

DISCIPLINARY REGULATION

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DISCIPLINARY REGULATION

Regulations under Statute 35

1 Introduction

1.1 The University has formal disciplinary procedures in place to help encourage colleagues to achieve and maintain acceptable standards of conduct and alert them to the consequences of not meeting these standards. They should not however be viewed only as a means of imposing sanctions. Handled well, disciplinary meetings can:

- a) help to establish and maintain the appropriate standards of conduct;
- b) encourage members of staff to improve their conduct; and
- c) ensure that the University acts fairly and consistently in maintaining appropriate standards.

This Regulation should be read in conjunction with Statute 35 and may be updated from time to time.

1.2 The following terms are used:

‘Department’ includes Schools, Colleges and Professional Services Departments;

‘Executive Lead’ means the individual with responsibility for that area of activity who would normally be the UEC Lead;

‘Head of Department’ means the head of an academic or professional services department/area or college;

‘Manager’ means the members of staff’s immediate line-manager who may be the Head of Department, Head of College or a supervisor/manager.

‘Relevant Manager’ means:

- The Head of Department for staff in their area; or
- The University Executive Lead for disciplinary matters concerning a Head of Department; or
- The Vice-Chancellor or Deputy Vice-Chancellor and Provost for disciplinary matters concerning those that report to them.

1.3 Reference to any individual with responsibilities under this Regulation, includes the member of staff’s nominee.

1.4 Advice should be sought from HR if it is unclear who the appropriate person is to take action or manage an issue under this Regulation.

2 Purpose and Scope

- 2.1 Some minor disciplinary issues may be dealt with informally. The possibility of informal resolution should normally be considered before progressing to a formal process. Informal resolution could include, for example advising a colleague of appropriate steps to take in the future, requiring the colleague to attend training or asking that they complete a particular task. If informal action is deemed appropriate, the colleague should be advised in writing of the potential consequences if there is a recurrence in the future. Advice can be sought from HR to explore the suitability of options.

3 Who is covered by this Regulation

- 3.1 This Regulation applies to all staff employed by the University (with the exception of the Vice-Chancellor for whom separate provision is made).
- 3.2 There is no requirement for informal action before a formal disciplinary process.

4 Responsibility for Managing Discipline

- 4.1 The 'Relevant Manager' has responsibility for ensuring disciplinary matters are handled appropriately.
- 4.2 For staff with dual roles, for examples Heads of College, the Relevant Manager for any disciplinary matter is the responsible manager in the area where the disciplinary matter has arisen. Should it be unclear who the Relevant Manager would be in such cases, advice should be sought from HR and the University's decision on the Relevant Manager will be final.
- 4.3 If the normal Relevant Manager would not be an appropriate person to progress a disciplinary matter, advice should be taken from HR.
- 4.4 While the Relevant Manager is normally responsible for the disciplinary process, some activities may be undertaken by other appropriate individuals, for example someone may be appointed to conduct an investigation (which may, at the discretion of the University, be an external investigator). Responsible managers should agree any delegation with HR.

5 Principles

- 5.1 This Regulation provides a clear framework to ensure all staff are treated consistently and issues are dealt with fairly, reasonably and in accordance with employment law.
- 5.2 The following principles will apply to all stages of the Regulation:
- a) Disciplinary issues will be raised and dealt with without unreasonable delay. Meetings, discussions, decisions, or confirmation of decisions should not be unreasonably delayed by any party.
 - b) The member of staff will be advised of the nature of the issue(s) and will be given the opportunity to state their case before a decision is taken to progress to the formal part of the Regulation.

- c) In all cases, including where dismissal is contemplated as a potential outcome, the member of staff will be informed, in writing, in advance of any disciplinary hearing.
- d) No disciplinary sanction will be imposed against a member of staff until the case has been investigated, unless in accordance with section 8.2 below there is no disagreement concerning the facts.
- e) At formal stages, members of staff will have the right to be accompanied by a trade union representative or current Durham University work colleague (not acting in a legal capacity).
- f) No member of staff will be dismissed for a first breach of discipline, except in the case of gross misconduct.
- g) Staff will have the right to appeal against any formal disciplinary sanction imposed.
- h) All staff will be treated consistently, fairly and with respect.
- i) The University may consider use of an appropriate third party to help resolve the problem, whether internal or external, e.g. a qualified investigator or workplace mediator chosen from an approved list maintained by University Mediation Service.
- j) Should a disciplinary process take place following an investigation under the Staff Concerns Policy, relevant parties will normally be informed of the outcome, i.e. if a sanction has been applied but will not be provided with details about the level of the sanction.

