

Disciplinary Policy and Procedure



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1. Introduction

The policy is designed to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and encourage improvement where necessary.

It also determines the procedure to be followed when conduct issues have not been resolved by advice and encouragement, training or increased support, or where an allegation against the employee is sufficiently serious that a formal investigation is necessary to establish the full facts, obtain evidence from third parties, etc.

It is designed to deal specifically with misconduct, so does not apply to cases involving sickness absence, proposed redundancies or poor performance. In those cases, reference should be made to the appropriate policy or procedure or further advice sought from the HR Business Partnering team.

Any conduct issue arising during an employee's probationary period will normally be addressed in accordance with the Probation Procedure although serious conduct cases may be addressed using the disciplinary policy. Investigation or sanction under the disciplinary policy will not in itself be grounds to terminate employment or to end the probation period.

The People and Culture Strategy details the culture we are creating at LSBU, our expectations in terms of behaviours and conduct, and the support we will provide to employees. However, LSBU's Behavioural Framework and EPIIC Values will not be used in any way in conjunction with the operation or deployment of the Disciplinary Policy, whether directly or indirectly.

General performance issues should be addressed using the performance management procedure, which includes 1:1 meetings and the appraisal process, and not via this Policy. Examples of conduct which constitute misconduct and gross misconduct are included at Appendix 1.

The policy applies to all employees of London South Bank University (LSBU) and South Bank University Enterprises Limited (SBUEL), collectively referred to in this document as "LSBU," regardless of length of service, but does not apply to agency workers, consultants or self-employed contractors. Alleged misconduct carried out by a LSBU or SBUEL employee towards a third party will be addressed using this policy.

2. Aims & Principles

It is LSBU's policy to ensure any disciplinary matter is dealt with consistently, fairly, and promptly, and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action. As such, the following principles will apply:

- Employees have the right to be represented and accompanied by their trade union representative, full-time union official or work colleague at all formal stages of this policy, although attendance at informal meetings may also be agreed as a reasonable adjustment (see below).
- The employee will be given a full explanation of the complaint (either verbally where the informal procedure is being used, or in writing where the formal procedure is being used), and the opportunity to state their case before a decision is taken.
- If a warning is given as part of this process, the employee will be given full support by the employer to improve their conduct, and an informal warning will not disadvantage employees in any way (for example in respect of promotion, development, overtime, selection for redundancy, or acceptance of a voluntary severance application).
- It is recognised that memories fade and evidence is likely to be lost the greater the time elapsing between an alleged incident and an investigation or disciplinary process taking place. For this

reason, investigations (and where necessary subsequent hearings) will be undertaken in a timely manner.

- Whenever possible and appropriate, informal action should be used to resolve an issue of conduct or behaviour before formal disciplinary action is considered.
- No formal disciplinary hearing should be arranged until a full investigation of the case has been undertaken.
- At all formal stages of this policy the employee has the right to appeal. All appeals will be heard by an appropriate manager who has had no previous involvement in the case, and whilst the same HR representative will normally support both hearing and appeal stages, the employee may request the involvement of a different representative, and this right will be stated in the outcome letter at each stage of the disciplinary process.
- Notes of disciplinary and appeal hearings will be taken by a person not involved in the decision-making process and these notes will constitute the only formal record of the hearing unless all parties agree that an audio/visual recording may also be made.
- Audio/visual recordings of meetings may only be made with the express agreement of all parties. Where agreement is obtained, LSBU will make the recording, and the agreement of the parties will be recorded in the notes of the meeting. A copy of the recording will be made available to the employee and their companion, and where applicable, to the manager allocated to deal with any appeal.
- The use of surveillance evidence submitted as part of the case must comply with LSBU's surveillance policy.
- The HR Business Partnering team will be proactive in making employees involved in disciplinary proceedings aware of the available support and who to contact if they require reasonable adjustments, etc.
- Formal disciplinary action will not be taken against a trade union representative or Branch Officer unless the circumstances are sufficiently serious to warrant immediate investigation.
- Where a union representative or officer is subject to a grievance investigation, the Chief People Officer or Director of People must be informed immediately and will be responsible for informing the union's Branch Secretary and Regional Officer, so they may seek representation for the individual from the appropriate union official.
- In all cases, the type of disciplinary action will depend on the seriousness of the alleged offence and/or the number of times the offence has been repeated within a given period.
- The procedure will be applied in accordance with the provisions of Article 17 of the Articles of Association, which relate to Academic Freedom.
- Disciplinary matters should be dealt with sensitively and with due respect for the privacy of the employees involved. For this reason, all those involved must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter. Employees are, however, permitted to discuss details of the matter with their union representative or workplace colleague.
- Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless both the Investigating Manager and HR representative consider a witness's identity should remain confidential.

