

**DE MONTFORT UNIVERSITY**  
**DISCIPLINARY PROCEDURE**  
**ACADEMIC/TEACHING STAFF IN HIGHER EDUCATION**

**1 PURPOSE AND SCOPE**

- 1.1 The University is obliged to maintain high standards of conduct amongst all its employees to ensure it is not brought into disrepute and to prevent public confidence in its operation being undermined. It is recognised that good conduct, attendance and job performance is essential for the safety and well-being of all employees. It is equally important that disciplinary action should be considered and applied fairly and consistently, with regard to all the circumstances of any particular case.
- 1.2 This agreement is made between the University and the Trade Unions representing members of the teaching staff of the University recognised by the University and is designed to ensure that disciplinary matters are dealt with thoroughly, promptly and equitably.
- 1.3 This agreement applies to all members of academic/teaching staff of the University (hereafter "lecturers") who are covered by the Recognition and Procedure Agreement between the University and the recognised Trade Unions, other than those excluded in paragraphs 1.5 and 1.6 below.
- 1.4 This agreement is supplementary to the general provisions contained in the Articles of Government of the University.
- 1.5 Subject to 1.6, the procedures in this agreement shall apply to all employment situations involving a lecturer with the exception of:
- i) the expiry of a fixed term contract of employment with the University on completion of the fixed term;
  - ii) the termination of casual or temporary contracts of appointment;
  - iii) redundancy (where separate procedures would apply in consultation with the full-time official of the Trade Union(s) affected);
  - iv) the situation where complaint is made of inadequate performance of duties on a ground other than that of unjustifiable failure to undertake them (See Procedure on Work Capability);
  - v) the situation where a member of the teaching staff is suffering from ill-health (see Procedure on Capability/Ill-Health).
- 1.6 The procedures in this agreement apply to:
- i) pro-rata lecturing staff
  - ii) fixed-term, part-time lecturing staff until a separate procedure is agreed between the University and the relevant Trade Unions in respect of this staff group.

- 1.7 Lecturers serving a period of probationary service whose performance is considered unsatisfactory and who are considered unsuitable for confirmation of their appointment will be reviewed in accordance with the separate procedure for Probationary Service and not by this Procedure. This Procedure, however, will apply to these individuals where allegations of misconduct or gross misconduct arise during the probationary period. The result of any disciplinary action arising from the disciplinary procedure, can be considered relevant in terms of their review under the Probationary Service Procedure.

## 2 GENERAL PRINCIPLES

- 2.1 No disciplinary action will be taken until the matter has been thoroughly investigated.
- 2.2 At all stages of the formal disciplinary procedure lecturers have a right to be informed by the person responsible for chairing the disciplinary hearing of his or her right to be accompanied at a disciplinary hearing by a friend or officially recognised union representative.
- 2.3 A lecturer may produce at any formal stage of the procedure, witnesses, supporting statements or other material evidence.
- 2.4 A lecturer must be given by the person responsible for chairing the disciplinary hearing written notice of any hearing and of the allegations made against him/her.
- 2.5 No disciplinary action shall be taken against a lecturer who is a recognised trade union representative without prior discussion with a full-time official of the appropriate Trade Union.
- 2.6 All rights and facilities under this agreement shall be made available to all lecturers irrespective of race, sex, marital status or disability.
- 2.7 A lecturer has the right to appeal against a disciplinary decision and/or the penalty associated with it.
- 2.8 No provision within this procedure shall be seen as inhibiting a lecturer's right to make a complaint under the appropriate employment legislation where applicable.
- 2.9 The University reserves the right to provide a hearing in the absence of a lecturer after one adjournment, with the lecturer to be represented at the hearing after the adjournment if so desired.
- 2.10 A lecturer has academic freedom within the law and in that context may question and test received wisdom, and may put forward new ideas and controversial or unpopular opinions, without placing him/herself in jeopardy of losing his or her job or otherwise being subject to the Procedure contained in this document.

### 3 CONDUCT TO WHICH THE PROCEDURE APPLIES

- 3.1 This procedure applies only to:
- i) misconduct by a lecturer; and
  - ii) gross misconduct by a lecturer.
- 3.2 Misconduct is conduct, less than gross misconduct, by a lecturer which consists for no justifiable reason of the unsatisfactory performance, or non-performance or neglect, of his or her duties as a member of the teaching staff.
- 3.3 Gross misconduct is misconduct of such a nature that the University is justified in no longer tolerating the continued presence at the place of work of a lecturer who commits such an offence. It includes misbehaviour which is deliberate, reckless or grossly negligent in regard to persons or property and which is against the interest of a lecturer's fellow workers, students and/or the employers.
- 3.4 Conduct which, in isolation may be misconduct but not gross misconduct, may become gross misconduct through being habitual or persistent.

