



DISCIPLINARY PROCEDURE

Author:	Human Resources
Date:	25 October 2021
Version:	V2.0

1. About this procedure

1.1. St George's, University of London is committed to developing and maintaining constructive relations with its employees and believes that all employees should aim to conduct themselves in accordance with St George's, University of London's vision and CORE values (Commitment, Openness, Respect and Engagement).

1.2. The aim of this procedure is to provide a fair and consistent approach in line with the principles of natural justice and to support and encourage all employees to achieve and maintain St George's, University of London's required standards of conduct. This procedure follows the principles of the ACAS Code of Practice on Disciplinary and Grievance Procedures as a minimum. Where St George's, University of London's Statutes relate to employment policies and procedures the Statutes will take precedence over this procedure.

1.3. This procedure is designed to deal with misconduct, including inappropriate behaviour online. Where an employee is unable to reach or maintain the required standards of job performance through a lack of knowledge, skill or ability, St George's, University of London's capability procedure should be used. Cases of genuine sickness absence should not be dealt with under this disciplinary procedure.

1.4. There may be circumstances where it is unclear whether an issue arises as a result of misconduct or poor performance. Following appropriate assessment, St George's, University of London reserves the right to determine, at the discretion of the Director of Human Resources and Organisational Development (HR&OD) or their nominated designate, which procedure should be applied in any particular circumstances.

1.5. This procedure applies only to St George's, University of London employed staff who have completed their probationary period and been confirmed in post, with the exception of the Principal, who is subject to a different procedure.

1.6. This procedure does not form a part of any employee's contract of employment and it may be amended by St George's, University of London at any time, following agreement with the recognised trade unions. St George's, University of London may vary the procedure, including any time limits, as appropriate in any individual case.

1.7. Nothing in this procedure detracts from Academic Staff's freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions, as stipulated in St George's, University of London's Statutes.

1.8. For clinical academic staff, the relevant Trust's policy and procedure for Maintaining High Professional Standards in the Modern NHS will apply in the application of any formal procedure.

1.9. The flow chart in Appendix B demonstrates how the disciplinary procedure operates.

2. Confidentiality

2.1. St George's, University of London's aim is to deal with disciplinary matters sensibly and with due respect for the confidentiality of those individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

2.2. Audio/Visual recordings are not permitted at any meetings or hearings under this procedure and will not be admissible within this process, unless permitted by St George's, University of London in special circumstances, for example to accommodate a disabled employee by way of a reasonable adjustment under the Equality Act 2010.

3. Minor conduct issues

3.1. Minor conduct issues can often be resolved informally between an employee and a manager as part of routine discussions. Where conduct is a cause for concern these discussions should be held without undue delay. Where a need for improvement is identified, the manager will confirm to the employee, ideally in writing, what needs to be done, by when and how this is to be reviewed. Brief confidential notes of this meeting, including details of any required actions or improvements, should be kept by the manager and shared with the employee.

3.2. Managers should ascertain whether any alleged failure to meet required standards or breach of policy or procedure is due to misconduct, capability or some other reason when determining the appropriate approach to take. Advice should be sought from the HR Department as to alternative options that could be considered.

3.3. It may be necessary for the manager to give the employee an informal warning to advise them that if the minor misconduct is repeated or if the unsatisfactory behaviour does not improve, the formal disciplinary process may be initiated. This

warning will not form part of the employee's disciplinary record but a note of it will be kept on the employee's file and shared with the employee.

3.4. Formal steps will be taken under this procedure if the matter is not resolved.

4. Investigations

4.1. The purpose of an investigation is for St George's, University of London to establish a fair and balanced view of the facts relating to any disciplinary allegations against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents. The HR Department will usually appoint an investigating officer to carry out the investigation¹.

4.2. Investigative interviews are solely for the purpose of fact-finding and determining whether there is a case to answer. No decision on disciplinary sanctions will be taken until after a disciplinary hearing has been held.

4.3. Under the ACAS Code of Practice the employee does not have the right to bring a companion to an investigative interview. Nevertheless, unless there are exceptional circumstances (eg due to the urgency of the situation), St George's, University of London will allow a companion (work colleague, trade union representative or an official employed by a trade union) to attend investigation interviews of the person who is the subject of the disciplinary procedure. It is the employee's responsibility to arrange for the companion to attend the interview and inform the manager conducting the investigation who the companion will be, in good time. However, in the interests of expediency investigative interviews will not usually be rearranged if the preferred companion is unavailable.

