

RESEARCH COUNCIL DISCIPLINARY POLICY

Management Guidance

This document provides additional guidance for managers, employees and HR in the handling of disciplinary issues. It includes the Research Council's Disciplinary policy and procedure which is contractual. The additional guidance which is shaded is not intended to be legally binding and does not form part of the Disciplinary policy and procedure.

Content

Policy statement

- 1. Principles**
- 2. Standards**
- 3. Disciplinary procedure**
- 4. Investigation**
- 5. Disciplinary hearing**
- 6. Appeals**
- 7. Grievances**
- 8. Review of policy**
- 9. Amendment history**

Annex A - Summary of the formal stages of the Disciplinary policy

RESEARCH COUNCIL DISCIPLINARY POLICY

Policy Statement

The purpose of the Disciplinary Policy and Procedure is to ensure that the highest standards of behaviour and conduct are met across the Research Council at all times. It is therefore essential that any alleged issues of unacceptable behaviour and conduct are managed positively, proactively, transparently and objectively. They must be resolved swiftly, effectively and as early and as close as possible to the point of origin.

For the avoidance of doubt, issues relating to performance will be dealt with under other appropriate Research Council policies.

The Disciplinary Policy and Procedure are agreed with the Trade Union Side and comply with legislation and the ACAS Code of Practice on disciplinary procedures.

The Disciplinary Policy and Procedure applies to all employees of the Research Council. This includes those employed on temporary or fixed term contracts but excludes Visiting Workers, students or those workers provided by a third party agency.

The UK Shared Business Services Ltd (SBS) provides HR Services across the Research Councils. However some employees are deployed at establishments/facilities/ships that do not access services from SBS. In these cases references to the SBS or the System (Employee Self Service) will not apply and employees should refer to their Research Council HR team for assistance.

Whether a worker is deemed to be a worker or employee is not always clear under employment legislation. In cases where managers or individuals have any doubt as to whether the Disciplinary Policy and Procedure should apply, advice should be sought from the Research Council HR team.

1. Principles

- 1.1 Where individual behavioural or conduct issues arise, the Research Council's aim will be to resolve these promptly, effectively and where possible informally.
- 1.2 No formal disciplinary action will be taken against an employee until the case has been fully investigated and a disciplinary hearing has taken place.
- 1.3 The employee will be advised in writing of the nature of the allegations against them and the arrangements for the hearing.
- 1.4 The employee will be given the opportunity to state their case before any decision is made.

RESEARCH COUNCIL DISCIPLINARY POLICY

- 1.5 At all stages of the formal procedure, the employee has the statutory right to be accompanied by a work colleague, a representative of a recognised Trade Union, or an official employed by a Trade Union. A Trade Union representative who is not an employed official must have been certified by their union as being competent to accompany an employee.
- 1.6 In reaching decisions on appropriate disciplinary sanctions, managers will take into account any mitigating circumstances.
- 1.7 No employee will be dismissed for a first breach of discipline except in the case of Gross Misconduct when the penalty will be summary dismissal, i.e. dismissal without notice or pay in lieu of notice.
- 1.8 An employee will have the right to appeal to a higher level of management, where feasible, against any disciplinary sanction imposed.
- 1.9 The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.
- 1.10 The Research Council will endeavour to accommodate any reasonable adjustments or other special requirements needed by employees: for example, assistance in attending meetings, providing documentation in an alternative format.

Employees may need additional assistance to enable them to comply with the procedure, for example they may require adjustments under the Equality Act 2010 such as requiring assistance in accessing a room or to have information reformatted.

Employees may have other requirements for example caring commitments or the desire to observe religious practices. As an employer the Research Council will cater for such needs in compliance with statutory legislation.

Wherever possible, reasonable requests should be treated favourably in the implementation of this policy. For further advice or clarification, managers should contact the Research Council HR team.

2. Standards

- 2.1 All employees are expected to comply with certain standards of behaviour and conduct, which if not met will usually result in disciplinary action. Managers and employees have a joint responsibility to ensure that employees are aware of and understand the rules and standards expected of them in their particular workplace.
- 2.2 Examples of unacceptable conduct include but are not limited to:
 - Poor timekeeping;
 - Poor attendance/unauthorised absences;

RESEARCH COUNCIL DISCIPLINARY POLICY

- Misuse of Research Council facilities(e.g. email and internet);
- Failure to adhere to organisational and/or statutory rules applicable to an employee's work; and/or
- Deliberate carelessness, negligence, or non-cooperation.

