

 <b>S P Jain London School of Management</b>	<b>Disciplinary Policy and Procedures</b>
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### **1. Purpose**

- a) The purpose of the Disciplinary Policy and Procedure is to set standards of conduct within the SP Jain London School of Management (the School), and to address concerns in a transparent and consistent way. It is designed to provide a framework for dealing with employees who fail to achieve and maintain satisfactory standards of conduct and behaviour.

### **2) Scope**

- a) This policy and procedure applies to all employees, including visiting (sessional) employees and casual workers.
- b) The Capability Policy and Procedure and the Sickness Absence Management Policy and Procedure should be used for issues related to concerns regarding an employee's performance or sickness absence.
- c) This policy does not form part of an employees' contract of employment and the School may amend it at any time.

### **3) Principles**

- a) All employees will be treated fairly, respectfully and consistently and in accordance with the Staff Equity, Diversity, and Fair Treatment Policy and the Dignity at Work Policy, and the provisions of the Equality Act 2010.
- b) Every effort should be made by line managers to deal with matters informally. Where this is inappropriate, or does not result in the necessary improvements to an employee's behaviour or conduct, the formal stages of the procedure will be followed.
- c) An employee who is subject to formal investigation or attendance at a formal meeting under the disciplinary process may be accompanied by a work colleague.

- d) Disciplinary action will not be taken until the matter has been investigated and the employee has had an opportunity to state their case.
- e) Where a disciplinary sanction is given, the employee will have the right of appeal.
- f) Due regard will be given to the 'academic freedom' of academic staff to hold and express opinion, question and test established ideas, and present controversial or unpopular points of view, without putting their employment at risk. This right of 'academic freedom' is balanced by the obligation to use that freedom responsibly and professionally and within the law.

#### 4) Disciplinary sanctions

- a) The usual penalties for misconduct are set out below. The School aims to treat all employees fairly and consistently, and a sanction imposed on another employee for similar misconduct will usually be taken into account, but should not be treated as a precedent. Each case will be assessed on its own merits.
- b) You will not normally be dismissed for a first act of misconduct, unless the School reasonably considers that it amounts to gross misconduct, or you have not yet completed your probationary period, or, rarely, you demonstrate no willingness to change behaviours that amount to misconduct.
- c) **Stage 1 - First written warning.** A first written warning will usually be appropriate when your conduct does not meet acceptable standards.
- d) **Stage 2 - Final written warning.** A final written warning will usually be appropriate where there is:
  - i) misconduct where there is already an active written warning on your record and your conduct remains unsatisfactory; or
  - ii) misconduct that the School considers sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.
- e) **Stage 3 - Dismissal.** Dismissal will usually be appropriate where there is:
  - i) further misconduct where there is an active final written warning on your record; or
  - ii) any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out below; or
  - iii) misconduct and you have demonstrated during the disciplinary hearing or in your conduct thereafter that you are unwilling to change the behaviours that are subject to the disciplinary proceedings.
- f) **Alternatives to dismissal.** In some cases, the School may at its discretion consider alternatives to dismissal, including but not limited to retraining, counselling or transfer to another department or job. These will usually be accompanied by a final written warning.
- g) Any of the above stages of disciplinary action may be omitted, depending on the seriousness of the misconduct.

- h) A written warning will normally be disregarded for disciplinary purposes after a six month period.
- i) A final written warning will normally be disregarded for disciplinary purposes after a twelve month period.
- j) The disciplinary procedure will normally operate sequentially through each stage. However, in more serious cases of misconduct, or where there has been an earlier pattern of unacceptable behaviour with insufficient improvement, the School reserves the right to begin the procedure at the most appropriate stage.
- k) In instances of gross misconduct the School reserves the right to dismiss an employee without notice, for a first offence.

## **5) Gross Misconduct**

- a) It is not possible to provide an exhaustive list of examples of gross misconduct. However, any behaviour or negligence resulting in a fundamental breach of contractual terms that irrevocably destroys the trust and confidence necessary to continue the employment relationship will constitute gross misconduct. Examples of offences that will normally be deemed as gross misconduct include serious instances of:
  - i) theft or fraud;
  - ii) physical violence or bullying;
  - iii) deliberate acts of unlawful discrimination or harassment or other serious breach of equality policies;
  - iv) Sexual misconduct including but not limited to sexual assault or sexual harassment
  - v) Use of defamatory, foul or abusive language including homophobic, transphobic or racist language;
  - vi) deliberate damage to School property;
  - vii) Using the School's information/systems for personal gain, e.g. an employee operating their own business
  - viii) possession, or being under the influence, of drugs<sup>1</sup> or alcohol at work;
  - ix) breach of health and safety rules that endangers the lives of, or may cause serious injury to, employees or any other person;
  - x) Conviction for a serious criminal offence<sup>2</sup>
  - xi) Serious data breach or breach of confidentiality
  - xii) Other serious breaches of the Staff Code of Conduct.

## **6) Procedures**

- a) Where minor concerns about conduct arise, the matter should normally be addressed informally in the first instance through an essential conversation. The line manager should meet with the employee to discuss the concerns, and seek any views and/ or any explanations from the employee. The employee will be informed that failure to meet the required standards of conduct is likely to lead to formal action.

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<sup>1</sup> For this purpose, the term 'drugs' is used to describe both illegal drugs and other psychoactive (mind-altering) substances which may or may not be illegal.