4.4. The employee must co-operate fully and promptly in any investigation. This will include informing St George's, University of London of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required.

4.5. Employees will be provided with all evidence relevant to the disciplinary proceedings against them.

5. Criminal allegations

5.1. Where conduct is the subject of a criminal (police) investigation, charge or conviction the outcome of any prosecution will not necessarily be awaited before deciding what action, if any, to take.

¹ The ACAS guide on conducting workplace investigations provides useful information on conducting an investigation.

5.2. If criminal proceedings do commence, St George's, University of London may decide to put the investigation on hold until the criminal proceedings have concluded. However, if St George's, University of London believe it reasonable to do so, St George's, University of London may still carry out their own investigation and make a recommendation based on the facts available to them at that time.

5.3. A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to an employee's employment.

6. Suspension

6.1. There may be occasions when it is necessary to suspend an individual, usually on full pay, whilst investigations are being carried out. Suspension may take the form of full suspension from all duties, systems and St George's, University of London premises or suspension from particular activities, systems and/or locations. Careful consideration must be given before a decision to suspend is taken. Reasonable grounds for suspension include, but are not limited to, concern that evidence may be tampered with or destroyed, concerns that an employee accused of misconduct may seek to inappropriately influence witnesses, or, when there is potential risk to other employees or to St George's, University of London property if the individual remains at work. The fact and conditions of the suspension will be confirmed in a letter to the employee at the earliest opportunity.

6.2. Suspension is not a disciplinary sanction and is not an assumption of guilt. Normally an employee will be suspended by the Head of Department/Director with agreement from the Director of HR&OD or their nominated designate. The Director of HR&OD may also suspend an employee. Exceptionally, it may be necessary for a Head of Department/Director to send an employee home before being able to consult the Director of HR&OD.

6.3. The period of suspension should be kept to a minimum. It should be reviewed at least fortnightly by the suspending manager, in consultation with HR. The employee will be updated about the anticipated length of suspension following each review.

6.4. During a period of suspension, the employee will continue to be employed by St George's, University of London and bound by their terms and conditions of employment, other than the requirement to carry out some or all of their usual duties. If an employee has been suspended, or where other limitations have been placed on accessing documents or witnesses, the employee should discuss reasonable access to facilities with HR, to enable a fair response to any allegations.

7. Disciplinary hearing

7.1. Where informal action does not lead to improved conduct, or where the alleged misconduct is too serious to be dealt with by informal action, formal action should be

initiated. Matters should be dealt with promptly, taking into account the need for appropriate investigations to be carried out. Examples of what could constitute misconduct and examples of potential offences of gross misconduct, either of which are likely to lead to formal action, can be found in Appendix A.

7.2. The formal disciplinary procedure has three stages: Investigation, Disciplinary Hearing and Appeal Hearing. Disciplinary sanctions should not be applied until the formal disciplinary procedure has been followed, although any sanction would become effective prior to the Appeal stage but could be overturned on appeal.

7.3. Following completion of an investigation, this will be submitted to the Director of HR&OD, or their nominated designate, who will decide whether there are reasonable grounds to believe that there is a case to answer. If this is the case, a disciplinary hearing will be convened and chaired by the manager of the employee who is the subject of the disciplinary charge, and/or another designated manager at a similar level, in consultation with HR. The Chair should not be the same person who undertook the investigation, except under exceptional circumstances. The hearing should be held without unreasonable delay whilst allowing the employee reasonable time to prepare their case. Normally 5 working days' notice of a disciplinary hearing will be given.

7.4. The employee will receive in writing prior to the hearing the following information:

- The date, time and location of the hearing.
- Details of the allegation(s).
- The name of the manager chairing the hearing and other panel members, if appropriate.
- Confirmation of the right to be accompanied at the hearing.
- Confirmation that an HR representative will attend the hearing.
- The investigation report and all evidence considered.

7.5. If the employee is unable to attend for valid reasons, consideration will be given to a postponement. In the event that the employee is unable to attend on the rescheduled date, the hearing may be convened in the employee's absence when all the facts will be considered and a decision will be made.

7.6. Where the disciplinary process has proceeded to a formal hearing, employees should regard the first hearing as the substantive hearing and as the best and most appropriate forum for their case to be heard.

7.7. Where an employee is an accredited representative of a trade union recognised by St George's, University of London and is suspected of having committed a disciplinary offence, St George's, University of London will normally proceed as outlined under this procedure. However, St George's, University of London will not

instigate formal disciplinary proceedings without prior discussion of the matter (with the agreement of the employee), with a full-time official of that trade union.

