

**KIBOGORA POLYTECNIC**



Office of the Vice-Rector Administration and Finance

## **STAFF DISCIPLINARY PROCEDURES**

# Staff disciplinary procedure

## Section 1: guidance notes

### 1 Introduction

- 1.1 This procedure is approved by the Board of Directors.
- 1.2 The procedure applies to all staff at the university. It covers cases of alleged misconduct and culpable poor performance.
- 1.3 Regulations and standards at the university are managed in a sensitive and constructive way, with regard to the university's equal opportunities policy, and are intended:-
  - (i) to help and encourage staff to achieve and maintain acceptable standards of work performance and conduct;
  - (ii) to ensure the safety and well-being of all staff;
  - (iii) to enable the university to operate effectively and lawfully;
  - (iv) to inform staff of the likely consequences of failing to meet their work obligations;
  - (v) to ensure fair and consistent treatment of all staff.
- 1.4 Examples of disciplinary offences which could lead to disciplinary action are given in Appendix 1.

### 2 Principles

- 2.1 All matters relating to the application of the disciplinary procedure will be confidential.
- 2.2 No disciplinary action will be taken against a member of staff until a full investigation has been carried out. The nature of the breach of discipline must have been made known and the individual given the opportunity to state his/her case prior to any decision being made. The investigation does not form part of the disciplinary procedure. Its purpose is to gather the relevant facts to determine the most appropriate course of action, which may, or may not, involve disciplinary action.
- 2.3 Before taking any action under the disciplinary procedure, managers must consult the institutional discipline committee.
- 2.4 A member of staff will not be dismissed for a first breach of discipline except in a case of gross misconduct, where the misconduct is deemed sufficiently serious to destroy the employment contract between the member of staff and the university and to make any further working relationship untenable. Examples of gross misconduct are given in Stage 6 of the procedure. In such cases, dismissal will be justifiable without the normal period of notice or pay in lieu of notice.
- 2.5 The procedure may be initiated at any stage according to the alleged misconduct.
- 2.6 A senior member of staff in Human Resources will be present at all disciplinary hearings to offer professional advice.

### **3 Representation**

- 3.1 At all stages of the disciplinary procedure the member of staff has the right to be accompanied or represented by one person of his/her choice. This does not necessarily have to be the same person at each stage.
- 3.2 The member of staff is requested to give notice of the name and standing of any such person to the chair of the disciplinary meeting or other specified individual at least three working days before the meeting is due to take place.

#### **4 Time limits**

- 4.1 Every effort will be made to deal with alleged breaches of discipline in the shortest possible timescale. This, however, will vary according to the time required to investigate a specific case.
- 4.2 Time limits are set out in the procedure to reinforce the need to deal with disciplinary issues as quickly as possible. They must be followed unless varied by mutual consent.
- 4.3 Working days include all weekdays except days when the university is closed.

### **5 Authority to take disciplinary action**

- 5.1 Managers are responsible for ensuring that such staff understand and observe the standards of efficiency and conduct expected of them and any rules governing their employment, and for taking appropriate action, including disciplinary action, where these standards or rules are breached.
- 5.2 Managers should use their discretion, where appropriate, to resolve problems through informal discussion. Constructive guidance can often resolve difficulties and obviate the need for formal disciplinary action. A written record should be made of any informal action taken, and a copy sent to Human Resources.
- 5.3 The authority to dismiss a member of staff is vested in the Rector or the Vice Rector when acting on behalf of the Rector.
- 5.4 The manager suggesting the disciplinary action must submit it to the disciplinary committee for further consideration

NB: The term 'manager' is used to define a member of staff with agreed staffing responsibilities which will normally be detailed in the appropriate job description or contractual documentation.

### **6 Exclusions**

- 6.1 The procedure does not apply to the following:-
  - (i) cases of incapacity due to ill health.  
In such cases, advice should be sought from Human Resources;
  - (ii) cases of incapability or professional incompetence which should be dealt with under the university's procedure for dealing with poor performance due to incapability unless proven to be deliberate poor performance;

- (iii) disciplinary action against holders of senior posts (i.e. Rector, Vice Rectors), for which responsibility lies with the Chairperson of the Board of Governors.