2.3 Gross Misconduct

2.3.1 Gross Misconduct applies to those offences which are considered serious enough that the employment relationship is irretrievably damaged and make any further working relationship and/or trust between the employee and the Research Council impossible.

2.3.2 These offences result in the employee being summarily dismissed under Stage 4 of the formal Disciplinary Procedure. (See paragraph 3.3.2)

2.3.3 Examples of conduct or behaviour that are considered to be Gross Misconduct are:

- theft or fraud or deliberate falsification of Research Council records;
- physical violence or bullying;
- deliberate and serious damage to property;
- serious misuse of the Research Council's property or name;
- refusal to carry out any lawful and reasonable instructions;
- bringing the Research Council's reputation into disrepute;
- serious incapability at work brought on by alcohol or illegal drugs;
- causing loss, damage or injury through serious negligence;
- serious wilful breach of health and safety rules;
- serious breach of confidentiality;
- serious abuse of the Research Council's Information Systems/Information Technology (IT/IS) policy documents (e.g. Data Protection and Security Policy; IT Code of Practice);
- deliberate unlawful discrimination, harassment or bullying;
- assisting, encouraging or procuring any other member of staff to commit any act which would justify Gross Misconduct.

This list is not exhaustive.

RESEARCH COUNCIL DISCIPLINARY POLICY

If an employee is charged with, or convicted of a criminal offence, this is not normally in itself reason for disciplinary action. Consideration would need to be given to what effect, if any, the charge or conviction has on the employee's ability to do the job and their relationship with their employer and/or work colleagues.

- 2.4 Please note that some specific performance and conduct issues should be dealt with under the following procedures:

TYPE OF ISSUE		RESEARCH COUNCILS' PROCEDURE
Performance issues associated with changes in job roles and/or capability		Capability
Performance issues due to ill health		Sickness Absence Management
Allegations of Scientific Misconduct		Inquiry into Allegations of Scientific Misconduct
Performance issues during a probationary period		Probationary

3 Disciplinary procedure

3.1 Informal Process

- 3.1.1 Where minor breaches of behaviour and conduct are alleged to have occurred, these will be investigated and dealt with informally and as quickly as possible by the employee's manager.
- 3.1.2 Before disciplinary action is considered, managers will:
- meet and discuss the matter with the employee;
 - explore all reasonable options to encourage and support the employee in reaching the required standard;
 - give them adequate time to improve.
- 3.1.3 The meeting should normally be conducted on a one to one basis and should be noted by the manager using their diary.

RESEARCH COUNCIL DISCIPLINARY POLICY

The employee should be advised that a diary note of informal discussions will be made, so that the dates, frequency and brief content of meetings can be recalled.

Such discussions do not form part of the disciplinary procedure. In the event that a matter escalates and is dealt with under the formal Disciplinary Procedure, informal discussions may be referred to.

3.2 Mediation

- 3.2.1 Where appropriate the Research Council encourages mediation as an informal resolution to disciplinary issues.
- 3.2.2 Mediation is a structured process, managed by an independent person, during which both parties can discuss their concerns, either separately or together with the aim of working together towards a solution both parties are happy with.
- 3.2.3 Any employees considering this as a route for resolution should contact their Research Council HR team.

Mediation is voluntary and confidential, facilitated by a trained mediator who may be internal or external to the Research Council. It usually involves the mediator talking to both sides separately and then together, to assist the parties to understand the issues and help them clarify options for resolving their differences.