- Annual monitoring of disciplinary action initiated and any sanctions issued will be undertaken to ensure that no one group or area is unfairly impacted. Monitoring data will be shared with the trade unions.
- Working days are exclusive of Bank Holidays, annual leave and LSBU closure dates.

3. Conduct Monitoring and Responsibilities

Managers have a specific responsibility to ensure that where conduct issues arise, they are brought to the employee's attention at the earliest possible opportunity to allow them to correct their actions.

Additionally, managers are responsible for ensuring that conduct issues are managed promptly and efficiently, to avoid the risk of adverse impact on the employee's mental wellbeing and/or the student experience. For this reason, where a manager fails to deal with a conduct matter in a timely manner, the HR Business Partner will discuss with the employee's senior line manager whether or not it is appropriate to proceed with the matter.

Employees are expected to familiarise themselves with LSBU's procedures as part of their induction and ongoing development, and to understand LSBU's expectations in terms of professional behaviour. Managers will be responsible for ensuring employees have time to do this during normal working hours and for offering support where required. The HR Business Partnering team are also available to offer support to managers if required.

If an employee has any queries, these must be raised as soon as possible with their manager or the HR Business Partnering team, so advice or other support can be provided. If issues are identified, employees must actively engage with the process and their manager to bring about a prompt resolution. The HR Business Partnering team will be responsible for:

- Advising managers how best to address concerns about employee conduct;
- Providing advice and guidance to all parties on the operation of this policy and the circumstances in which informal and formal action should be considered;
- Where necessary, ensuring an appropriate person is appointed as Investigating Manager, that there are clear terms of reference and a target completion date;
- Where necessary, arranging formal meetings, supporting the Investigating Manager to compile their investigation report (see below), advising on HR policy/process, and ensuring documents are shared with all relevant parties and saved in the HR system;
- Attending formal hearings to provide HR guidance to the Chair (asking questions where appropriate) and assisting the Chair to compile their outcome letter (see below).

Whilst the HR representative should support the Investigating Manager in compiling their investigation report in terms of format, flow/sequence and typography, their role is not to influence the findings of the Investigating Manager.

The HR Business Partnering team, in co-operation with the recognised unions, are also responsible for reviewing this policy's application to ensure consistency across LSBU, and for making and communicating changes where required by changes to employment legislation. Changes will only be implemented following negotiation with the trade unions, and formal ratification by both the employer and the trade unions.

The HR Business Partnering & Learning & Development teams also provide advice, guidance and training to managers as part of LSBU's management development programme and liaise with LSBU's recognised unions on the content and materials for such training.

PROCEDURE

4. Informal Procedure

The formal disciplinary procedure should, in accordance with best management practice, be used as a last resort, and staff whose conduct starts to fall below standard should have this drawn to their attention informally and as early as possible.

Managers are therefore not expected to move to the formal stage of the disciplinary procedure before exhausting all avenues of the informal procedure, including encouragement, mediation, counselling and training.

Minor conduct issues (for example, occasional lateness, minor procedural failings or minor disagreements with colleagues) are often best resolved via informal discussion between an employee and their manager. Such discussions should be held in private and without undue delay, for example during a regular 1:1 meeting. The purpose of the discussion will be to enable the manager to explain their concern, to clarify their expectations for sustained improvement in the employee's conduct, and to offer guidance, training or (where appropriate) workplace adjustments to support this improvement.

Where the manager feels it appropriate, they may issue an informal warning, in which case the employee will be advised of the basis for the warning, the duration of any review period (where relevant), and alerted that if they fail to demonstrate the required improvement in conduct it may become necessary for formal action to be taken under this policy. Review periods must be reasonable (e.g. 3-6 months unless in exceptional circumstances).

A brief record of the discussion, including the employee's response and details of the training or support agreed will be included in the notes of the 1:1 meeting and shared with the employee, who will have the right to request amendments if they feel the notes don't accurately reflect the discussion. Any such amendments will be appended to the manager's record of the meeting.

An informal warning will be disregarded if the employee is able to demonstrate the required improvement but may be considered should this not be the case and it subsequently becomes necessary to invoke the formal disciplinary procedure within the review period stipulated by the informal warning. An informal warning will be disregarded once the review period has been completed and where no further action is taken at the time.

As this stage is informal, neither HR representatives nor union/workplace representatives will normally attend the meeting, although they may attend as a reasonable adjustment where the employee is disabled, or where the process is affecting the employee's physical or mental health, or where both parties agree to the attendance of HR representatives and union representatives. In these situations, the manager should arrange a specific meeting to discuss the matter rather than using a scheduled 1:1 meeting, and should also invite their HR representative to attend, but the discussion should still be considered informal.