6 Managing Disciplinary Matters outside the Formal Process

- 6.1 There will be occasions where the seriousness of a potential disciplinary issue necessitates the immediate use of the formal stages of this Regulation. However, the Regulation does not preclude the day-to-day counselling or guidance of staff by their immediate manager. This is encouraged as good management practice to achieve improvements which avoid the need for formal disciplinary action.
- 6.2 For minor cases of misconduct, particularly with first offences, an informal meeting may bring about the desired improvement and may be more appropriate. Such meetings are not part of the Formal Disciplinary Regulation and under normal circumstances, staff are not accompanied at these informal meetings and HR would not normally be present. Following an informal meeting the manager should provide the employee with confirmation of the main points of discussion and what was agreed, usually via email. Should misconduct recur or continue the University reserves the right to initiate a formal process under this Regulation.
- 6.3 Notes should be kept of any informal meetings. In the event of the possibility of formal disciplinary action, these will provide evidence to show that earlier attempts to understand and address the issue(s) and/or offer support have been made.
- 6.4 Where minor misconduct which has been dealt with informally is repeated, or further instances of misconduct occur and/or it is clear that an informal approach is not bringing about the desired improvement, the Formal Disciplinary Process should be used.

7 Use of the Formal Disciplinary Process

7.1 Use of the Formal Disciplinary Process may be appropriate if:

- a) informal attempts to resolve a problem have not succeeded; or
- b) if the member of staff has previously received a warning which is live at the time of the alleged conduct; or
- c) if a first instance of misconduct is sufficiently serious to warrant formal action being taken.

7.2 Misconduct

The following examples are not exclusive or exhaustive. Among the acts of misconduct which may be the subject of disciplinary procedures are:

- a) misconduct which disrupts the work effort of others;
- b) unsatisfactory attendance at work, e.g. unauthorised absenteeism, lateness, leaving work without permission, overstaying lunch or tea breaks;
- c) failing to observe University and agreed local procedures for the recording of working time and attendance, reporting of sickness, and time off work;
- d) failing to conform to agreed working practices;
- e) refusing or failing to carry out a reasonable management instruction;
- f) misuse of the Internet, Email or other University facilities (<https://www.dur.ac.uk/cis/policy/regulations/>);
- g) failing to take reasonable care of University property;
- h) using University property, equipment or transport for private use without authorisation;
- i) disclosing confidential information without authorisation;
- j) behaviour not in keeping with the University's [Staff Concerns Policy](#) and or Student Complaint Procedure (Individuals and Behaviour) and Policy and Procedure for Student Complaints of Harassment and Bullying Against Staff;
- k) behaviour not in keeping with the [Staff Code of Conduct](#);
- l) failure to comply with the University's Smoking or Substance Abuse Policy;
- n) bringing the University into disrepute;
- o) failure to comply with any other University policy.

7.3 Gross misconduct

If a member of staff is believed to have committed an act of gross misconduct, advice should be sought immediately from HR. An act of gross misconduct may lead to summary dismissal which means dismissal without notice or pay.

7.4 The following examples are not exclusive or exhaustive. Among the acts of gross misconduct, which may result in summary dismissal are:

- a) a serious and, or deliberate neglect of duty and responsibility;
- b) harassment or bullying, or using abusive or threatening language or conduct, or language or conduct of a discriminatory nature in accordance with the University's [Staff Concerns Policy](#) and Student Complaint Procedure (Individuals and Behaviour) and Policy and Procedure for Student Complaints of Harassment and Bullying Against Staff and [Equality, Diversity and Inclusion Policy](#);
- c) bringing the University into serious disrepute;
- d) committing a criminal offence which renders the member of staff unsuitable for the type of work or which has a serious impact on their relationships with other members of staff or students or could impact on the reputation of the University or could prevent them undertaking their role or working;
- m) serious breach of the University's [Staff Concerns Policy](#) and or Student Complaint Procedure (Individuals and Behaviour) and Policy and Procedure for Student Complaints of Harassment and Bullying Against Staff;
- e) theft of University property, theft from University employees or students, or theft whilst engaged on University business;
- f) fraudulently obtaining money, property, confidential information or material advantage from the University;
- g) unauthorised entry to computer records;
- h) deliberate falsification of official records;
- i) deliberate falsification of claims for earnings and expenses;
- j) assault or attempted assault or physical violence;
- k) malicious damage to University property;
- l) incapacity to work due to being under the influence of alcohol / illegal substances;
- m) serious breach of health and safety rules;
- n) serious breach of the University Sexual Misconduct and Violence Policy;
- o) failure to declare a relationship in line in with the University Conflict of Interest and Close Personal Relationships Policy;

