

## Disciplinary Procedure

---

### **DISCIPLINARY PROCEDURE**

*(for the purpose of S14 of the Unfair Dismissals Act 1977-1993, applies to only employees who commenced in UCD after 1995).*

The University expects good standards of conduct and work performance from all employees and that these standards will be enforced in a just and systematic way. Employees should have a fair opportunity to remedy problems of conduct or performance. To this end, should an employee fail to meet the University's required standards, the following procedure is outlined and is in accordance with the Labour Relations Commission Advisory Code on discipline, as there is currently no agreed procedure with the recognised trade unions in UCD.

Negotiations on an agreed procedure are intended to commence shortly with the representatives of recognised trade unions in UCD. This follows the enactment of Statute 1, by approval of the Governing Authority in 2002, as required under the Universities Act, 1997.

### **OBJECTIVES OF THE PROCEDURE**

The objective of this procedure is to ensure consistent and equitable treatment of employees who become liable to disciplinary action. The procedure will only be invoked after informal action has been exhausted. Disciplinary action should primarily be corrective and provide the employee with the opportunity where necessary to improve conduct and/or job performance to a standard acceptable to the University.

Disciplinary action is appropriate when an employee fails to meet satisfactory standards with regard to, for example; conduct, job performance, attendance, time keeping and the observance of University rules and regulations.

### **PRINCIPLES OF THE PROCEDURE**

No disciplinary action will be taken against an employee until the case has been investigated and the facts established. In certain cases in serious matters where serious allegations have been made, including cases of gross misconduct, a precautionary suspension on full pay may be imposed pending an investigation and hearing.

At every stage in the procedure the employee will be advised of the nature of the complaint and will be provided with all relevant information and the potential scope of the disciplinary action.

An employee has the right to be represented by the recognised trade union and/or colleague.

An employee has the right to appeal against any disciplinary action imposed.

Although disciplinary action will normally follow the progressive stages, the procedure may be implemented at any stage if the alleged misconduct warrants such action. For example, there may be occasions when a form of misconduct or failure in performance is considered to be insufficiently serious to warrant dismissal but sufficiently serious to warrant only one warning. In effect a first and final warning.

No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be summary dismissal without notice or payment in lieu of having to work notice.

Full written records will be kept of all stages of the procedure.

Disciplinary warnings should specify standards required and/or the extent to which performance or conduct falls short, and as far as possible detail the remedies required to rectify the situation and the likely consequences if the required improvement is not forthcoming.

Disciplinary warnings will be deemed “spent” after an appropriate period of time, and will not normally be transferable between different types of misconduct.

While normal standards apply to the conduct and/or performance of Trade Union representatives no disciplinary action beyond an oral warning should be taken against a trade union representative until a full time trade union official has been notified and given the opportunity to discuss the case.

Nothing, in this procedure may be construed as diminishing employees' rights at Law.

All matters relating to the disciplinary procedure are strictly confidential to the parties and their representatives involved and breaches of this confidentiality may in itself result in disciplinary action.

### **INFORMAL DISCIPLINE**

Minor problems of conduct should be dealt with informally and discreetly. An appropriate quiet word to a staff member is often enough to correct minor habits such as poor time keeping. A formal verbal warning maybe given where no informal warning has been given but this would depend upon the nature and seriousness of the offence involved. Formal discipline should only apply to serious offences or when minor problems become habitual. If further discipline is needed the next step is an on-the-job reprimand or a disciplinary interview.

### **ON THE JOB REPRIMAND**

This involves giving an immediate verbal reprimand when a minor misconduct occurs.

### **FORMAL DISCIPLINE**

This follows four stages, and at all of these, a colleague or a trade union representative may accompany an employee.

- |         |   |
|---------|---|
| Stage 1 | Formal Verbal Warning   |
| Stage 2 | Written Warning   |
| Stage 3 | Final Written Warning   |
| Stage 4 | Covers serious or repetitive breaches of discipline and will always be conducted by the Employee Relations Manager or another manager nominated by the Head of Personnel. |

#### **Stage 1**

#### **Formal Verbal Warning**

An employee will receive a formal verbal warning if the employee fails to respond to earlier informal discipline or to maintain an acceptable standard in such matters as behaviour, absenteeism, time keeping or appearance. After interviewing the employee, the Manager will, if deemed appropriate, advise the employee that s/he is giving a formal verbal warning, which will be put on the employee's record. The employee will also be told the improvement required and when the situation will be reviewed. This warning will be confirmed in writing and a copy of the warning will be sent to the UCD Personnel. If the employee makes satisfactory progress, the verbal warning will normally cease to be ‘live’ after six months - that is it will then be disregarded for future disciplinary purposes.