## 7 Criminal offences

- 7.1 Where it appears that or otherwise there is some doubt as to whether or not a member of staff has committed a criminal offence in the course of or related to his/her employment, the individual's manager should consult a senior member of Human Resources and, if appropriate, the Head of Internal Audit, before taking any action.
- 7.2 Criminal offences (whether committed within or outside the course of employment) with potential implications for an individual's employment include:-
  - dishonesty, fraud, theft or other serious breaches of the university's financial regulations
  - corruption
  - assault
  - sexual or racial harassment
  - traffic offencesoffences for which the university may be held vicariously liable, for example,
  - (i) an act of assault by a member of staff on a person who the member of staff reasonably believed was stealing university property;
  - (ii) an act of serious negligence committed by a member of staff whilst unfit through drink or drugs.
- 7.3 If the problem relates to potential theft or financial misconduct, the Internal Audit must be informed immediately. A full investigation will be undertaken by the Internal Audit and a report submitted to the senior manager concerned. While the investigation is being carried out, no further action should be taken unless instructed by the Internal Audit. If, following the investigation and report, a disciplinary hearing is deemed to be appropriate, the latter will be convened by the senior manager concerned in accordance with the Disciplinary Procedure.
- 7.4 Whether or not it is reasonable to dismiss a member of staff for a crime committed in the course of, or outside his/her employment, will depend on a number of factors which influence the individual's employment relationship. A senior member Human Resources must be consulted to advise on the most appropriate course of action.
- 7.5 Where as a result of a criminal offence, a member of staff is in fundamental breach of his/her contract of employment (expressly or implicitly), the appointment will normally be terminated in accordance with the university's dismissal procedure.

## 8 **Records of warning**

8.1 Records of warnings issued to a member of staff, together with supporting documentation, will be placed on individuals' personal files for a specified time period, and held in confidence in Human Resources. During the specified time period, the warning remains "live" and will be taken into account when considering any subsequent and related disciplinary problems.

8.2 The time periods during which disciplinary warnings are "live" are as follows:-  
First warning 12 months  
Intermediate warning 12 months  
Final warning 18 months

These time periods are taken from the date the warning is issued.

8.3 Throughout the time period, the appropriate manager will regularly review the performance and conduct of the individual and provide feedback to the member of staff. At the end of the time period, if there have been no further disciplinary problems, the warning will cease to be "live". The member of staff will receive a letter from Human Resources confirming that his/her conduct or performance has reached a satisfactory standard, which should be maintained, and the disciplinary warning will be disregarded when considering future disciplinary penalties. A copy of this letter and the related documentation will be held in the strictest confidence by Human Resources. Access to such documentation will be controlled by the Director of Human Resources.

8.4 In exceptional cases verging on gross misconduct, where a final written warning has been issued, the misconduct may be considered so serious that the final written warning cannot be disregarded for future disciplinary purposes. In such cases, the letter confirming the warning will state this. It follows that any recurrent misconduct meriting disciplinary action would almost certainly lead to dismissal. For example, if a senior member of staff was found to have undertaken work in direct competition with the university, such action would normally justify summary dismissal. If, however, the action was mitigated by factors such as the individual's employment record and an agreement to discontinue the competing practice with immediate effect, a final written warning stating that dismissal would follow any further disloyalty, may be given. Such a warning would not be disregarded after a specified period.

## **Disciplinary offences which could lead to disciplinary action**

### **1 Introduction**

- 1.1 Staff are expected to observe acceptable standards of conduct and behaviour and to perform their duties to an appropriate standard of efficiency and safety.
- 1.2 In addition to the university's rules and procedures, any school/departmental rules or codes of conduct relating to specific groups of staff and/or work environments must be adhered to.

### **2 Circumstances which may lead to disciplinary action**

NB: This list is not exhaustive and does not indicate the level of warning that may be issued

theft at work

physical assault

alcohol and drug abuse

action which could injure or damage members of staff, students, visitors or property  
dishonesty or criminal conviction which affects the university's operation or the  
member of staff's performance

failure to adhere to confidentiality, security, health, safety or other university rules or  
procedures e.g. use of telephones; smoking rules; failure to follow the university's  
sickness procedures

verbal abuse

breaches of the university's Equal Opportunities policy including harassment or  
discrimination on grounds of sex, race or disability

unauthorised use of university equipment

wilful negligence of duties

refusal to observe a reasonable management instruction  
(insubordination)

unsatisfactory work standards/performance

unacceptable level of attendance

unsatisfactory time keeping

computer abuse or misuse

secondary employment which competes or conflicts with the interests of the  
university