3.3 Formal Process

- 3.3.1 The formal Disciplinary Procedure will be invoked where:
- insufficient improvement occurs as a result of informal action; or
 - a more serious breach of discipline is deemed to have occurred.
- 3.3.2 The stages of the Research Council's Disciplinary Procedure are outlined below:-

Stage 1: Oral Warning

- For minor breaches of discipline *or*
- Where informal discussions have not led to desired improvements
- Note of oral warning discussion placed on employee's file, for a maximum of 6 months, then disregarded for disciplinary purposes

Stage 2: Written Warning

- Where breach of discipline is repeated or insufficient improvement following oral warning
- Accumulation of minor offences *or*
- Where the offence is deemed to be more serious

RESEARCH COUNCIL DISCIPLINARY POLICY

- Written warning placed on employee's file, for a maximum of 12 months, then disregarded for disciplinary purposes

Stage 3: Final Written Warning

- Where a further breach of discipline occurs or acceptable standards are not being met following a 1st written warning *or*
- More serious offence but one which does not warrant dismissal
- Final written warning placed on employee's file, for a maximum of 12 months, then disregarded for disciplinary purposes

Stage 4: Dismissal with Notice or Summary Dismissal

Dismissal with Notice

- For standards of conduct which are still unsatisfactory following a final written warning (Stage 3)
- Dismissal is with notice or payment in lieu of notice.

Or

Summary Dismissal (Gross Misconduct)

- In cases where the offence is sufficiently serious *or*
- Where there is reasonable belief of Gross Misconduct
- Dismissal is without notice (and without pay in lieu of notice but with accrued holiday pay)

NB. The above procedure may be invoked at any stage depending on the seriousness of the allegations.

3.4 Authority Levels

- 3.4.1 Managers who have authority to issue sanctions within the Research Council's Disciplinary Procedure are described in the Research Council's delegation framework, available from Knowledgebase or by contacting the Research Council HR Team

3.5 Suspension

- 3.5.1 Where a manager believes that an employee has potentially committed an act of Gross Misconduct or where their presence might seriously hamper the investigation, the employee should be suspended from work. Suspension protects all parties giving the Research Council an opportunity to investigate; it is not a disciplinary sanction and does not imply any guilt.

The manager should be satisfied with the available facts to assist them in making the decision to suspend.

The decision to suspend should be based upon: a) the need to protect other employees, workers or visitors, b) the potential seriousness of the allegations. If neither condition is of sufficient concern then alternative working arrangements should be considered.

RESEARCH COUNCIL DISCIPLINARY POLICY

3.5.2 Key principles are:

- a) an employee will be suspended from work on full pay and contractual benefits for the minimum period necessary;
- b) a thorough investigation should be carried out by the manager as swiftly as possible;
- c) the suspension period will be kept to a minimum and will be regularly reviewed, but will not normally exceed 10 days.

Managers should keep the period of suspension to a minimum and under review and advise the employee in writing of the progress of the investigation.

Before suspending an employee, the manager should afford the employee the opportunity to provide an explanation to the alleged offence.

The manager should also consult other appropriate parties involved to form an initial view on whether the situation is of sufficient seriousness and/or there is an immediate need to protect other employees, workers and/or visitors.

3.5.3 If an employee is to be suspended, the employee should be:

- a) advised of the suspension, the reason for it and the basis on which they will remain suspended. This will be confirmed in writing;
- b) advised that they should not make contact with any employees and associated third parties of the Research Council, other than their Trade Union representative, the accompanying work colleague or an official employed by a Trade Union, nor enter Research Council premises without the express permission of the investigating manager;
- c) advised that they should remain available during normal working hours; and
- d) advised that failure to comply with these availability requests will be considered a separate disciplinary matter.

The manager should also ensure the employee is:

- taken to collect any personal belongings;
- asked to return keys, security passes and to disclose relevant IT related passwords and logins;
- escorted off the premises.

RESEARCH COUNCIL DISCIPLINARY POLICY

Managers should immediately confirm in writing the suspension and include the following:

- The reason for and anticipated length of the suspension.
- The fact that the employee will continue to receive full pay and contractual benefits.
- The agreed 'contact' arrangements.
- The fact that a full and prompt investigation will be carried out and by whom.
- That confidentiality will be maintained throughout the investigation process.
- The Employee Assistance Programme (as applicable) is available for support.

3.5.4 The Research Council will aim to conclude the investigation in as short a time as possible. In exceptional circumstances, if it is necessary for the suspension to be extended, the employee should be advised in writing giving the reasons for the extension.

4. Investigation

4.1 Purpose

4.1.1 To enable management to investigate impartially and in a timely manner any alleged or suspected misconduct on the part of an employee.

4.1.2 To try to establish all the facts of a particular case, before a decision is taken as to whether there are proper grounds to invoke the formal disciplinary procedure.