<sup>2</sup> If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action. Consideration will be given to what effect the charge or conviction has on the employees' suitability to do their job and their relationship with the School, work colleagues and students.

- b) Following the meeting the line manager will write to the employee with a summary of the discussion including the consequences of further instances of the same or other unacceptable behaviour.
- c) If during this initial stage it becomes clear that the conduct is more serious, or if initial action does not achieve the necessary change in behaviour or conduct, the employee will be informed in writing that the matter will be progressed through the formal stages of this procedure.
- d) Where formal proceedings are initiated, a manager will be nominated by the Human Resources Manager to investigate the matter and also appoint a chair of the disciplinary hearing. Where gross misconduct is suspected, this will be either the Dean or the Chief Operating Officer.
- e) The employee will be notified of the disciplinary hearing with at least five working days' notice. The notification will inform the employee of the right to be accompanied by a work colleague and set out information about the alleged misconduct. Any written evidence, including any witness statements will also be provided prior to the hearing.
- f) At the hearing the investigator 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 the investigator or employee intends to call relevant witnesses they should give advance notice that they intend to do this.
- g) Following the disciplinary hearing, a warning (first or final written) may be issued. The employee may also be dismissed where allegations of gross misconduct are upheld. The employee will be informed of the outcome of the hearing within 10 working days and informed of their right of appeal where a disciplinary sanction is imposed.
- i) A first or final written warning will set out the nature of the misconduct and the change in behaviour or improvement in performance required (with a given timescale where appropriate). The employee will be informed of how long the warning will remain current and the consequences of further misconduct, or failure to improve conduct, within the set period of the warning.
- h) Where dismissal is the outcome, the employee will be informed of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice (if applicable) and their right of appeal. Where gross misconduct has been found the employee may be dismissed without notice.

## **7) Suspension**

- a) Suspension will be considered carefully as a last resort and will only be used if there is a potential risk to the operations or normal functioning of the School or if the employee's continued presence at work would prejudice the disciplinary process. Prior to a decision to suspend the following alternatives should be considered: a change to working pattern; working from home; stopping the employee from doing part of their job or limiting the employees access to specific equipment or systems.

- b) The decision to suspend may be taken at any point during the disciplinary process following a risk assessment. Authorisation to suspend will be sought from the Dean or COO.
- c) Suspension is not a disciplinary sanction and does not presume guilt. Suspensions will be for as brief a period as possible and will be kept under review. During the period of suspension, the employee's contract of employment will continue and normal pay arrangements apply. The employee must remain contactable and attend meetings when required. Due regard must be paid to the impact of the decision on the employee's well-being and the employee will be signposted to relevant health and wellbeing support provided by the School.
- d) A suspended employee will not be permitted to enter School premises or to contact other employees without prior written consent. In addition, the employee's staff card and IT access will normally be suspended.
- e) If, for the purposes of case preparation or being accompanied to a disciplinary hearing, a suspended employee wishes to contact another employee and/or to access IT services, the employee should contact the Human Resources Manager who will make the necessary arrangement.

## **8) Appeals**

- a) Appeals against the outcome of a disciplinary hearing, should be made in writing to the Human Resources Manager setting out the reasons for the appeal within 10 days of receipt of the written outcome of the hearing. The following are considered valid grounds for an appeal:
  - i) Whether there were any procedural flaws and whether they affect the merits of the case
  - ii) Whether the decision reached appears to be logical, proportionate and supported by the information gathered
  - iii) Any new information that was not available at the time of the original meeting, but which has since come to light.
- b) If the grounds for appeal are valid a manager who was not involved in the original investigation will be appointed to consider the appeal.
- c) A manager who was not involved in the original investigation and hearing will be appointed to hear the appeal. In the case of dismissal, this will be either the Dean or the COO dependent upon who held the disciplinary hearing.
- d) The appeal will only consider the reasons for the appeal and will not be a re-investigation. In considering the appeal, the manager will assess whether the original decision was appropriate.
- e) The manager will acknowledge the appeal and arrange a meeting with the employee, giving them five days' notice. The employee has the right to be accompanied at the grievance appeal meeting by a work colleague.
- f) The employee will be informed of the outcome of the appeal within 10 days of the appeal meeting.

## **9) Records Management**

- a) It is important and in the interest of both the School and its employees that written records are made during the disciplinary process and the subsequent appeal process. It is the responsibility of the Human Resources Manager to ensure that accurate records are made. Such records should include:
  - i) Nature of the disciplinary matter
  - ii) Copy of the investigation including all supporting documentation
  - iii) Responses and/or documents submitted in relation to the disciplinary matter by any party.
  - iv) The action taken to resolve or address the disciplinary matter and the reasons for these actions
  - v) Any written warnings and action plans
  - vi) Subsequent developments
- b) Copies of the meeting records should be submitted to relevant employees including any notes that may have been taken. In certain circumstances (e.g. to protect a witness) the employer might withhold some information.
- c) Records will be treated as confidential and maintained in accordance with the School's Records Management Policy and the Data Protection Policy.

#### **10) Related Policies**

- a) Records Management Policy
- b) Data Protection Policy
- c) Staff Code of Conduct Policy
- d) Dignity at Work Policy and Procedures
- e) Staff Disciplinary Policy and Procedures