

DE MONTFORT UNIVERSITY
DISCIPLINARY PROCEDURE
MANUAL STAFF

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 between De Montfort University and the Trade Unions recognised by the Institution and is designed to ensure that disciplinary matters are dealt with thoroughly, promptly and equitably. This agreement applies to all manual employees of the University unless excluded in section 1.4 below.
- 1.3 This agreement supplements the general provisions contained in the Articles of Government of De Montfort University.
- 1.4 The procedures in this agreement shall apply to all manual employees with the exception of:
- i) those who are serving a period of probationary service and dismissal arises from unsuitability for confirmation of appointment.
 - ii) the expiry of a fixed term contract of employment with the University.
 - iii) the termination of casual or temporary contracts of appointment.
 - iv) redundancy.
 - v) those who are neither employed on a full time nor a pro-rata contract. Cases relating to this group of staff will be dealt with under the Institutional Disciplinary Procedure.
 - vi) those against whom complaints of inadequate performance are made other than wilful refusal to undertake duties (see Procedure on Capability/Ill Health).
 - vii) those suffering from ill-health (see Procedure on Capability/Ill Health).

2 GENERAL PRINCIPLES

No disciplinary action will be taken until the matter has been adequately investigated.

At all stages of the formal disciplinary procedure employees have a right to the following:

- 2.1 The employees must be informed of his/her right to be accompanied at a disciplinary hearing by an officially recognised union representative or fellow employee. Management reserve the right to provide a hearing in the absence of an employee

after one adjournment. The employee to be represented at the hearing after the adjournment if so desired.

- 2.2 An employee must be made fully aware in writing in advance of any hearing of the allegations made against him/her and be given an adequate opportunity to explain or defend himself/herself, including the right to call witnesses and produce documents as appropriate.
- 2.3 A copy of any written disciplinary action taken against an employee must be provided for the information of his/her representative if the employee so requests.
- 2.4 No disciplinary action shall be taken against a recognised trade union representative without prior discussion with an accredited officer of the appropriate union.
- 2.5 All rights and facilities under this agreement shall be made available to all staff irrespective of race, sex, marital status or disability.
- 2.6 An employee has the right to appeal against any disciplinary penalty.
- 2.7 The Procedure is designed to establish the facts quickly and to deal consistently with disciplinary issues.
- 2.8 No provision within this procedure shall be seen as inhibiting an employee's right to make a complaint under appropriate employment legislation where applicable.
- 2.9 The Human Resources Team must be informed prior to disciplinary action being taken.

3 PROCEDURE

- 3.1 In many cases informal counselling may be appropriate in the first instance. It should take the form of a discussion with the objective of encouraging and helping the employee to improve. If during the meeting it becomes obvious that the matter is more serious, the discussion should be pursued under the formal disciplinary procedure. A brief note should be kept of any counselling for reference purposes. It should not be confused with action taken under the formal disciplinary procedure.

3.2 Formal Procedure

Other than in cases of serious or gross misconduct the following sequence of warnings will apply except where otherwise stated:

Stage 1 - Oral Warning - If conduct is unsatisfactory, the employee will be given a formal oral warning, which will be recorded. He or she will be advised of the reason for the warning and of his or her right of appeal. A brief note will be made on record that such an oral warning has been given.

Stage 2 - Written Warning - If a further offence occurs, a written warning will be given which will include the reason for the warning and a note that further misconduct within a specified period may result in a Final Written Warning.

Stage 3 - Final Written Warning - If further offences related to conduct occur or if the misconduct is sufficiently serious to warrant a final warning as the first and only stage short of dismissal but insufficiently serious to justify dismissal, then the

employee will receive a Final Written Warning. This Final Written Warning will make it clear that any recurrence of the offence within a specified period will render the employee liable to dismissal.

Stage 4 - Dismissal - If further serious misconduct occurs, then Dismissal will normally result. The employee 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.

N.B. Except in agreed special circumstances breaches of disciplinary rules should be disregarded after a specified period of satisfactory conduct. The Human Resources Team will monitor such cases to ensure that there is a some consistency in determining timescales, whilst permitting the flexibility that is necessary depending on the circumstances of a particular case.

Matters involving an individual's capability should be dealt with under the separate procedure for Capability/Ill-Health.

3.3 **Gross Misconduct**

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 the employee who commits such an offence. Definition: "It means misbehaviour which is deliberate, reckless or grossly negligent in regard to persons or property and which is against the interests of an employee's fellow workers, students and/or the employers". If an employee is accused of an act of gross misconduct, they may be suspended from work normally for no more than 5 working days, whilst the alleged offence is investigated. If on completion of the investigation and full disciplinary procedure the Chief Executive and 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 and 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 employee is informed otherwise after a review.

The following list provides examples of offences which may be regarded as gross misconduct and which comply with the definition referred to above. This list is not exhaustive:

- Theft from the University, fellow employees, student or any person on the University premises. Fraud or deliberate falsification of records.
- Deliberate damage to University property.
- Serious incapability through the influence of alcohol or of illegal drugs.
- Physical violence, fighting, assault on another person.
- Serious negligence which causes unacceptable loss, damage or injury.
- Serious act of insubordination, in line with the definition referred to above.
- Sexual and racial harassment and other serious acts of discrimination.

- Unauthorised removal of University property from the University's premises.
- Other serious misconduct liable to amount to a significant breach of the employment relationship.