Whilst there is no right of appeal at this stage, if the employee believes that they have been treated unfairly by their line manager, they should discuss the matter informally with their senior line manager or HR Advisor in the first instance, in accordance with the Grievance Policy and Procedure. They may also seek advice and support from the trade unions.

5. Formal Procedure

Where, despite the training or other support provided in line with the informal procedure above, the employee's conduct does not demonstrate sufficient or sustained improvement within the review period, or where the seriousness of the allegation means that, if proven, an informal warning would not be appropriate, the formal disciplinary procedure will apply, as detailed below.

However, before any formal process commences, the HR representative will meet with the line manager to ascertain whether the issue has previously been addressed with the employee informally. Where this is not the case, and the misconduct is defined as 'General' (see Appendix 1), the HR representative will advise the manager to follow the informal procedure first and will provide any necessary advice or support.

Formal investigations will therefore only be arranged where the HR representative is satisfied either that the informal process has been correctly followed and records exist to demonstrate this, or that the allegation is sufficiently serious that, if proven, a formal sanction would be likely and it is therefore in the interests of all parties for the matter to be investigated formally.

In this event, the HR representative will meet with the Commissioning Manager (normally the employee's Director or Dean) to agree the appointment of the Investigating Manager. The name of the Investigating Manager will be advised to the employee, so that if they have any concerns about impartiality, they can raise them prior to the start of the investigation.

Full investigation of a case will precede any disciplinary hearing, and a disciplinary hearing will only be held where the Investigating Manager concludes that there is a case to answer following a full investigation.

6. Investigations

The purpose of a disciplinary investigation is to establish a fair and impartial view of the facts relating to any disciplinary allegation against an employee, before deciding whether to proceed with a disciplinary hearing.

Investigations may be conducted by the employee's line manager or senior line manager, but on occasion, it may be more appropriate for a manager from another School or Department to undertake the investigation.

The employee under investigation may also request that the investigation is undertaken by someone outside of their own School or Department if they believe their own management team would not be impartial and the fairness of the process would therefore be impacted. In this event, the employee should raise their concern with the HR representative as soon as they are advised of the Investigating Manager's name, so an alternative can be identified without undue delay.

On rare occasions, e.g., where a case is very complex or there is a lack of internal expertise, at the discretion of the Director of People an external investigation company may be appointed to undertake the investigation.

In this case, the investigator will be required to follow LSBU's disciplinary procedure, as set out in this document, and to liaise with a LSBU HR representative whom the employee and their representative can contact should they have any concerns. The external investigator's role will also be limited to leading the investigation process, issuing their report to the Commissioning Manager, and (if it is determined that a formal hearing is required), presenting the investigation report to the Hearing Chair.

In all cases the Investigating Manager should seek advice from the appropriate HR representative prior to commencing the investigation, to ensure that they fully understand their role and how an investigation should be conducted.

Investigations are intended solely for the purpose of fact-finding, so it is not the role of the Investigating Manager to determine whether any disciplinary action should be taken against the employee. Instead, their role is simply to ascertain whether, in light of the available evidence, there is a case for the employee to answer at a formal hearing.

As such, all employees are expected to co-operate fully and promptly with investigations, including informing the Investigating Manager of the names of relevant witnesses, disclosing relevant documents and attending investigation meetings where required.

The Investigating Manager will review all relevant documents and policies, and interview witnesses or (where they consider it more appropriate), request witness statements or written responses to specific questions.

The employee under investigation and their representative may gather their own evidence and also provide the Investigating Manager with questions they would like to be considered and included in the investigation report.

Where the employee or their representative wishes to contact a management witness to obtain evidence in support of their case, they should seek permission in advance from the HR representative. This is to protect both parties, and where the witness is considered particularly vulnerable, the employee may be required to submit their investigation questions in writing, rather than meeting the witness in person.

Prior to their investigation meeting the employee under investigation will be notified in writing of the allegation(s) against them and provided with any documents the Investigating Manager wishes to discuss. The meeting will be held as soon as reasonably practicable, but the employee will be given a minimum of 10 working days' notice.

Employees have the right to be represented at investigation meetings by a colleague or trade union representative, as detailed in section 9 below, and a HR representative and note taker will also attend.

Witnesses may also be accompanied by a colleague or trade union representative, and will be given sufficient notice of the meeting and provided with copies of any relevant documents in advance. These will normally be provided a minimum of 5 working days prior to the hearing.

Notes from all investigation meetings will be circulated for review, as stated in section 16 below.