4.2 Principles

4.2.1 The person who conducts the investigation (the investigating manager) will not be the same person as the manager who might conduct any subsequent disciplinary hearing and will normally be from within the organisation and at the same or a more senior level. All investigating managers will be independent and appropriately skilled and/or experienced in this area.

4.2.2 All investigations will be carried out in a confidential manner.

4.2.3 In normal circumstances, investigations will be carried out by internal managers. Where this is not possible or considered inappropriate, for example, in very sensitive cases, an investigator (with the appropriate skills and/or experience) external to the Research Council may be appointed.

RESEARCH COUNCIL DISCIPLINARY POLICY

4.3 The Investigation Procedure

Upon receipt of an allegation or suspicion of an event which warrants investigation, the employee's manager should inform the employee:

- that an allegation or suspicion has come to light and that an investigation will now take place
- of the nature of the allegation(s) and relative seriousness of it/them
- of the name and position of the manager who will be conducting the investigation
- that the purpose of the investigation is to establish the facts.

4.3.1 In all circumstances, the investigating manager should invite the employee to attend an investigatory meeting.

4.3.2 The investigatory meeting is not a disciplinary hearing.

4.4 Investigatory meeting

4.4.1 The nature of the allegation and where appropriate its potential seriousness and associated outcome should be confirmed.

4.4.2 The employee has the right to provide a statement or a submission to give their version of events. This should be signed and dated.

4.4.3 The employee has the statutory right to be accompanied by a work colleague, a representative of a recognised Trade Union or an official employed by a Trade Union.

4.4.4 The employee should be asked to name any relevant witnesses.

a) The investigation will normally be:-conducted promptly without unreasonable delays;
and

b) completed within 10 working days.

4.5 Conducting the investigation

4.5.1 The investigating manager should obtain evidence by interviews, as appropriate, and obtain other relevant data/information.

RESEARCH COUNCIL DISCIPLINARY POLICY

The investigating manager should:

- Examine all relevant documentary evidence. These might include disciplinary warnings, computer records; and
- Check with the employee if there are any specific questions that they would like the investigating manager to ask of the witnesses.

In this respect, the investigating manager needs to be aware of the legislative provisions relating to the processing and checking of personal data, principally:

- The Data Protection Act 1998
- The Regulation of Investigatory Powers Act 2000
- The Human Rights Act 1998
- The Freedom of Information Act 2000

They should also familiarise themselves with the Research Council IT/IS policy documents. This outlines the circumstances in which monitoring of email correspondence or pc files may occur.

Reasonable access is normally legitimate. Care should be taken to limit the investigation to those work related issues that need to be addressed. An employee's private and home life must be respected.

Investigating managers should seek advice from their Research Council HR team.

4.5.2 The investigating manager should then produce a written summary of all the evidence and present the findings to the manager responsible for deciding how to take the matter forward. In normal circumstances, this will be the employee's manager.

4.6 Witnesses

4.6.1 Where there have been witnesses to an event, they may be interviewed as part of the investigation and/or asked to:

- a) provide a witness statement, which should clearly state their account of events; and
- b) date and sign their statement.

4.6.2 Witnesses should be made aware that should the case proceed to a disciplinary hearing, their statement will be divulged to the alleged perpetrator. Where the case is not proceeding to a disciplinary hearing the witness statements will be kept confidential although their content may be referred to within the investigatory report.

RESEARCH COUNCIL DISCIPLINARY POLICY

- 4.6.3 In exceptional circumstances, witness statements may be anonymised. The Research Council recognises that witness statements will only be anonymised in exceptional circumstances and that such statements may weaken the case if further action is taken against the alleged perpetrator.

Should the situation arise whereby a witness is not prepared or willing to make a statement, Investigating Managers should consider carefully as to whether they can use the information the witness has provided and its impact on the case. Investigating Managers should advise witnesses that they may be compelled to attend a tribunal by way of a witness order.

In exceptional cases where witnesses provide a statement of evidence but wish to remain anonymous, consideration should be given to any genuine fear relating to a probable or actual physical threat against him/her or other forms of intimidation.

Third party witnesses such as patients or visitors should not be compelled to provide statements. They should be dealt with sensitively and their consent obtained before using or referring to any statements they have given.