### 4 PROCEDURE IN CASES OF MISCONDUCT

#### 4.1 Informal procedure

In many cases informal counselling, normally carried out by the Head of Department, may be appropriate in the first instance. Before this informal procedure commences, the individual should be warned that the counselling relates to a possible disciplinary matter. Then the informal procedure should take the form of a discussion with the objective of encouraging and helping the lecturer to resolve the problem. If during the meeting it becomes obvious that the matter is more serious the lecturer should be properly advised that the informal session appears to be leading to the start of formal proceedings. At that point the meeting should be terminated, and after a reasonable period of time, separate formal proceedings should take place. A brief note should be kept of the fact that the warning given and of any counselling for reference purposes. It should not be confused with action taken under the formal disciplinary procedure.

#### 4.2 Formal procedure

Normally the formal procedure in cases of misconduct is as follows:

*Stage 1 - Oral Warning.* In the event of misconduct, the lecturer will be given a formal oral warning by the Head of Department. The oral warning shall state:

- i) that it is a formal oral warning within the Disciplinary Procedure;
- ii) the reasons for the warning;
- iii) the period of time during which the warning will remain in force;
- iv) any consequences which may follow in the event of further misconduct being proved during the currency of the warning;

- v) the lecturer's right to appeal or log a statement.

The warning should be for a fixed period set by the Head of Department.

The warning and its period of duration shall be recorded. A brief note will be made on record that such an oral warning has been given. Copies of the note shall be given to the lecturer concerned and to the friend, if any, who attended when the oral warning was given.

*Stage 2 - Written Warning.* If further misconduct occurs, a written warning is likely to result. This will be given to the lecturer by the Head of Department. The written warning shall state:

- i) that it is a written warning within the Disciplinary Procedure;
- ii) the reason for the warning;
- iii) the period of time during which the warning will remain in force;
- iv) that further misconduct within the period of warning is likely to result in a Final Written Warning;
- v) the lecturer's right of appeal,

and shall be signed by (the appropriate disciplinary authority), with a copy forwarded to the Human Resources Team..

*Stage 3 - Final Written Warning.* If further misconduct occurs, the lecturer is likely to receive a Final Written Warning. This Final Written Warning will be given by the Dean. It shall state:

- i) that it is a Final Written Warning within the Disciplinary Procedure;
- ii) the reason for the warning;
- iii) the period of time during which the warning will remain in force;
- iv) that any recurrence of the offence within the period of the warning will render the lecturer liable to dismissal;
- v) the lecturer's right of appeal,

and shall be signed by (the appropriate disciplinary authority), with a copy forwarded to the Human Resources Team.

*Stage 4 - Dismissal.* If further misconduct occurs, then Dismissal by the Chief Executive & Vice-Chancellor will normally result. The lecturer will be provided as soon as reasonably practicable, with written confirmation including the reason(s) for the dismissal, the date on which employment will terminate and the right of appeal.

- 4.3 Except in special circumstances instances of misconduct should be disregarded after a period of satisfactory conduct which shall be specified at the time of its issue. The Human Resources Team will monitor such cases to ensure that there is some

consistency in determining time scales, whilst permitting the flexibility that is necessary depending on the circumstances of a particular case.

- 4.4 The above normal procedure does not prevent misconduct which is sufficiently serious being dealt with a final written warning as the first and only stage short of dismissal, in which case the requirements of Stage 3 shall apply.
- 4.5 A hearing will normally be convened in accordance with the model procedure laid down in the Appendix.

## **5 PROCEDURE IN CASES OF GROSS MISCONDUCT**

If a lecturer is accused of an act of gross misconduct, he or she may be suspended from work normally for no more than five working days with pay, whilst the alleged offence is investigated. If on completion of the investigation and full disciplinary procedure the Chief Executive & Vice-Chancellor is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice. If special mitigating circumstances are present, the Chief Executive & Vice-Chancellor may issue a final written warning which shall not be subject to a time limit and which shall continue to remain in effect unless the lecturer is informed otherwise after a review. Application for the review of such a final written warning may not be made to the Chief Executive & Vice-Chancellor within three years.

## **6 AUTHORITY TO DISMISS**

The Articles of Government confer on the Chief Executive & Vice-Chancellor the power to dismiss. The Chief Executive & Vice-Chancellor has the right to delegate such power to a panel chaired by a member of the Senior Executive, or to an appropriate senior member of management in specific circumstances. Where such delegated power is exercised the dismissed employee shall have the right of appeal to the Chief Executive & Vice-Chancellor before the decision to dismiss is confirmed in writing by the Chief Executive & Vice-Chancellor. Notice of intention to exercise this right must be given to the Chief Executive & Vice-Chancellor in writing within seven working days of the date of the original decision having been handed to the employee or nine working days from the date it has been despatched to the employee by recorded delivery.