If a delay occurs in the Investigating Manager's ability to conclude their investigation, they should advise the employee and their representative of the reason for the delay, and provide a revised timeframe.

Once their investigation is complete, the Investigating Manager will submit a full report to the Commissioning Manager, detailing their methodology, findings and recommendations. The report will refer to evidence obtained from witnesses and documents, with the witness statements and documents included as appendices.

Where a disciplinary hearing is required, this report will be presented to the Hearing Chair, as outlined in section 10; however, no new evidence will be introduced by the employer at the disciplinary hearing stage, as only evidence presented to the employee as part of the investigation will be used.

7. Criminal Allegations

Where an employee's conduct is the subject of a criminal investigation, charge or conviction, the facts will be investigated in line with this policy before a decision is taken whether to take formal disciplinary action.

If an employee is charged with a criminal offence, this is not normally in itself a reason for disciplinary action, so they will not be dismissed or otherwise disciplined merely because they have been charged with a criminal offence or are absent through being in custody.

Where they are subsequently convicted of a criminal offence, consideration will be given to whether the offence is one that makes them unsuitable for their type of work and if so whether suitable alternative work is available.

A criminal investigation, charge or conviction relating to conduct outside work may, however, be treated as a disciplinary matter where it is considered relevant to the employee's employment with LSBU. Such cases are likely to be rare but are likely to include those involving sexual assault, violence/harassment or fraud/bribery.

LSBU may be required by the police to await the outcome of any prosecution or investigation they may be undertaking, before proceeding with any action. The outcome of any police investigation or action will be treated as independent from LSBU's investigation or subsequent action, unless there are legal reasons that this cannot be the case.

8. Suspension

Where appropriate and possible, an employee under investigation may be asked to undertake modified duties or temporarily transfer to another team; however, where there is a serious allegation of misconduct, it may be necessary to suspend the employee from work pending the outcome of the investigation, and any subsequent hearing. Such cases will be considered if:

- there are reasonable grounds to believe that the employee might seek to tamper with or destroy evidence, influence witnesses; or
- working relationships have severely broken down to the point that there is a genuine risk to other employees, students, or property or other genuine business interests if the employee remains in the workplace; or
- the employee is the subject of criminal proceedings which may affect whether they can do their job.

In such cases, the arrangements will be confirmed to the employee in writing, and the suspension will be for no longer than necessary.

Suspension is not a disciplinary sanction and does not imply that any decision has already been taken about the allegations. The employee will therefore continue to receive their full contractual salary and benefits during the suspension period, including regularly earned overtime and other payments and benefits, such as pension contributions and annual leave accrual. However, in exceptional circumstances LSBU may impose unpaid leave, specifically where the employee is on remand for an extended period and is therefore unable to undertake their duties, or a Nursing and Midwifery Council imposed restriction prevents them from undertaking their role.

Suspended employees may not attend any of LSBU's premises, access facilities (including emails or shared drives/databases), or contact students, staff, suppliers, contractors or other employees, unless they have received express permission to do so from a senior manager or the HR representative.

However, support will be given to ensure the employee and their representative are provided with legitimate access to systems, documents or other evidence in support of their case, and the employee will be permitted to meet in person with their trade union or workplace representative on campus where the employee and their representative believe that an online or off-campus meeting would not be suitable. The employee will also be allowed onto campus to collect any personal belongings, where necessary being accompanied by a manager or member of the HR team.

The employee may also be required to hand over their LSBU mobile devices (laptop, mobile phone, etc) during the period of suspension, both to protect the interests of LSBU and to facilitate an objective investigation.

However, any information obtained from these devices will be limited to that considered pertinent to the case and/or to their employment with LSBU, and LSBU will not access personal accounts, for example personal email accounts, or data where it is clearly marked as personal.

9. Right to be Accompanied

Employees have the right to be represented at disciplinary investigations and formal hearings by a workplace colleague or trade union representative. Whilst this will not normally apply to meetings held under the informal procedure, representatives or workplace colleagues may attend at this stage, (1) as a 'reasonable adjustment' where the employee is disabled, (2) where the process is affecting the employee's physical or mental health, (3) where English is not the employee's first language, or (4) where both parties at an informal stage agree to the employee being accompanied.

If the employee or their chosen representative is unable to attend on the first identified date, the meeting may be postponed (normally for up to 10 working days), although a different date may be agreed depending on the availability of all parties.

To minimise the risk that a representative is unavailable on the first date chosen, the HR representative will liaise with the employee and their representative directly to ascertain their availability. However, if the employee's chosen companion is unable to attend within a reasonable timeframe, e.g., due to long-term illness, the employee will be required to seek alternative workplace or union representative.