An employee is entitled to call witnesses to meetings within the disciplinary procedure.

- 4.6.4 Formal disciplinary action will be taken against any employee or manager attempting to influence, victimise or intimidate witnesses. This will be deemed to be gross misconduct in line with the Disciplinary Procedure.

4.7 Possible Outcomes

- 4.7.1 Once the investigation is complete, the manager should decide what further action to take.

- 4.7.2 Options include:

- a) **no disciplinary action to be taken** - having read the investigatory report, it may be deemed that there is no case to be heard.

It may be appropriate to advise or remind the employee of the standards required of them in the future and/or put in place formal or informal training. Any agreed actions will be confirmed in writing. If there is no case to answer a letter should be sent to inform the individual of that outcome.

- b) **arrange a disciplinary hearing** - if it is considered that the matter warrants a disciplinary hearing, this should be done without delay and preferably within 10 working days.

- 4.7.3 Prior to the disciplinary hearing, employees will be given a copy of the documentary evidence including witness statements.

RESEARCH COUNCIL DISCIPLINARY POLICY

5. Disciplinary hearing

5.1 Setting up a disciplinary hearing

- 5.1.1 If it is decided that there is a case to be heard, a manager will be appointed (in discussion with the Research Council HR team) to hold a disciplinary hearing. In order to avoid a conflict of interest this manager should have had no part in the investigation and should be of sufficient authority (see Authority levels at 3.4).
- 5.1.2 It is considered best practice and it is the Research Council's policy for a second person to be present at disciplinary hearings. This would normally be a member of the Research Council HR team. Their role is to provide advice to the manager.
- 5.1.3 The letter notifying the requirement to attend a disciplinary hearing will include:
- a) the specific allegations or charges to be answered;
 - b) the date, time and location of the meeting;
 - c) confirmation of the statutory right to be accompanied by a work colleague, a representative of a recognised Trade Union or an official employed by a Trade Union. The employee should confirm that person's attendance and identity before the hearing commences;
 - d) copies of any evidence collected during an investigation, including any witness statements;
 - e) information about the potential consequences of a finding that the allegation is upheld. For example, if there is an allegation of Gross Misconduct, confirmation that this could result in Summary Dismissal.
- 5.1.4 The employee may also notify the manager of any questions they would want asked of any witness or work colleague at the hearing. If the employee wishes to call witnesses to attend the disciplinary hearing, this should be arranged with the manager in advance of the meeting.
- 5.1.5 Employees will be given written notice of the requirement to attend in order for them to prepare for the hearing and to organise representation. The disciplinary hearing would normally then take place within 10 working days of the written notification. The specific timing will depend on the amount of evidence and any other surrounding circumstances.
- 5.1.6 The employee may request a postponement of up to five working days where their chosen representative is not available to attend on the proposed date and time.

5.2 Rights of Accompaniment

- 5.2.1 At each stage of the formal Disciplinary Procedure, all employees have the statutory right to be accompanied by a work colleague, a representative of a recognised Trade Union, or an official employed by a Trade Union.

RESEARCH COUNCIL DISCIPLINARY POLICY

5.2.2 In exceptional circumstances a family member may accompany the employee for moral support but is not permitted to act as a representative.

5.2.3 Employees are not permitted to be accompanied by a solicitor.

5.2.4 Chosen representatives can:

- a) address the meeting;
- b) put forward the employee's case;
- c) sum up the case;
- d) respond to views expressed at the meeting; and
- e) confer with the employee.

They cannot answer questions on the employee's behalf.

5.3 Hearing Arrangements

5.3.1 The manager chairing the disciplinary hearing will arrange a date, time and venue for the hearing.

5.3.2 Notes should be taken of the hearing (see paragraph 8).

5.4 The Disciplinary Hearing

5.4.1 The purpose of the formal hearing is for evidence to be presented and considered. The manager conducting the disciplinary hearing will remind the employee of each of the allegations they face and will go through the evidence that had been gathered. The employee will have the opportunity to set out their case, by responding to the allegations made and to put forward an explanation of their actions/behaviours. They will be entitled to ask questions about the allegations they face and any other questions that they have, and to put forward any mitigating circumstances.