## **7 APPEALS**

- 7.1 A lecturer wishing to appeal against a disciplinary decision other than dismissal should inform the Director of Human Resources in writing within seven working days. An appeal will normally be heard in accordance with the model procedure laid down in the Appendix.
- 7.2 Where an appeal is against dismissal or against other disciplinary action taken by the Chief Executive & Vice-Chancellor then such an appeal should be made to the Clerk to the Board of Governors in writing within seven working days. The Chairman of the Board will nominate a Governor or Governors to hear the appeal. This procedure does not prevent an independent individual with relevant expertise being co-opted onto an appeal panel if appropriate at the invitation of the Chairman of the Board of Governors. Those appointed under the above provision to hear the appeal shall have the power to determine the matter. In the event of an appeal against a decision to dismiss, the dismissal will not take effect until the appeal has been determined. If, however, the decision to dismiss is upheld, the effective date of termination shall be established by reference to the original decision.

## **8 PRECAUTIONARY SUSPENSION**

- 8.1 The Chief Executive & Vice-Chancellor may suspend from duty, with pay, any lecturer for suspected or alleged gross misconduct or other good and urgent cause. Anyone who is suspended from duty shall be entitled to receive from the Chief Executive & Vice-Chancellor or other senior member of management to whom the right to suspend has been delegated written notification of the suspension, setting out the grounds on which the decision to suspend has been taken. This should be issued where practicable within 2 working days of the commencement of the suspension.
- 8.2 Where the circumstances clearly necessitate the removal of an employee from the premises without delay, the authority to do so is vested in the senior responsible person available on site. Where this person is not a senior member of management, this decision must be confirmed at the earliest opportunity, and certainly no later than the next working day, by the Chief Executive & Vice-Chancellor or a senior member of management to whom the right to suspend has been delegated.
- 8.3 Where a member of staff is suspended then due facilities should be granted with the approval of the Chief Executive & Vice-Chancellor to give the lecturer or a representative reasonable access to the premises to gather documentation which may be pertinent to the presentation of his/her case at a disciplinary interview or appeal hearing.
- 8.4 Any person under suspension for three weeks or more may make an appeal against the suspension. Such an appeal should be made to the Clerk to the Board of Governors in writing. This appeal should be heard as soon as practicable by a designated member of the Board of Governors, and the suspension shall continue to operate pending the determination of the appeal.

## **9 ALTERNATIVE DISCIPLINARY ACTION**

Circumstances may arise where, as an alternative to dismissal, another penalty may be considered. Such penalties include a period of suspension (without pay), this will not normally be for more than five working days, downgrading (loss of increment) or the imposition of a further final warning. If such an alternative penalty is imposed the lecturer has the right to appeal against it through the normal appeals procedure.

## **10 DISCRIMINATION**

The disciplinary procedures will be applied equitably irrespective of race, ethnic origin, nationality, sex, marital status or disability. Lecturers who are accused of sexual or racial harassment at work will be liable to disciplinary action under the University's Disciplinary Procedures and may be subject to warnings, compulsory transfer (without protection of salary or wages) or dismissal.

## **11 PERSONNEL DEPARTMENT**

- 11.1 The Human Resources Team shall be informed of all cases in which this formal procedure is to be involved.
- 11.2 At formal stages those responsible for the procedure may be accompanied by a Senior Member of the Human Resources Team who reports directly to the Director of Human Resources or, where appropriate, the Director of Human Resources.

- 11.3 The Human Resources Team may produce guidance notes from time to time to deal with specific aspects of this procedure, in consultation with the recognised unions.

Appendix

**DISCIPLINARY PANELS**

Where appropriate, investigations will be carried out by the line manager who will then present the management case in any subsequent disciplinary hearing.  
In these circumstances, members of the Panel would be as follows:

	DISCIPLINARY HEARING PANEL		APPEAL PANEL	
	CHAIR	OTHER	CHAIR	OTHER PERSONS PRESENT
1. Oral Warning	Member of Faculty Executive or Dept Management Team (not line manager of individual)	(other representative)	Dean (OR) Head of School	(other representative)
2. Written Warning	As above	Independent member of Faculty Executive or Dept Management Team	Pro Vice-Chancellor	Head of School and Member of the Personnel Management Team
3. Final Written Warning	Head of School (if applicable) or Dean of Faculty	An independent Head of Department or Head of School	Pro Vice-Chancellor	Independent Head of School and Director of Personnel
4. Dismissal	(a) Pro Vice-Chancellor  Reference to the Chief Executive & Vice-Chancellor (see Section 6) OR (b) Chief Executive & Vice-Chancellor	Head of School or at least equivalent level  Head of School	Governor or Governors appointed (see Section 7)  Governor or Governors appointed (see Section 7)	