Where the Hearing or Appeal Chair or HR representative is unavailable, a suitable alternative will be assigned in line with this policy. This is to ensure that the meeting can proceed in a timely manner. Any changes will be communicated in writing to the employee and their representative, so that any potential concerns with the newly appointed personnel can be raised at this point.

The role of the employee representative will be to support and advise the employee, so they may present statements written by or with the employee, and ask questions of the Investigating Manager, but they may not respond to any questions on the employee's behalf.

During a disciplinary hearing, the employee's representative may also ask questions of the Investigating Manager, the employee, witnesses etc, and may also present arguments and put across the employee's case, etc.

Workplace colleagues will be allowed reasonable time off from their duties to support an employee without loss of pay, but no-one is obliged to act as a companion if they do not wish to do so.

Where English is not the employee's first language and it is requested, the HR representative will arrange either for a translator to attend meetings, or for other translation services to be provided. Where an internal translator is proposed, their name should be provided to the employee in advance so that external translation services can be requested if the person named is not considered to be impartial.

Occasionally, it may be agreed that a disabled employee can be accompanied by a family member or carer as a reasonable adjustment and, in this case, the employee will also retain their right to bring a trade union representative or workplace colleague. However, permission must be sought from the HR representative prior to the family member or carer attending the meeting.

10. Disciplinary Hearings

If, following an investigation, there are considered to be grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. In this case the employee will be notified in writing of the allegations to be considered at the hearing, the basis for those allegations, and the likely consequence if the allegations are upheld at the hearing. The following information will also be included:

- A copy of the investigation report and associated appendices;
- A copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality (a redacted statement may be used where confidentiality can be maintained);
- A copy of any other evidence which the Investigating Manager intends to present at the hearing;
- The names of any witnesses the Hearing Chair intends to call.

The hearing will be held as soon as reasonably practicable, but the employee will be given a minimum of 10 working days' notice, and will have the right to be represented by a colleague or trade union representative, as detailed in section 9 above.

The hearing will be chaired by a senior manager from another School or Directorate, who has had no previous involvement with the case.

Anyone asked to chair a hearing must declare if there is a close relationship (other than a work relationship), with the employee, or if they have been involved in any previous investigation involving the employee. They may be replaced as Chair if it is perceived the hearing may be compromised by virtue of this relationship, or their previous involvement. If the employee believes that the Chair may not be impartial, they should raise this with the HR representative as soon as they are advised of the Chair's name, so an alternative can be identified without undue delay.

Prior to the hearing, the employee may submit a list of witnesses to the Chair and HR representative, detailing the capacity in which they have evidence relevant to the case. The Chair will have decision-making authority in terms of agreeing which witnesses are asked to attend the hearing, but the employee's witnesses will not be unreasonably refused.

For all hearings, the Investigating Manager will attend to present their findings and to answer questions, and a HR representative and note-taker will also be present. Notes from the meeting will be circulated for review as stated in section 16 below.

At the start of the hearing, the Chair will introduce all parties, explain their roles and the structure of the hearing. The Chair will then ask the Investigating Manager to outline the allegations and summarise the key evidence and findings from their investigation.

The Chair, the employee and their representative and the HR representative will be able to ask questions of the Investigating manager, following which, the employee and/or their representative will be able to respond, presenting evidence of their own. The Chair, the Investigating Manager and the HR representative will then be able to ask questions of the employee.

The employee's trade union representative or workplace colleague may make representations to the Chair and ask questions, but may not answer questions on behalf of the employee. The employee may also confer privately with their representative/workplace colleague during the hearing, and in this case, the employee or their representative should request an adjournment.

Where witnesses are called, the Chair will be responsible for informing them of their obligation to tell the truth in all proceedings, even where the employee under investigation is a close colleague or manager. The Chair should also make it clear to all parties that victimisation of witnesses will be taken seriously and is likely to result in disciplinary action, separate from any action relating to the hearing itself.

The Chair may decide to adjourn the disciplinary hearing if any further investigations need to be carried out, such as re-interviewing witnesses in the light of any new points raised at the hearing. In this case, the employee will be given 10 working days to consider any new information obtained before the hearing is reconvened, although this period may be shortened with the agreement of all parties.

Once the Chair has considered all the evidence, they will summarise their findings in an outcome letter, which will be sent to the employee within 10 working days of the hearing/reconvened hearing.

The employee and witnesses must make every effort to attend the hearing, and if an employee fails to attend without good reason or is persistently unable to do so (for example for health reasons), LSBU will consider whether to accept a written statement from them, or to hold the hearing in their absence with their representative presenting their case on their behalf.

