes are taken;
- never pre-judge the outcome of the meeting before hearing the employee's perspective;
- start the meeting by stating the complaint to the employee and referring to appropriate statements;
- give the employee ample opportunity to put forward their position and call any supporting witnesses; the Chair can also call witnesses if appropriate. Witnesses can only be in the room for the relevant part of the meeting – not the duration;
- make use of adjournments: take a break to consider and obtain any extra information needed before reaching a decision;
- after the meeting decide whether the alleged misconduct did take place, if any action is justified and inform the employee accordingly in writing.

Normally the Chair from Stage 1 of the formal procedures will be at the meeting to present the facts, if appropriate, and will typically stay for the duration of the meeting.

The Chair of the meeting must give the decision with reasons; taking into account any mitigating circumstances, confirm review periods and give details of how to appeal if necessary. The Final Written Warning, incorporating the right of appeal, will be handed or sent to the employee normally within five working days of the meeting and a copy placed on the employee's personal file. If the Chair decides that no further action is necessary they will confirm this in writing.

iv) A Final Written Warning will be issued in writing stating:

- the nature of the unsatisfactory matter(s) dealt with at the meeting;
- the action required by the employee to remedy the default;
- the fact that a Final Written Warning has been given and that any further cause for complaint may result in dismissal;
- the name of the manager from whom the employee may seek guidance in improving their conduct;
- the right to appeal;
- that a record of the Final Written Warning will normally be kept on the employee's file for a period of 12 months;
- the date(s) upon which the employee's conduct will be reviewed.

Where an employee is persistently unable or unwilling to attend a formal meeting without good cause the employer may take a decision on the evidence available in the absence of the employee but a representative, i.e. a union representative or work colleague may be present.

7.2.3 Appeal against Final Written Warning

If an employee wishes to appeal against a Final Written Warning they must write to the Director of HR stating their reasons. The employee should set out in full the grounds of his or her appeal, and if they are proposing to rely on new evidence, he or she should provide details and a copy of any relevant documentation. The appeal must be lodged with the Director of HR not later than ten working days after the issue of the Final Written Warning. The appeal will be heard by a Dean or Pro Vice-Chancellor not previously involved.

A senior manager³ will chair the meeting and interview the employee, who may be accompanied by a trade union representative or a work colleague. The employee will be informed in writing by the Chair of the meeting of the result of the appeal normally within five working days. The result of the appeal may take the form of confirmation of the Final Written Warning, withdrawal of the Final Written Warning, or withdrawal of the Final Written Warning and its substitution with a Formal Written Warning.

7.3 Stage 3 – Dismissal

7.3.1 Procedure

In the event of a Final Written Warning not being complied with, or in the event of alleged gross misconduct, the Vice-Chancellor or senior postholder⁴ will chair a meeting with the employee, with the Director of HR or a senior HR representative not involved at a previous stage in attendance to act as adviser and secretary. The employee will be notified in writing of:

- information about the alleged misconduct and its possible consequences to enable the employee to respond to the case at a formal meeting;
- any supporting documentation;
- details of the time and venue for the formal meeting;
- the right to be accompanied at the meeting;
- the procedure to be followed;
- the names and roles of those who will attend the meeting including witnesses if applicable.

The Vice-Chancellor/senior postholder will have the power to dismiss or to take any other appropriate action. The decision will be confirmed in writing by the Vice-Chancellor/senior postholder to the employee concerned and, as appropriate, to the trade union representative or work colleague, normally within three working days.

3 Dean, Head of Professional Service, Chief Operating Officer, Pro Vice-Chancellor or Deputy Vice-Chancellor.

4 For the purposes of this procedure senior postholders are: Deputy Vice-Chancellor, Pro Vice-Chancellors, Chief Operating Officer and Director of Finance.

If the Vice-Chancellor/senior postholder concludes that the employee be dismissed, the dismissal letter will be sent to the employee normally within three working days. The dismissal letter will give the reasons for dismissal and bring to the attention of the employee the right to appeal. Other than in cases of gross misconduct, the employee will be given notice of the termination of employment in accordance with the employee's contract of employment or payment in lieu of notice.

The effective date of the dismissal will be the date of the formal written dismissal letter.

As an alternative to dismissal, the Vice-Chancellor/senior postholder may, at his/her discretion, propose an alternative disciplinary penalty, including but not limited to the following examples:

- a warning at a level he/she considers appropriate;
- withholding of an annual increment;
- reassignment to a lower graded post on the normal terms and conditions, pay and grade for such post;
- unpaid suspension for a fixed period and specified reason such as seeking reassignment to another post.

Where an employee is persistently unable or unwilling to attend a formal meeting without good cause the employer may take a decision on the evidence available in the absence of the employee.

7.3.2 Gross misconduct

A decision to dismiss will normally be preceded by a Final Written Warning, except in the most serious cases of misconduct, where immediate disciplinary action is justified. Certain types of misconduct will be considered gross which warrant summary dismissal, that is dismissal without notice and without recourse to the warning stages. Gross misconduct is misbehaviour so serious that it causes an irretrievable breakdown of the employment relationship and which brings the employment contract to an end.

