

## **Appendix A**

### Procedure for formal disciplinary hearings

The chair of the disciplinary panel will:-

- Introduce those present to the employee and explain the purpose of the formal hearing; namely, to consider whether disciplinary action should be taken in accordance with the University's Disciplinary Procedure and that the meeting will be conducted in such a manner that the allegation(s) against the employee are fully and properly explored;
- Confirm that the employee and his/her representative have received copies of documents or written statements which have been produced in support of the case against the employee;
- Explain how the hearing will be conducted, and confirm that participants will be allowed to present their evidence without interruption;
- Ensure that the standard of proof required at the hearing will be on the basis of the balance of probabilities, i.e. that it is more likely that something happened than it did not;
- The hearing will normally be recorded. A copy of the recording will be kept but will not be transcribed as a matter of course. Where an appeal is subsequently received, the recording will only be transcribed where all parties agree that it is necessary to assist the appeal process. Where agreement is not reached a copy of the recording will be issued to the employee and the panel members.

#### **1. Presentation of the Allegations**

The chair of the panel will state the allegation(s) outlined in the letter to the employee. The fact finding officer will then be asked to present the evidence. Witnesses may be called if required. The employee, the employee's representative, and the panel members may question any witnesses called. Each witness will be called to give evidence and will withdraw after giving evidence, but may be recalled at the request of the person conducting the hearing.

In exceptional circumstances, where a witness feels unable to attend the hearing e.g. medical grounds, adjustments to the process will be considered. For example, to enable the witness to attend, questions may be put to them on behalf of the employee via their representative and/or the panel.

If the witness cannot attend, the evidence contained in their written statement will be assessed based on the facts and appropriate weighting given on a case by case basis.

*The ACAS code*'. (Disciplinary section 12) says:

*"Employers and employees (and their companions) should make every effort to attend the meeting. At the meeting the employer should explain the complaint against the employee and go through the evidence that has been gathered. The employee should be allowed to set out their case and answer any allegations that have been made. The employee should also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They should also be given an opportunity to raise points about any information provided by witnesses. Where an employer or employee*

*intends to call relevant witnesses they should give advance notice that they intend to do this."*

## **2. Employee's reply**

The employee or his/her representative will be given an opportunity to state his/her case. The employee or his/her representative will be given an opportunity to ask questions, present evidence, and call witnesses in turn. The panel members may question the employee and/or any witnesses called. Each witness will withdraw after giving evidence, but may be recalled at the request of the Chair or with his/her consent.

## **3. Adjournments**

The Chair may adjourn the proceedings at any stage if this appears necessary or appropriate or is requested by other parties. If adjourning for the purpose of enabling further information to be obtained, he/she will specify the nature of the information required. Any adjournment will normally be for a stated period.

## **4. Summing up**

After general questioning and discussion, the Chair will ask the person presenting the evidence giving rise to the allegation(s) and the employee or his/her representative to give a short summary of the key points of their case. The employee or his/her representative against whom the allegation(s) lies will be allowed to conclude the summing up. No new evidence will be introduced at this stage.

## **5. Adjournment and decision**

The Chair will then close the hearing to enable the panel to consider the evidence and decide whether or not formal disciplinary action is appropriate. The fact finding officer and the employee together with his/her representative, will then withdraw.

Based on the facts, the Chair will decide on the balance of probability whether or not formal disciplinary action is appropriate.

Where the Chair decides that formal disciplinary action is not required, the member of staff will be informed of this in writing normally within 5 working days of the hearing. All information relating to the complaint will be removed from the records.

If the Chair decides that formal disciplinary action is required, before deciding on what form that should take, he/she will consider:

- the finding of fact for each of the allegations;
- the gravity of the offence;
- the action taken in any similar cases in the past;
- the employee's disciplinary record - including any current warnings;
- any mitigating circumstances.

The decision will be taken as soon as possible, and no later than two working days. Where possible the decision will be communicated in person by the Chair of the panel following the adjournment and a written confirmation will follow within five working days. Written confirmation will be sent by agreement with the employee in person, by post, internal mail or by email with a read receipt requested.