11. Formal Disciplinary Sanctions

The formal sanctions for misconduct are set out below, and no formal sanction will be imposed without a hearing. While LSBU aims to treat all employees fairly and consistently, and a sanction imposed on another employee for similar misconduct will usually be considered, it should not be treated as a precedent as each case will be assessed on its own merits.

Where a sanction is imposed, the outcome letter will state the reasons for the Chair's decision, and include reference to the employee's right of appeal. All written warnings will set out the nature of the misconduct, the change in conduct required, the dates of any review meetings, the period for which the warning will remain active, and the likely consequences of further misconduct in the active period.

A formal oral warning will usually be appropriate for a first act of misconduct where there are no other active written warnings in relation to the particular offence on an employee's disciplinary record. It will remain 'live' on an employee's file for a period no longer than 6 months from the date the warning is issued and during that time may be considered for the purposes of any further disciplinary hearing in relation to the misconduct for which the warning is issued, or for similar types/themes of misconduct.

A first written warning will usually be appropriate for a further act of misconduct where there is already recorded an active oral warning for the same misconduct, or misconduct considered sufficiently serious to warrant a written warning even though there are no other active warnings on record. It will remain 'live' on an employee's file for a period of no longer than 9 months from the date the warning is issued and during that time may be considered for the purposes of any further disciplinary hearing in relation to the misconduct for which the warning is issued, or for similar types/themes of misconduct.

A final written warning will usually be appropriate for misconduct where there is already recorded an active first written warning for the same misconduct, or misconduct considered sufficiently serious to warrant a final written warning even though there are no other active warnings on record. It will remain 'live' on an employee's file for no longer than 12 months from the date the warning is issued and during that time may be considered for the purposes of any further disciplinary hearing in relation to the misconduct for which the warning is issued, or for similar types/themes of misconduct.

Once expired, a warning will be stored in line with LSBU's data privacy policy, and will not be referred to in subsequent disciplinary proceedings.

An employee will not normally be dismissed for a first act of misconduct unless it is found to be gross misconduct. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). In cases of dismissal, the Chair's letter will provide details of the reason(s) for dismissal and confirm the date of the termination of employment.

At the Chair's discretion, alternatives to dismissal may be considered, but in all such cases, the matter should be discussed with the employee's Executive Team member and the Chief People Officer, to ascertain both feasibility and appropriateness. Any such decision will usually be accompanied by a final written warning. Examples of alternatives to dismissal include demotion, transfer to another department or job, or loss of overtime for a specified period, which will not be unreasonable.

Should the employee not wish to accept the proposed alternative, they will be dismissed, and the details of the alternative offered, and their refusal to accept it, will be included in their dismissal letter.

Where the employee's misconduct is found to have resulted from mental health or addiction issues these will be considered as mitigating factors and if the employee is not dismissed, LSBU will offer appropriate support via Occupational Health or other relevant services, including the provision of reasonable adjustments where these are recommended by the OH provider or the employee's GP/medical advisor.

12. Appeals

Employees wishing to appeal against a disciplinary sanction, should do so in writing, within 10 working days of their receipt of the hearing outcome letter. Appeals should be addressed to the Chief People Officer, and clearly set out the employee's full grounds, which should be based on one or more of the following:

- The severity of the disciplinary action being disproportionate to the offence;
- The finding of the disciplinary hearing on a point of fact;
- Failure to adhere to agreed procedure;
- Concerns of bias/interpretation of evidence;
- New evidence not available at the time of the hearing which is pertinent to the case and sufficient to have warranted a different outcome.

Any relevant supporting documents should also be submitted.

Employees who have been dismissed will be allowed to retain access to their LSBU emails and OneDrive/shared files until the conclusion of their appeal. In this event, the employee will be required to access the documents on campus, and in the presence of a member of the IT department (and their Union representative if requested), and will be permitted to review, save and print documents, but not delete any items.

Receipt of the appeal letter will be acknowledged in writing by the HR representative, and an appeal meeting will be arranged, where practicable within 10 working days of LSBU's receipt of the appeal. The purpose of the meeting will be to give the employee an opportunity to explain the grounds of their appeal and the solution they are seeking from the appeals process.

Appeals should be conducted by a manager senior to the hearing Chair, and who has had no prior involvement in the matter. In all cases the Appeal Manager should seek advice from the HR representative prior to proceeding. Although the same HR representative will normally support both hearing and appeal stages, the employee may request the involvement of a different representative, and such requests will not be unreasonably refused.

The employee will have the right to be represented by a colleague or trade union representative, as detailed in section 9 above. The HR representative will be present at all appeal meetings, and a note taker will also attend. Notes from the meeting will be circulated for review as stated in section 16 below.