The Vice-Chancellor/senior postholder will chair the meeting and interview the employee as set out above in 7.3.1 and if it is considered that gross misconduct is proven, the normal penalty will be summary dismissal without prior notice or payment in lieu of notice. In the event of dismissal, the dismissal letter will be handed or sent to the employee normally within three working days of the meeting and include the reasons for dismissal and bring to the attention of the employee the right to appeal.

The effective date of the dismissal will be the date of the formal written dismissal letter.

7.3.3 Appeal against dismissal

In the event of dismissal, the employee has the right of appeal to the Human Resources Committee (HRC) of the Board of Governors. An employee who wishes to exercise this right of appeal should do so in writing to the Director of Corporate Governance or where necessary, another individual designated by the Vice-Chancellor (and copied to the Director of Human Resources) not later than ten days after the issue of the dismissal letter. The employee should set out in full the grounds of his or her appeal, and if they are proposing to rely on new evidence, he or she should provide details and a copy of any relevant documentation.

Within ten working days of the receipt of the appeal the employee shall be notified by the Director of Corporate Governance of:

- the date, time and place of the appeal hearing;
- the right to be represented or accompanied at the appeal hearing by a work colleague (University of Portsmouth employee) or a recognised trade union representative;
- the names of the persons to be present at the hearing including the members of the Appeal Panel;
- the name of any person(s) attending to present the reason for the decision to dismiss on behalf of the University.

At least six working days before the appeal hearing the name and the address of the employee's representative must be notified in writing to the Director of Corporate Governance.

The employee will take all reasonable steps to attend the appeal. The Appeal Panel will be entitled to proceed in the employee's absence where the employee:

- indicates to the Appeal Panel that they do not wish to exercise their right to be heard;
- fails to attend or leaves the Appeal Hearing;
- requests postponement or adjournment of the Appeal Hearing without good cause.

Notwithstanding the absence of the employee, at the employee's request, a representative i.e. a work colleague (University of Portsmouth employee) or recognised trade union representative may be present to address the Appeal Panel, including putting the employee's case, summing up and responding on the employee's behalf to any view expressed at the hearing.

7.3.4 Appeal hearing against dismissal

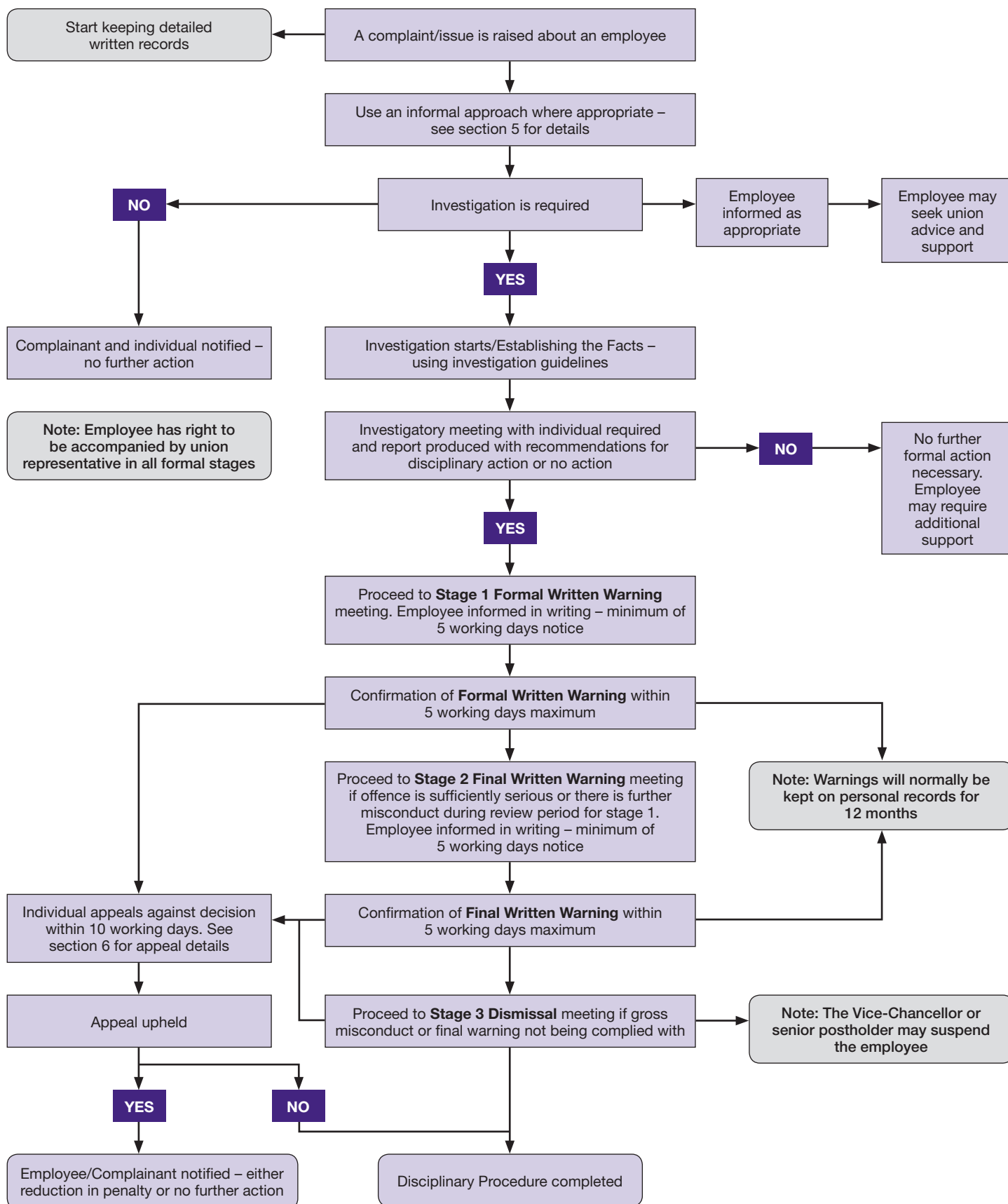
Appeals Panels will comprise at least three external governors normally drawn from the membership of the Human Resources Committee (HRC) and a member of University Executive Board (UEB) who will chair the panel.