unofficial and/or unlawful industrial action

# Section 2: disciplinary procedure stages

## 1 Investigation

- 1.1 Disciplinary action cannot be taken until a case has been carefully investigated, and all the relevant facts gathered, by the disciplinary committee.
- 1.2 Where it is considered appropriate to suspend a member of staff while a case is being investigated, this must be in accordance with the university's agreed procedures for the suspension of staff. Such suspension will be on full pay, for as short a period as possible, and does not constitute a disciplinary sanction. In cases where the safety of the individual or other members of staff/students is at risk, the individual should be told that s/he is being suspended, and must be removed from the premises as quickly as possible. The suspension should be confirmed in writing by the Rector (or nominee). During a period of suspension, the member of staff will be allowed reasonable access to information and other members of staff in relation to the case. How such access is effected will be determined by the Rector, taking account of the details of the individual case.
- 1.3 Examples of outcomes of such an investigation are:-
  - (i) to resolve the issue without the need to take further action;
  - (ii) to arrange advice, support and/or training in an attempt to resolve the problem without recourse to the disciplinary procedure;
  - (iii) to issue an informal warning which is not part of the disciplinary procedure. It will, however, be recorded and a copy placed on the individual's personal file;
  - (iv) to arrange a disciplinary hearing.

Option (iv) should only be pursued if it is inappropriate to deal with the issue under options (i), (ii) or (iii).

## 2 Notice of disciplinary hearing

- 2.1 Where a member of staff's conduct is considered unsatisfactory, or in cases of alleged culpable poor performance, and after a full investigation of the circumstances is considered to warrant disciplinary action, the disciplinary committee will convene a disciplinary hearing and give written notification of the hearing to the individual concerned, at least five working days before the hearing.

### **3 Conduct of a disciplinary hearing**

- 3.1 The disciplinary hearing will be chaired by the chair of the disciplinary committee who is responsible for ensuring that the issues are explored thoroughly and with dignity in order to achieve a fair outcome.
- 3.3 In addition to the members of the disciplinary committee, there may be circumstances in which it is appropriate to involve additional Individuals.
- 3.4 Where either the chair or the member of staff concerned has identified witnesses to the case, such individuals should be available, where possible, to be called upon during the hearing.
- 3.5 The member of staff and/or representative will be entitled to:-
- (i) hear all evidence presented in support of the alleged breach of discipline;
  - (ii) respond to the allegations and, if appropriate, make an oral statement as an alternative to supplying a written statement for consideration at the hearing;
  - (iii) call and question witnesses.
- 3.6 When everyone has had the opportunity to speak and ask questions, the hearing will be adjourned to allow the disciplinary committee time to consider all the circumstances relating to the matter, and, wherever possible, to respond orally at the end of the hearing. The decision will be confirmed in writing by the chair within five working days of the hearing, in accordance with Section 4 below.

### **4 Outcomes of a disciplinary hearing**

- 4.1 The options available to a chair are:-
- (i) to resolve the issue without the need to take further action;
  - (ii) to issue an informal warning which is not part of the formal disciplinary procedure. It will, however, be recorded and a copy placed on the individual's personal file. It will be disregarded when considering future disciplinary penalties after a period of 12 months;
  - (iii) to issue a formal warning in accordance with the procedure;
  - (iv) to make a recommendation to the Rector for dismissal in accordance with the university's procedures.
- 4.2 If a formal warning is warranted, this will specify:-
- (i) the level of the warning (see Section 5);
  - (ii) the reason for the warning;
  - (iii) the action required by the member of staff to improve/remedy the default, and, where appropriate, the time allowed for such action to occur before a further review of the situation;



- (iv) the implications of a failure to improve, or of subsequent incidences of misconduct;
  - (v) the time period during which the warning will remain in force;
  - (vi) the right of appeal or to provide a statement of dissent (see 7.3 below).
- 4.3 Wherever possible, the individual will be notified of the outcome at the end of a disciplinary interview, following an adjournment. Written notification of the outcome will be provided within five working days of the disciplinary hearing.
- 4.4 A copy of a formal written warning will be kept, together with any formal statement made by the member of staff, on the individual's personal file held in Human Resources. The warning will be disregarded when considering future disciplinary penalties after the appropriate time period.