- q) misuse of confidential information of the University;
- r) fraudulent misuse of the University's property or name;
- s) misuse of the Internet, Email or other University facilities, such that it is a serious sexual, racial or other serious matter or is potentially a criminal act;
- t) serious breach of the Staff Code of Conduct;
- u) serious failure to comply with any University policy.

7.5 The above examples are not exclusive or exhaustive and offences of a similar nature will be dealt with accordingly.

8 Suspension from duty

- 8.1 Suspension may be considered where an allegation of a serious offence has been made against a member of staff. Circumstances in which suspension may be considered include but are not limited to situations where an offence that may amount to gross misconduct, where the offence could impact on the reputation of the University, where the individual's presence could impact upon the investigation, or where the individual may interfere with witnesses or evidence. Suspension will be on full pay.
- 8.2 This will provide an opportunity for a full investigation to be undertaken to gather relevant evidence and determine whether a disciplinary hearing should take place.
- 8.3 In all cases, suspension may only be carried out on the authority of the HROD Director or their Deputy or nominee following appropriate consultation, normally with the Executive Lead.
- 8.4 The period of suspension will be as brief as possible and will be kept under review.
- 8.5 The University may consider alternatives to suspension, for example temporary re-deployment, additional supervision or the restriction of duties, as is deemed appropriate in the circumstances.
- 8.6 If an incident occurs outside office hours and is considered sufficiently serious to warrant suspension (e.g. a member of staff is under the influence of alcohol and unfit to work or a physical assault has taken place) the most senior manager available may instruct the member of staff to cease work and not attend work, pending a determination by the HROD Director as to whether suspension is appropriate. The manager issuing that instruction should inform HR as soon as practicable on the next working day.
- 8.7 It should be emphasised that suspension from duty is not a disciplinary measure in itself but is carried out, without prejudice, to permit a full and proper investigation.
- 8.8 Any conditions of suspension will be notified to the member of staff and their Trade Union Representative/Work colleague as appropriate at the time of suspension and confirmed when the suspension is confirmed in writing. If the member of staff is unavailable, they will be informed of the decision to suspend in writing. At the time of suspension and in the written

confirmation, the member of staff will be informed of the conditions of their suspension, for example, the need for permission in order to enter University premises or to access University IT services.

- 8.9 A member of staff who has been suspended from duty will have the suspension confirmed in writing. The member of staff will be informed of the date on which their suspension will be reviewed. The member of staff will also be advised that the suspension is not a disciplinary sanction in itself and they will be assigned a University contact during the period of suspension.
- 8.10 Except for approved leave of absence, the member of staff must remain generally contactable and available during normal working hours so that they can attend meetings. Any change of address or telephone number during this period should be notified immediately to HR.
- 8.11 In certain circumstances, the University may also have a duty to inform relevant professional bodies of a member of staff's suspension from duty. The member of staff will be notified of this and the referral made.
- 8.12 The member of staff will be informed in writing when the suspension is lifted. Lifting of suspension is usually on the authority of the HROD Director or their Deputy or nominee following appropriate consultation, normally with the Executive Lead.