- At least five working days prior to the appeal hearing held by the Appeals Panel, the Committee members and the parties will receive the documents to be relied upon by the appellants and their representatives and the respondent University management representatives during the consideration of the appeal.
- The hearing of the appeal will follow the predefined HRC appeals process.
- The employee will be notified in writing of the outcome of the appeal hearing normally within three working days of the appeal hearing. The individual's known private address will be the address used for correspondence.

The decision of the Appeal Panel will be final.

Appendix A

Flowchart of procedure



The Disciplinary Procedure may be implemented at any stage if the employee's alleged misconduct warrants this.

Appendix B

Examples of misconduct/gross misconduct

Some examples of circumstances which could lead to disciplinary action being taken are set out below.

- Unsatisfactory timekeeping or attendance.
- Misuse, negligence or carelessness which could lead to injury or damage to employees, students, visitors or property.
- Failure to adhere to confidentiality, security, health, safety or other University rules or procedures, including being unfit due to alcohol or drugs.
- Refusal to observe a reasonable management instruction.
- Dishonesty, theft or criminal conviction which affects the work or reputation of the University or has an adverse effect on the ability of the employee to do their job.
- Any form of harassment or discrimination.
- Unlawful or irresponsible exercise of an employee's official position at the University.
- Theft or fraud.
- Physical violence or bullying.
- Deliberate and serious damage to property.
- Serious misuse of an organisation's property or name.
- Inappropriate use of email as outlined in the Email Policy.
- Deliberately accessing internet sites containing pornographic or obscene material.
- Serious insubordination.
- Bringing the organisation into serious disrepute.
- Serious incapability at work brought on by alcohol or illegal drugs.
- Causing loss, damage or injury through serious negligence.
- A serious breach of health and safety rules.
- A serious breach of confidence.
- Refusal to participate in the University's PDR process (as a reviewer or reviewee).
- Refusal to participate in the University's core training.
- Social media that are deemed confidential or may bring the University into disrepute.
- Such other actions that is injurious to or likely to bring the University into disrepute.

Depending on the severity, these examples include matters that may be considered as gross misconduct. It should be noted that the list is not exhaustive and no attempt has been made to define the items in order of seriousness. Disciplinary action would be taken after consideration of all the relevant facts.

Appendix C

Other sources of information and support

HR Business Partner for your area

www.port.ac.uk/departments/services/humanresources/contactus/hrbusinesspartnerhradvisers/

Trade unions – UCU and Unison

www.ucu.org.uk/

or

www.port.ac.uk/staffessentials/generalinformation/ucu/

And

www.unison.org.uk/

or

www.port.ac.uk/unison

HR website

www.port.ac.uk/departments/services/humanresources/

Policies and Procedures including but not limited to the following:

- Grievance Procedure
- Anti-Bullying and Harassment Policy
- Management of Under-performance Procedure
- ICT Acceptable Use Policy
- Staff Email Policy (Google Mail)
- Declaration of Interests Policy
- Staff Access to University Facilities and Leavers' Procedures
- Ethics Policy
- Procedure for the Investigation of Allegations of Misconduct in Research
- Data Protection Policy
- Safeguarding Policy: Children and Vulnerable Adults

www.port.ac.uk/accesstoinformation/policies/

University Strategy

www.port.ac.uk/intranet/planning/downloads/filetodownload,190418,en.pdf

Occupational Health Service

www.port.ac.uk/occupationalhealthservice/

Employee Counselling

<http://eap.rightcorecare.co.uk/>

ACAS

www.acas.co.uk/index.aspx?articleid=1461

Articles of Government

www.port.ac.uk/accesstoinformation/policies/universitycirculars/filetodownload,77031,en.pdf

University of Portsmouth
Department of Human Resources
University House
Winston Churchill Avenue
Portsmouth PO1 2UP
United Kingdom

T: +44 (0)23 9284 3141
F: +44 (0)23 9284 3122
E: corporate-governance@port.ac.uk
W: www.port.ac.uk