Should the employee wish the Appeal Manager to meet with the original Investigating Manager, or any other colleagues, they should explain their reasons so the Appeal Manager can decide whether it would be helpful to do so.

The role of the Appeal Manager is not to revisit the hearing, but to examine the grounds on which an appeal has been made so, if new evidence is presented, consideration will be given as to whether (had it been available previously), the original hearing decision would have been different.

The appeal hearing may be adjourned if the Chair feels they need to carry out any further investigations in the light of any new points raised at the hearing. In this case, the employee will be

given reasonable opportunity to consider any new information obtained before the appeal is reconvened, and a period of 10 working days will be provided, although different timeframe may be agreed by all parties.

At the reconvened appeal hearing, the employee and their companion may comment on any new evidence arising before any decision is made. The Investigating Manager and/or Hearing Chair (as applicable) may also comment on any new evidence presented by the employee or their representative.

Once the Chair has considered the appeal and reviewed all the evidence, they will summarise their findings in an outcome letter, which will be sent to the employee within 10 working days of the appeal hearing/reconvened hearing. A harsher penalty may not be imposed, but the outcome of the appeal hearing could be one of the following:

- Confirmation of the original decision;
- Revocation of the original decision;
- Substitution of a lesser penalty.

There will be no further right of appeal.

If an employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if their appeal is successful, the employee will be reinstated and reimbursed any pay and other benefits, including pension contributions, increments, regularly worked or agreed overtime etc that they may have lost. Continuous service will also be unaffected. Where an employee can evidence that they have suffered financial hardship directly as a result of their dismissal, LSBU will also offer additional support, such as financial grants, as appropriate.

13. Support to employees absent due to ill-health

Should the employee be absent due to ill health during the investigation, their permission will be sought to write to their GP or refer them to Occupational Health to obtain an assessment of their fitness to participate in the process.

Where the GP/Occupational Health specialist determines that they are fit to participate, the process will continue, although reasonable adjustments will be made to support their participation in meetings and hearings, where required. In addition, if they are medically unable to attend meetings either in person or remotely, they will be allowed to submit information or responses to questions via email, post or telephone.

Where the employee refuses permission for the University to write to their GP, or fails to co-operate with an OH assessment, or is deemed fit to participate in the process, but fails to attend meetings without good reason the process may continue in their absence, and they will be informed of the outcome.

14. Disciplinary matters concerning Senior Post Holders

Senior postholders, as designated by the Board of Governors, may only be suspended by the Chair or Deputy Chair of the Board, in accordance with Section 10, paragraphs 3.6 and 4 of the Standing Orders of the London South Bank University.

Dismissal and appeal against dismissal for such office holders shall be in accordance with Section 10, paragraphs, 3.5, 3.6 and 3.7 of the Standing Orders.

15. Disciplinary matters concerning Students

Where a complaint is received from a student or group of students, LSBU has an obligation to conduct the investigation in accordance with the relevant Student Policy. However, in such cases, the Director of People will be informed at the earliest possible opportunity, so that the affected employee can be offered support.

Where the investigation concludes that there is a case to answer, the necessary documentation will be provided to the Director of People promptly, so consideration can be given as to whether the case can be resolved informally. Where this is not considered appropriate, an investigation will be undertaken in a timely manner, in accordance with section 6 above.

16. Records of Proceedings

Notes will be taken at all meetings and drafts will be available to employees for review, as well as being issued with outcome letter/reports.

Draft notes should be circulated to participants within 10 working days of the meeting, with a deadline of 5 working days for the return of signed notes (or details of any requested amendments to be made to the HR representative and meeting Chair).

Where the amendments are agreed, a revised copy of the notes will be provided for the employee's signature. However, where the amendments are not deemed by the Investigating Manager to reflect what was actually said during the meeting, the original notes will form the official record, with a copy of the employee's amendments added to the appendices.

Should the employee fail to return either their signed notes or any proposed amendments by the deadline date, the unsigned notes will form the official record.

In the interest of accuracy, LSBU may also supplement written notes with an audio recording of the meeting. If this approach is proposed, the consent of all parties must be obtained and, if requested by the employee, will not be unreasonably refused by the Chair or HR representative. Recordings will be deleted following the conclusion of the disciplinary process (or appeal where one is submitted). No other requests to record the proceedings electronically will be agreed nor accepted as evidence.

17. Acceptance of Resignations

Where an employee who is the subject of an ongoing disciplinary process resigns from their employment, this will not automatically bring the disciplinary process to an end. In cases of potential Gross Misconduct, LSBU may continue with that process at its discretion and will do so in all cases where there is a legal duty to investigate a claim and/or to report a finding to an external body such as a regulating authority or the police.