3.4 Appeals

An Employee wishing to appeal against a disciplinary decision other than dismissal should inform the Director of Human Resources in writing within five working days. An appeal will normally be heard by the immediate superior of the person taking the disciplinary procedure.

Where an appeal is against dismissal or against other disciplinary action taken by or on behalf of the Chief Executive and Vice Chancellor then such an appeal should be made to the Director of Human Resources in writing within 5 working days. The Chairman of the Board will nominate a Governor or Governors to hear the appeal and those so nominated 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.

3.5 Precautionary Suspension

The Chief Executive and Vice Chancellor may suspend from duty, with pay, any member of the staff of the University, for suspected or alleged misconduct or other good and urgent cause. Anyone who is suspended from duty shall be entitled to receive from the Chief Executive and Vice Chancellor or other senior nominated officer 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.

Any person under suspension for three weeks or more may appeal in writing to the Board of Governors against the suspension. This appeal should be heard as soon as practicable and the suspension shall continue to operate pending the determination of the appeal.

3.6 Content of Warning Letters (and Oral Warnings)

Any oral or written warning issued under the formal procedure shall state:

- i) the reason for the warning;
- ii) the period of time during which the warning will remain in force;
- iii) the disciplinary action being taken and any consequences which may follow from such action in the event of a further disciplinary offence being proved during the currency of the warning. In the case of a final written warning there should be a statement that any further misconduct will lead to dismissal;
- iv) the employee's right of appeal.

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

3.7 Representation at Disciplinary Interview

At a disciplinary interview at Stage 4 or where gross misconduct is being considered which could result in dismissal, the employee concerned may be accompanied by a friend or union representative.

4 DISCIPLINARY AUTHORITY

4.1 Dismissal

The Articles of Government confer on the Chief Executive and Vice Chancellor the power to dismiss. The Chief Executive and Vice Chancellor has the right to delegate such power, and where such delegated power is exercised the dismissed employee shall have the right of appeal to the Chief Executive and Vice Chancellor before the decision to dismiss is confirmed. Notice of intention to exercise this right must be given to the Chief Executive and Vice Chancellor in writing within seven working days of the date of the original decision having been handed to the employee or been despatched to the employee by first class post.

4.2 Other Disciplinary Action

Formal disciplinary action may be taken in accordance with this procedure by the following staff:

Staff

Disciplinary Authority

Manual Staff within Faculties

The Chief Technician, Faculty Manager or, in the case of more serious or repeated disciplinary matters, the Dean of Faculty or, where unavailable, the appropriate member of the Executive.

Manual Staff within Central Divisions

The immediate manager or his/her superior or, in the case of more serious or repeated misconduct, the appropriate Head of Cost Centre or the member of the Executive to whom they report.

All Other Staff

The Head of Section who directly reports to a member of the Executive or, in the case of more serious or repeated misconduct, the appropriate member of the Executive.

4.3 Appeals Against Disciplinary Warnings

An appeal against any disciplinary action, short of dismissal, should be heard by the next level of authority to whom the person carrying out the disciplinary action reports.

4.4 Human Resources Team

At formal stages Authorised Officers may be accompanied by a member of the Human Resources Management Team or where appropriate the Director of Human Resources.

4.5 **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 5 working days, downgrading (loss of increment) or the imposition of a further final warning. If awarded the employee has the right of appeal against the penalty imposed, through the normal appeal procedure.

5 DISCRIMINATION

The disciplinary procedures will be applied equitably irrespective of race, ethnic origin, nationality, sex, marital status or disability. Employees 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.

6 ABSENCE AND TIMEKEEPING

6.1 A distinction should be made between certified or self-certified absence on grounds of illness or injury and other absences for reasons which may justify disciplinary action e.g. poor timekeeping. In cases of unauthorised absence the normal disciplinary procedures should be used. Where the employee is absent because of certified illness or injury these matters should be dealt with separately under the Procedure for Capability and Ill-Health. If an individual has amounted a degree of absence due to periods of less than 4 days, an individual's manager will request future absences are covered by a medical note, before agreeing to accept the absence as valid sickness under the rules for SSP purposes.

6.2 Where an employee has been absent from work on an unauthorised basis the following general procedure will apply:

- i) A letter will be issued by the Human Resources Team to the employee confirming that the unauthorised absence has been noted, with a request that either the employee return to work immediately or contact his/her supervisor with an explanation for the continued absence.
- ii) If after a period of seven days the employee has:
 - a) not returned to work
 - b) not contacted his/her supervisor or other person in authority
 - c) not produced a medical certificate.

a further letter will be sent to the employee by the Human Resources Team. This letter will specify a date, by which time the employee must either return to work or provide satisfactory reasons for the absence. Consideration will be given at this stage to the cessation of pay, and where a decision to suspend pay is taken this shall be recorded in the letter.

- iii) If after one further week the employee has still failed to contact the University authorities with a satisfactory reason or returned to work then a final letter will be sent by the appropriate disciplinary authority stating that in view of the continued absence, the University considers that the employment is at an end and that the employee is dismissed.
- iv) If an employee returns to work during this procedure the employee's explanation for his/her absence will be sought and if appropriate disciplinary action instituted.

7 CONCLUSION

The Human Resources Team shall be informed of all cases in which this formal procedure is to be involved. The Human Resources Team may also produce guidance notes from time to time to deal with specific aspects of this procedure.