5.4.2 At the end of the meeting, the Chair needs to consider the alleged offence in light of the employee's response, the evidence provided, and possibly investigate matters further.

RESEARCH COUNCIL DISCIPLINARY POLICY

Example Format of Disciplinary hearing

The Chair/Panel should:

1. Introduce those present at the meeting and explain their roles.
2. Explain the purpose of the meeting, which is to:
 - give the employee an opportunity to give their account
 - consider whether a disciplinary sanction should be taken in accordance with the Disciplinary Procedure.
3. Explain the process i.e. how the hearing is to be conducted.
4. Sum up the allegations as follows:
 - the precise alleged breaches of conduct
 - outline the case
 - go through the evidence
 - ensure employee has sight of:
 - relevant documentation
 - witness statements.
5. Invite the employee to reply by stating their case.
6. Chair or employee can call witnesses if necessary and if advance notice has been provided to the other party.
7. Conduct general questioning to establish/clarify facts.
8. Allow the employee to ask their questions.
9. Summarise the main points:
 - of the offence
 - raised by employee
 - to be checked (if applicable).
10. Allow the employee to put forward any mitigating circumstances.
11. Allow the employee (or their representative) to request an adjournment.
12. Adjourn for consideration of:
 - all evidence
 - employee responses
 - any mitigation put forward.

N.B. Adjournments should be as short as possible but long enough to enable proper consideration of the case before a decision is made.

RESEARCH COUNCIL DISCIPLINARY POLICY

123 Reconvene – ideally in person to convey:

- The decision
- Further time required and expected timeframes.

14. Confirm in writing:

- The allegations and decisions around each
- If a warning is given, the length of time it will remain 'live' on file
- The reasons for the decision
- The improvements required with timescales
- The consequences of not reaching and sustaining the standards required
- Employee right of appeal and appeal process.

N.B. Copy of warning is placed on employee's file for the duration of the warning. Thereafter it will be disregarded for disciplinary purposes.

The employee should be asked to acknowledge receipt of the written notification.

5.5 Confirmation of Decision

5.5.1 The Research Council will confirm its decision in writing to the employee normally within five working days of the disciplinary hearing.

5.5.2 Possible outcomes are:

- a) that the allegations have not been upheld and there is no action to be taken.

It may be appropriate to advise or remind the employee of the standards required of them in the future and/or put in place formal or informal training and/or other support mechanisms

- b) that the allegations have been upheld in full or in part and a warning issued or other penalty applied.

5.6 Warnings

5.6.1 Depending upon the severity of the matter or matters which have led to the Disciplinary Procedure being invoked and/or the employee's current disciplinary record (whether relating to the same or similar conduct or behaviour) or lack of it, the employee may be issued with a Stage 1 oral warning, a first written warning or a final written warning, as outlined in 3.3.2.

5.6.2 A written warning or a final written warning should set out the nature of the misconduct or serious misconduct, any penalty (e.g. withholding pay award), and the change in behaviour required. The employee will also be informed of the consequences of further misconduct.

RESEARCH COUNCIL DISCIPLINARY POLICY

5.6.3 In addition to receiving a warning, the employee may be required to undergo a specified course of training specifically related to the behaviour or conduct in question and/or an agreed course of action.

5.7 Dismissal

5.7.1 If an employee is to be dismissed with notice, they will be informed of:

- a) the fact that they will be dismissed
- b) the reason for the dismissal
- c) the date on which the employment will terminate
- d) whether or not they will remain suspended during their notice period (if already suspended)
- e) whether or not they are required to work their notice period
- f) the right of appeal and the appeal process.

5.7.2 If an employee is to be dismissed without notice (summary dismissal) they will be informed of:

- a) the reason for dismissal.
- b) the fact that they are to be summarily dismissed.
- c) the date on which the employment will terminate without notice and that this will be without payment in lieu of notice or accrued pay.
- d) the right of appeal and the appeal process.

6. Appeals

6.1 Principles

- a) All employees have the right to appeal against a formal disciplinary sanction, including a written warning.
- b) Details of the person to whom the employee should appeal will be included in the letter detailing the outcome of the disciplinary hearing
- c) Appeals should be lodged in writing within seven working days of the receipt of the disciplinary decision letter. The letter should indicate the full grounds upon which the appeal is made and whether it applies to the decision or the penalty or both.