Where LSBU decides to continue the disciplinary process, the HR representative will write to the employee to advise them that process will be continuing, providing reasons.

Whilst the employee remains employed, they will be expected to engage in the process; where they have ended their employment, they will be invited to continue to participate in the process and respond to the allegations, should they wish to do so.

If the ex-employee does choose to participate in the process, they will be entitled to seek trade union representation and the normal investigation, disciplinary hearing and appeal procedures will be followed as detailed above. Where requested by the ex-employee, consideration will be given to holding meetings via MS Teams or another suitable platform, rather than in person.

Where the ex-employee wishes to come onto campus (e.g. to view CCTV footage or to meet with their Union representative), permission will not be unreasonably refused, although, depending on the nature of the allegations, LSBU may make certain stipulations to ensure the health and safety of current staff and students, for example, the ex-employee may be required to access systems only in the presence of a member of the IT/Security department (and their Union representative if requested). In this event, details of the stipulations will be provided in writing to the ex-employee and their representative.

Should the individual choose not to participate in the process, they should be aware that their resignation prior to the conclusion of the disciplinary process will not prevent LSBU from referring to the process and its outcome when responding to any subsequent reference request, or in discharging any internal or external/legal reporting duties, as may be appropriate and subject to any applicable data protection and confidentiality considerations.

18. Overlap with other policies

Ordinarily, the disciplinary procedure is to be used separately from the grievance procedure, i.e. an employee who is the subject of a disciplinary process may raise a grievance. Where the matters are unrelated, it will normally run independently and in parallel.

However, if an employee raises a grievance in response to action being taken against them on the grounds of conduct, the HR representative will liaise with the line manager/Investigating Manager to determine whether the disciplinary procedure should be paused to allow time for the grievance to be investigated, or whether they should be addressed concurrently.

Whilst in most cases the matters will be dealt with concurrently, the disciplinary process may be paused where the grievance is submitted prior to the hearing being scheduled or where the grievance relates to aspects of the disciplinary process itself.

19. Equality and Diversity

We will apply this policy consistently and fairly and will not discriminate against anyone based on any relevant characteristics, including those set out in the Equality Act 2010.

Reports of disciplinary case numbers and outcomes are provided to senior P&OD managers to enable effective monitoring across Schools and PSG directorates, and anonymised data is also included in the annual Workforce Report.

20. Review

All policies should be reviewed every 3 years as a minimum, or sooner if there is a specific legislative, regulatory or service requirement or change in guidance, law, or practice. Reviews will be constituted by negotiation with recognised trade unions, and changes to the policy will only take place following formal ratification by both parties.

Appendix 1 - Examples of General and Gross Misconduct

General Misconduct

Examples of general misconduct include, but are not limited to, the following:

- Persistent lateness;
- Persistently ignoring requests for information or assistance from co-workers;
- Repeatedly exceeding scheduled break times;
- Repeatedly failing to follow agreed department processes or procedures;
- Failure to adhere to appropriate standards of conduct when communicating with managers, colleagues, students or third parties, whilst working for, or representing, LSBU.

Whilst it is expected that managers would deal with issues such as the examples above using the informal procedure in the first instance, repeated instances of the same conduct may result in action under the formal procedure, in the interests of maintaining a pleasant and productive work environment for other colleagues.

Gross Misconduct

Examples of gross misconduct include, but are not limited to, the following:

- Malicious and serious damage to LSBU's property, theft, fraud and deliberate falsification of records;
- Physical assault or threatening/intimidatory behaviour;
- Serious breaches of Health & Safety requirements;
- Serious breaches of LSBU's Equality, Diversity & Inclusion policies;
- Serious breaches of the employee's contract of employment.

Appendix 2 – Sources of Support

Employee Assistance Programme – Health Assured

Health Assured offers support for you and your immediate family members*, 24 hours a day, 7 days a week, 365 days a year by calling 0800 028 0199.

**Health Assured define immediate family members as spouse/partners and children aged 16 to 24 in full-time education, living in the same household.*

Trade Unions

The University recognises the following unions:

- UNISON: lsbunison@gmail.com or [UNISON - the public service union](#)
- UCU
- GMB

Able Futures

Able Futures provide a FREE service guaranteed to be confidential, fast and flexible and is available over the phone, via email and/or face-to-face meetings (at a time and place to suit you):

- Online: <https://able-futures.co.uk/mental-health-support-for-individuals/>
- Email: hello@able-futures.co.uk
- Call Freephone: 0800 321 3137 (8am to 10.30pm, Monday to Friday)