## **5 Formal warnings**

- (i) First warning
  - For a first breach of conduct or performance standards considered sufficiently serious to be dealt with under the disciplinary procedure.
  - "Live" time period: 12 months.
- (ii) Intermediate warning
  - For a further act of misconduct, not necessarily of the same nature, or deliberate poor performance, or for circumstances warranting more than a first warning.
  - "Live" time period: 12 months.
- (iii) Final warning
  - For further misconduct, not necessarily of the same nature, or deliberate poor performance, or for very serious circumstances warranting more than a first or intermediate warning, or for an offence of gross misconduct for which dismissal is not applicable because of special circumstances.
  - "Live" time period: 18 months.
- (iv) Dismissal

For further misconduct or deliberate poor performance after a final warning, or for cases of gross misconduct. To be given in accordance with the university's approved procedure for the suspension and dismissal of staff.

## **6 Gross misconduct**

- 6.1 A member of staff will not be dismissed for a disciplinary offence without recourse to the warning stages of the disciplinary procedures, except in the most serious cases of misconduct which warrant summary dismissal (i.e. dismissal without prior warning and without notice). Such gross misconduct causes a fundamental breach of the trust implicit in an employment relationship and the member of staff can no longer be reasonably retained in the capacity for which s/he is employed.
- 6.2 In cases of potential gross misconduct, the member of staff may be suspended by the Rector (or Vice Rector) in accordance with the university's procedure for the suspension of staff, pending investigation of the circumstances. The investigation will be conducted by an appropriate manager, as instructed by the Rector. If the investigation provides evidence in support of the alleged gross misconduct, the Rector will instruct the discipline committee to convene a disciplinary hearing to consider whether summary dismissal, or action short of dismissal, is appropriate. If the case is deemed to warrant dismissal, the chair of the disciplinary hearing will make a recommendation to dismiss to the Rector in accordance with the university's suspension and dismissal procedure.

- 6.3 It is not possible to specify in advance every breach of discipline which constitutes gross misconduct, since much will depend on the individual circumstances of the case. Some examples of breaches of discipline which may warrant summary dismissal are:-
- serious negligence which causes unacceptable loss, damage or injury
  - physical assault and/or violence
  - serious fraud
  - theft
  - falsifying university documents
  - serious and wilful damage to university property
  - incapacity for work due to alcohol or drug misuse
  - gross insubordination
  - corrupt practices in receiving pecuniary advantage or other inducements
  - criminal conviction outside work which affects an individual's job or which represents a breach of trust
  - wilful discrimination on the on grounds of sex, race or disability
  - serious and wilful breach of the university's health and safety rules
  - unauthorised use of or tampering with the university's computer systems
  - serious breach of confidentiality

## **7 Appeals**

- 7.1 A member of staff who is disciplined under this procedure will be informed of the right of appeal against such disciplinary action, and the procedure to be followed. This information should be included in the written confirmation of the disciplinary warning that is sent to the individual.
- 7.2 For reconsideration of a first or intermediate warning, the member of staff must submit a written appeal to his/her manager or head of department, within ten working days of the issue of the formal warning. The reasons for appeal must be clearly stated.
- 7.3 As an alternative to an appeal, a member of staff has the right to provide a statement of dissent and/or explanation, which will be attached to the formal warning on the individual's personal file.
- 7.4 An appeal will be heard within ten working days of receipt. A senior manager who has not been involved previously in the disciplinary proceedings, and who is senior to the person who gave the warning, will hear the appeal, accompanied by a senior member of staff from Human Resources. The manager will re-examine the circumstances and evidence presented to the disciplinary hearing as follows:-
- (i) The appellant or his/her representative will have the opportunity to state the reasons for the appeal against the warning.
  - (ii) The manager responsible for issuing the warning will present the facts of the case and the reasons for the warning.
  - (iii) The disciplinary committee will allow further discussion to ensure that all issues are fully explored.
  - (iv) Both parties to the appeal will have the opportunity to sum up their cases.
  - (v) The hearing will be adjourned to allow the disciplinary committee time to consider the matter fully, and reach a fair and informed decision. Wherever possible, this decision will be given orally to the member of staff at the end of the hearing. The decision will be confirmed in writing to the member of staff within five working days of the hearing.

- 7.5 The outcome of the appeal may be:-
- (i) to reject the appeal
  - (ii) to reduce the level of warning
  - (iii) to uphold the appeal
- 7.6 If the appeal is upheld all relevant documents will be removed from the member of staff's record.
- 7.7 This is the final level of appeal against a first or intermediate warning.
- 7.8 A member of staff may appeal against a final warning to the Rector. The same stages outlined for an appeal against a first or intermediate warning will be followed.