7.8. At the hearing, the Chair will explain the allegations against the employee and go through the evidence that has been gathered. The employee will be allowed to set out their case and answer any allegations that have been made. They will also be given the opportunity to ask questions and present evidence.

7.9. St George's, University of London will usually obtain witness statements, where appropriate, as part of the investigation and the employee will be sent these witness statements in advance of the hearing (redacted if necessary). Where an employee or St George's, University of London intends to call a witness as part of the hearing, they should notify the other party of this in writing in advance of the hearing and ensure that they attend at the appropriate time. No individual can be compelled to attend a disciplinary hearing as a witness.

7.10. If the disciplinary hearing is adjourned by the Chair (eg for the purpose of gathering further information) the employee will be informed of the adjournment period. If further information is gathered, the employee will be allowed a reasonable period of time, together with their companion, to consider the new information prior to the reconvening of the disciplinary proceedings.

7.11. The Chair will decide on the outcome of the disciplinary hearing seeking guidance, where appropriate, from the relevant HR representative.

7.12. After the hearing, the Chair will notify the employee of their decision in writing as soon as is reasonably possible, normally within 5 working days of the hearing. If a disciplinary sanction is to be applied the employee will be advised of the right to appeal.

8. The right to be accompanied

8.1. An employee has the right to be accompanied at hearings by a companion who is a work colleague, trade union representative or an official employed by a trade union.

8.2. The employee must make arrangements for their companion to attend the hearing and advise the Chair who their chosen companion is, in good time before the hearing. If the companion is not available at the time proposed for the hearing the Chair will postpone the hearing to a time proposed by the employee provided that the alternative time is both reasonable and not more than five working days after the date originally proposed. Other than in exceptional circumstances, only one postponement will be permitted.

8.3. The companion may address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with them during the hearing. The companion 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 Chair from explaining their case.

8.4. Acting as a companion is voluntary and colleagues are under no obligation to do so.

9. Disciplinary Sanctions

9.1. After the disciplinary hearing the Chair will review all the evidence and decide what sanction, if any, is required. In any instance (including the first) the Chair may issue a first written warning, final written warning or dismissal if the misconduct is serious enough. The appropriate sanction will depend on the seriousness of the case in question.

9.2. The levels of disciplinary sanctions that may be applied are as follows:

Disciplinary Sanction	Details
A first written warning	<p>Normally issued:</p> <ul style="list-style-type: none"> • where conduct or behaviour does not meet St George's, University of London's standards or there is no improvement in conduct about which the employee has previously been warned informally. <p>Where it is found that such a disciplinary offence has occurred, a written warning will be issued to the employee and a copy placed on the employee's staff record within HR.</p> <p>The warning will:</p> <ol style="list-style-type: none"> 1. set out the nature of the offence committed; 2. inform the employee that further misconduct is liable to result in further disciplinary action under this procedure; 3. specify the period for which the warning will remain "live", after such period the warning will usually lapse; and 4. state that the employee may appeal against the warning <p>A written warning will lapse 6 months after issue, subject to satisfactory standards being maintained. In exceptional circumstances this timescale may be amended with agreement from the Director of HR&OD or their nominated designate.</p>
Final Written Warning	Normally issued if:

	<ul style="list-style-type: none"> • a first written warning has already been issued and another instance of misconduct has occurred while it is current; or • there is no improvement in the conduct about which the employee has previously been warned; or • where the misconduct is of a more serious nature such that a first written warning is not appropriate but would not justify a dismissal. <p>Such a warning will:</p> <ol style="list-style-type: none"> 1. set out the nature of the offence committed; 2. inform the employee that further misconduct is likely to result in dismissal; 3. specify the period for which the warning will remain "live", after such period the warning will usually lapse; and 4. state that the employee may appeal against the warning. <p>Where it is found that such a disciplinary offence has occurred, a final written warning will be issued to the employee and a copy placed on the employee's personal record within HR.</p> <p>A final written warning will lapse 12 months after issue, subject to satisfactory standards being maintained. In exceptional circumstances this timescale may be amended with agreement from the Director of HR&OD or their nominated designate.</p>
Dismissal	<p>Normally occurs if:</p> <ul style="list-style-type: none"> • an allegation of gross misconduct is upheld (which leads to summary dismissal without notice); or • there is no improvement in the conduct which has been the subject of a final written warning within the specified period; or • another instance of misconduct has occurred before the expiration of an existing final written warning. <p>The employee's salary will cease to be paid from the employment termination date and the employee will be advised of their right of appeal. In cases of summary dismissal, employees would be dismissed without notice or pay in lieu of notice.</p> <p>If an appeal is successful, the individual will be reinstated on to the payroll and will be paid any back-payments of salary they may be due.</p>

10. Appeal

10.1. An employee has a right of appeal against any formal disciplinary sanction as set out below. Sanctions, including dismissal or warnings issued as a result of procedures, will remain in place pending the outcome of any appeal.