RESEARCH COUNCIL DISCIPLINARY POLICY

- d) An employee can submit additional evidence or information that they consider relevant to the appeal.
- e) Employees do have the statutory right to be accompanied by a work colleague, a representative of a recognised Trade Union, or an official employed by a Trade Union.

6.2 Purpose of the Appeal

6.2.1 The purpose of the appeal is to:

- a) determine whether the sanction applied at the disciplinary hearing was fair and reasonable in all the circumstances; and
- b) determine whether the Disciplinary Procedure was followed correctly.

6.2.2 The conduct of the appeal is a matter for the Chair who may call such witnesses and consider such evidence as they deem appropriate.

6.2.3 The aim is to review the basis upon which the original decision was made and to allow:

- a) the employee to submit any new evidence
- b) the employee or an accompanying work colleague, a representative of a recognised Trade Union or an official employed by a Trade Union to comment on any new evidence.
- c) the employee to raise any procedural issues, or comment on those matters they believe have been ignored and/or received insufficient consideration.

If there are sufficient reasons to question the initial process, a more detailed approach should be taken at the appeal stage. In certain circumstances, it may be found that the only way to remedy defective initial steps is to have a total rehearing of the case. This should not, however, be the norm.

6.3 Authority Levels

6.3.1 Managers who have the authority to hear appeals within the Research Council's Disciplinary procedure are described in the Research Council's delegation framework.

6.4 Appeal Hearing Process

6.4.1 Appeals will usually be heard by a Senior Manager from within the Research Council who has no previous involvement in the case. In exceptional cases the appeal may be heard by someone outside of the Research Council. The person hearing the appeal will normally be accompanied by a member of the Research Council HR team.

6.4.2 The HR professional may be external to the Research Council.

6.4.3 The Senior Manager should act as Chair and decision maker.

RESEARCH COUNCIL DISCIPLINARY POLICY

6.4.4 Upon receipt of an appeal, the responsible manager should:

- a) send the employee details of the arrangements relating to the appeal hearing.
- b) advise them of their statutory right to be accompanied by a work colleague, a representative of a recognised Trade Union, or an official employed by a Trade Union. The employee should confirm that person's attendance and identity before the hearing commences.
- c) hold the appeal hearing where possible within 10 working days of receipt of the letter containing the grounds of appeal. This is subject to the employee's ability to request a postponement of up to five working days where their chosen representative is not available to attend on the original day or time.

6.5 The Appeal Hearing

6.5.1 At the appeal hearing, the Chair should:

- introduce those present and explain their respective roles
- explain the purpose and format of the hearing, including the possible outcomes
- invite the employee to explain the basis on which they are appealing, referring to documents or evidence previously submitted or any new evidence which has come to light where they believe this may support their grounds for appeal.

6.5.2 If an employee is accompanied by a work colleague, a representative of a recognised Trade Union, or an official employed by the Trade Union, they may outline the employee's grounds for appeal or make statements on an employee's behalf. They may not, however, answer any questions on an employee's behalf.

6.5.3 The Panel should:

- ask all necessary questions and summarise the facts
- decide on whether any further investigation is required including speaking with witnesses. This may require an adjournment
- Whenever possible, verbally inform the employee of the decision reached and the reasons for it

There should always be an adjournment to enable the Panel to consider everything stated in the evidence and where necessary to investigate matters or seek appropriate advice, before deciding on the most appropriate outcome.

- Confirm the decision in writing with reasons. This will normally be confirmed within five working days of the appeal hearing concluding, although this will be extended should further time be required. In such an instance, the employee will be notified of the proposed date upon which the decision is expected to be made.

RESEARCH COUNCIL DISCIPLINARY POLICY

6.6 Appeal Outcomes

6.6.1 Possible outcomes are as follows:

- a) **Uphold the current sanction** - i.e. confirm the disciplinary decision and action taken, thereby rejecting the employee's appeal
- b) **Amend the current sanction** - i.e. uphold all or part of decision and substitute an alternative form of disciplinary action. The sanction could, for example, be reduced or it may be decided that the improvements required should be redefined in some way. It is not an option to increase the sanction applied.
- c) **Overtake the current sanction** - i.e. set aside the original disciplinary decision and action, thereby upholding the employee's appeal

6.6.2 The decision made at an appeal hearing is final, with no further right of appeal.

6.6.3 In addition to the Research Council's procedures, an employee will have the right to complain to an Employment Tribunal.