**Stage 2**  
**Written Warning**

If an employee does not sufficiently improve after the formal verbal warning, the Employee Relations Manager or Personnel nominee will interview the employee with the appropriate Head of School or Manager present, and if necessary, a first written warning will be issued. The employee will be told that a first written warning is being given, and a copy of the warning will be sent to UCD Personnel for retention. The written warning will say how the employee must improve and when the situation will be reviewed. Depending on the nature and seriousness of the offence involved, a first written warning may be given where no previous verbal warning has been given. Normally, if the employee's progress is satisfactory, the written warning will cease to be 'live' after twelve months and disregarded for future disciplinary purposes.

**Stage 3**  
**Final Written Warning**

If, following a first written warning, an employee persists in performing or behaving in an unsatisfactory way, the Employee Relations Manager or UCD Personnel nominee (in the presence of the employee's Head of School or Manager) will interview the employee again to review the increasingly serious nature of the situation, and to advise the employee that a final written warning will be issued. The employee will be told that a final written warning is being issued which will indicate the improvement required and establish a time period when the situation will be reviewed. The employee will be advised that this will have implications of more serious disciplinary action up to and including dismissal, in the event of failure to improve, or in the event of recurrence of the misconduct or unsatisfactory performance. A copy of warning will be issued to the UCD Personnel for retention. In normal circumstances, and subject to satisfactory progress the written warning will cease to be 'live' after twelve months, after this period it will be disregarded for future disciplinary purposes. You may appeal against a final written warning. In more serious cases where no verbal or written warnings have previously been given, a final written warning may be issued.

**Stage 4**  
**Serious/Repetitive Breaches of Discipline**

Stage 4 applies after the completion of Stage 3. However, in certain circumstances involving gross misconduct, Stage 4 may be invoked immediately, e.g. offences such as a serious breach of contract, dishonesty, fraud or theft, assault or violence or any offence of a criminal nature.

Any action under this stage of the procedure will be taken by the Head of Personnel nominee. Disciplinary action under this stage will be taken only after thorough investigation and an employee will be given every opportunity to present his/her case beforehand.

**POINTS TO NOTE:**

- 1 An employee shall not be summarily dismissed. Summary action, short of dismissal may be taken where the circumstances warrant it, but such action does not preclude an employee from bringing an appeal as provided for in paragraph 4 below.
- 2 For the purposes of this stage, "disciplinary actions" shall mean:
  - (a) Dismissal
  - (b) Other measures short of dismissal

The exercise of any of the above stages shall be without prejudice to the exercise of any other rights to which an employee may be entitled by operation of law.

## **DISCIPLINARY DEFINITIONS**

The following definitions are designed to assist Managers or Head of School in the operation of disciplinary procedures, e.g. in deciding which category a particular misdemeanour might appropriately be identified and dealt with by reference to a particular stage of the procedure. The definitions are examples only, and each case to be considered on its own merits including the past record of the person concerned. Repetition of examples under the heading 'Misconduct' can become 'Gross Misconduct' if previous warnings have not been heeded.

### **MISCONDUCT**

Misconduct occurs when an employee's conduct or work performance is below the general standard expected. Examples include:

- regular or persistent lateness
- unacceptable standard of appearance
- unauthorised absence
- poor performance
- irregular attendance
- neglect of duties
- unprofessional attitude towards customers or other employees
- disobedience
- disregard of safety and/or security regulations
- wilful neglect of duties including incapability due to abuse of alcohol or non-prescribed drugs
- misconduct within/outside business hours prejudicial to the University's interests or reputation
- gambling or betting - excluding minor amounts on football pools, racing, sweepstakes, raffles, charitable draws etc.

### **GROSS MISCONDUCT**

Gross misconduct occurs in cases of dishonesty, in cases when an employee's conduct or performance falls well below the general standard expected, or in cases of repeated misconduct including poor work performance. Examples include:

- insubordination and/or refusal to carry out legitimate instructions
- persistent poor performance
- failure to observe rules relating to handling, or accounting for, the University's cash, goods or assets
- violent, abusive or threatening behaviour, or assault, towards a customer, member of the public or another employee
- serious breaches of safety and/or security regulations likely to endanger the employee concerned, other employees, students or members of the public

malicious or deliberate damage to University property

serious misconduct (including criminal offences) committed either within or outside business hours prejudicial to the University's interests or reputation

serious contravention of University regulations, including employee regulations, for a dishonest purpose or otherwise

serious breach of the University computer systems

sexual harassment

falsifying the books, documents or records of the University, or knowingly aiding or abetting a similar act by another

theft, embezzlement, misappropriating or withholding, even temporarily, any money or other property belonging to the University, or entrusted to the University by any customer or member of the public, or knowingly aiding or abetting similar acts by another allowing access to, or furnishing an extract from any book, document or record belonging to the University or relating to its business to any third party for a dishonest purpose

It must be recognised that these examples cannot be treated as a definitive list. Instances may fall within more than one definition depending on the facts and circumstances of each case.