10.2. The employee must send their written notice of appeal to the Director of HR&OD, or their nominated designate, within 5 working days from the date of receipt of the disciplinary outcome letter, clearly stating the grounds for the appeal which are limited to:

- i. New evidence which was not available at the first hearing. This requires an explanation as to why this evidence was not presented at the first hearing.
- ii. The issues had been misunderstood resulting in a perverse outcome.
- iii. The disproportionate nature of the disciplinary sanction and reason why.
- iv. Procedural failure or irregularities.

10.3. A decision to dismiss will be implemented immediately. In the event that the appeal is successful, the employee will be reinstated and given full continuous service.

10.4. Every effort will be made to hear the disciplinary appeal as soon as reasonably possible. The employee will be given the right to be accompanied at the appeal hearing and an HR representative will be present. The appeal will be heard by another manager(s) (nominated by HR) not involved in the original disciplinary, of equal or higher seniority. As stipulated in St George's, University of London's Statutes, appeals against dismissal by a member of the Academic Staff should be heard by a panel which includes a member of Council not employed by St George's, University of London.

10.5. The Appeal Chair will set the date for the appeal hearing, and will expect the employee to make all reasonable efforts to attend at the date stipulated.

10.6. The appeal will ordinarily be conducted by way of a review of the decision to issue a sanction, as opposed to a rehearing. That is, the appeal will involve a determination as to whether the decision was one which a reasonable person could have made, on the basis of the evidence and arguments which were presented to that decision maker, taking into account the employee's reason for appeal (within the appeal criteria above).

10.7. In exceptional circumstances the Appeal Chair will determine that the appeal will be conducted as a rehearing. Such a decision will be entirely at the discretion of the Appeal Chair.

10.8. The Appeal Chair will make their decision as soon as reasonably practicable after the appeal hearing, and will communicate that decision in writing to the employee, ideally within 10 working days. The Appeal Chair has the right to uphold or overturn the original sanction either in part or in full, and to apply lesser or greater sanctions if

deemed appropriate. The written decision of the Appeal Chair will be final, and will conclude this procedure.

Appendix A: Misconduct and Gross Misconduct

Misconduct

Misconduct is any type of behaviour or conduct within a work context that falls below the standard required by St George's, University of London or is a breach of St George's, University of London's policies and procedures. This includes behaviour online, eg through social media channels. Misconduct includes, but is not limited to, a range of issues such as:

- bullying or harassing behaviour;
- less than satisfactory timekeeping, attendance and/or work participation, whether onsite or remotely;
- failure to comply with St George's, University of London policies and procedures, such as finance or health and safety regulations and instructions;
- refusal to follow a reasonable management instruction;
- misuse of St George's, University of London property and equipment;
- behaviour that has brought, or has the potential to bring, St George's, University of London into disrepute;
- breach of confidence
- a repeated pattern of behaviour not reflective of St George's, University of London's CORE values.

Gross Misconduct

Gross misconduct is misconduct, including online, of such a serious nature that it fundamentally breaches the contractual relationship between the employee and St George's, University of London justifying summary dismissal. Examples of Gross Misconduct which may lead to summary dismissal include but are not limited to:

- dishonesty, theft, fraud, bribery and deliberate falsification of records;
- serious misuse of St George's, University of London property including malicious damage;
- intentional misuse of confidential information;
- physical violence or bullying;
- serious bullying, discrimination or harassment, either in person or online;
- gross insubordination;
- incapability whilst on duty brought on by misuse of alcohol or illegal drugs;
- the possession, use or distribution of illegal drugs while on St George's, University of London's premises;
- obscene or indecent behaviour or deliberately accessing printed or electronic material containing pornographic, offensive or obscene material;
- bringing St George's, University of London into serious disrepute;
- professional incompetence or gross negligence;
- serious cases of plagiarism;
- failure to attend or participate in work, whether onsite or remotely, without authority and reasonable explanation;
- intentional and reckless disregard for safety and hygiene rules.

Appendix B: Disciplinary Procedure Flow Chart