7. Grievances

- 7.1 An employee may wish to raise a formal grievance during the Disciplinary Procedure. Usually any such complaint, in so far as it relates to the subject matter of the Disciplinary Procedure, will be investigated and adjudicated upon as part of the disciplinary process.
- 7.2 In certain circumstances the Disciplinary Procedure may (if appropriate) be put on hold and a separate hearing convened under the Research Council's Grievance Procedure or other relevant Procedure as appropriate.
- 7.3 Any such grievance should be set out in writing with the precise grounds of the grievance outlined.

Where a grievance is raised in the context of the disciplinary procedure, decisions as to how to proceed should be taken in consultation with the Research Council HR team.

8. Notes of hearing/meetings

- 8.1 The manager conducting the hearing/meeting should always arrange for a colleague (normally from Research Council HR team) to attend in order to advise on procedure (where necessary/applicable) and to take notes.
- 8.2 Written notes will be made of the hearing/meetings; these are not meant to be verbatim but should be an accurate reflection of the points discussed and will form the official record. Each individual will have an opportunity to comment on the notes of their hearing/meeting but this may not delay a decision. Any disagreements will be noted. Copies of the notes will be given to the employee.

RESEARCH COUNCIL DISCIPLINARY POLICY

9. Records

9.1 Records will be kept in line with the Research Council's Data protection and Security Policy, detailing:

- a) the nature of any disciplinary allegations or offences
- b) the employer's response and interview(s) with the employee
- c) any action taken and their reasons for it.

9.2 These records will be kept confidential and retained on the employee's personal file. In accordance with Data Protection provisions; employees may request the release of certain personal data. In some circumstances it may be necessary to redact parts of the data in order to protect the identity of witnesses.

10. Review of policy

10.1 This policy will be regularly reviewed to incorporate any legislation changes. The TU may request that a policy is reviewed

11. Amendment History

Version	Date	Comments/Changes
2.0	1 November 2014	Para 3.4.1 provides details on where to find Research Council Delegation Framework
3.0	1 August 2015	Updated to confirm that employees have a statutory right to be accompanied and clarification provided on who can accompany. Amendments shown at para 1.5, 3.5.3, 4.4.3, 5.1.3, 5.2.1, 6.1, 6.2.3, 6.4.4 and 6.5.2
4.0	1 August 2017	Para 4.7 Amend guidance to clarify a letter should be sent where no case to answer
4.0	1 August 2017	Para 5.1.1 Add "In order to avoid a conflict of interest"
4.0	1 August 2017	Para 5.4 Add to guidance to clarify that employee or their representative can request an adjournment.

RESEARCH COUNCIL DISCIPLINARY POLICY

Annex A – Summary of the formal stages of the Disciplinary policy

Stage 1 – First Stage Warning

- For minor breaches of discipline *or*
- Where informal discussions have not led to desired improvements
- Place on employee's file for a maximum of 6 months, then disregard for disciplinary purposes

Stage 2 – Written Warning

- Where breach of discipline is repeated or insufficient improvement following oral warning (Stage 1) *or*
- Accumulation of minor offences *or*
- Where the offence is deemed to be more serious
- Place on employee's file for a maximum of 12 months, then disregard for disciplinary purposes

Stage 3 – Final Written Warning

- Where a further breach of discipline occurs or acceptable standards are not being met following a 1st written warning *or*
- More serious offence but one which does not warrant dismissal
- Place on employee's file for a maximum of 12 months, then disregard for disciplinary purposes

Stage 4 – Dismissal with Notice or Summary Dismissal

Dismissal with Notice

- For standards of conduct which are still unsatisfactory, following a final written warning (Stage 3)
- Dismissal is with notice or payment in lieu of notice.

Or

Summary Dismissal (Gross Misconduct)

- In cases where the offence is sufficiently serious *or*
- Where there is reasonable belief of Gross Misconduct
- Dismissal is without notice (and without pay in lieu of notice but with accrued holiday pay)

NB. The above procedure may be invoked at any stage.