9 Investigation

- 9.1 Where there is a report involving allegation of sexual violence or misconduct against a member of staff, this regulation should be read in conjunction with the [Procedure for managing disclosures or reports involving allegations of staff sexual violence and misconduct](#).
- 9.2 The purpose of the investigation is to gather relevant information and to determine if there is a potential disciplinary case to answer. It is not the purpose of the investigation to decide whether a disciplinary offence has occurred, what sanction may be appropriate or to reach definitive findings of fact, although the investigator may report the facts as they appear to them at that stage. The investigation should normally recommend whether or not the case should proceed to a formal hearing.
- 9.3 If there is no disagreement between the parties concerning the allegations, and where the employee accepts responsibility for their conduct, an investigation may not be necessary before a disciplinary hearing is arranged. The evidence available including witness statements (where appropriate) will be collated into a report for consideration at a disciplinary hearing.
- 9.4 In cases where the misconduct is not admitted, where an individual is already subject to a formal sanction or if there are conflicting views or evidence, an investigation will usually be appropriate before a decision is taken to proceed further under this part of the Regulation.
- 9.5 It is important to carry out a disciplinary investigation without unreasonable delay to establish the facts of the case. This will require holding an investigatory meeting with the member of staff and may include speaking to other relevant people such as witnesses and reviewing relevant documents, before proceeding to any disciplinary hearing.
- 9.6 The Relevant Manager may delegate the investigation to a designated Investigating Officer. At the discretion of the University, this may include the use of external investigators. The

Investigating Officer will be discussed and agreed in advance with the relevant HR Business Partner or Advisor.

- 9.7 It will be for the Investigating Officer to determine the scope of their investigation and the witnesses and evidence which they consider to be relevant.
- 9.8 At an investigatory meeting the person conducting the investigation should remind the member of staff that the interview itself is not of a disciplinary nature. They should point out, however, that a disciplinary hearing may be convened as a result of it.
- 9.9 Upon the completion of a disciplinary investigation, the person conducting the investigation will submit a report to the Relevant Manager which will contain recommendations on whether or not a formal disciplinary hearing should be convened and whether they believe the case is one that may constitute gross misconduct. A copy of that report will be made available to the member of staff at the earliest opportunity.
- 9.10 Where a possible outcome of a disciplinary hearing is dismissal the Executive Lead should be kept informed as deemed appropriate.

10 Written invitation to a disciplinary hearing

- 10.1 Where a formal disciplinary hearing is to take place, the member of staff shall be invited, in writing, to attend that hearing. The notification should contain sufficient information about the alleged misconduct and its possible outcomes, including if dismissal is a consideration, to enable the member of staff to prepare to answer the case at the meeting.
- 10.2 The member of staff shall also be advised of the right to be accompanied by a trade union representative or work colleague (see section 22).
- 10.3 The member of staff shall also receive copies of any written documents (or other written material which may include any witness statements) to which reference will be made at the disciplinary hearing, in advance of any disciplinary hearing.
- 10.4 The meeting should be held without unreasonable delay, whilst allowing the member of staff reasonable time to prepare their case.
- 10.5 Reasonable notice of the disciplinary hearing, usually at least 5 working days, shall be given to the member of staff. A shorter period of notice can be agreed.
- 10.6 Save for cases where dismissal is a potential sanction, meetings under this Regulation will normally be chaired by the Relevant Manager plus at least one other manager, agreed with HR in advance.
- 10.7 If a possible outcome of the disciplinary hearing is dismissal, a panel will be convened to hear the case. Anyone previously directly involved in the circumstances leading up to a disciplinary hearing shall not be a member of the panel. The panel will consist of three individuals of appropriate seniority and may include the Relevant Manager, agreed with HR in advance.
- 10.8 A representative from HR will usually be present at formal disciplinary meetings, to provide advice and guidance.

11 Documentation at disciplinary hearings and appeals

- 11.1 The member of staff will receive copies of any supporting documentation which the University intends to rely upon at least five working days in advance of the hearing. This will include the investigation report (or report produced in accordance with 9.5 above) and meetings notes produced as part of the investigatory process. The member of staff must also provide copies of any documents on which they intend to rely upon and/or their statement of case to HR as far in advance of the hearing as possible and no later than two clear working days before the hearing, so that they can be provided to those considering the case and to other parties involved in the case, as is appropriate. Documents not submitted within this timeframe, without good reason, may not be considered.
- 11.2 In some cases witnesses or parties involved in a disciplinary process may ask that their identity be kept anonymous. Anonymity will be preserved by exception, as it often prevents others from being able to properly understand or respond to a case. In the small number of cases where anonymity is preserved, the University will provide as much information to the member of staff who is subject to the disciplinary case as possible.

12 Conducting the hearing

- 12.1 The purpose of the hearing is to:
- a) present the member of staff with the alleged complaint and go through the evidence gathered during the investigation;
 - b) allow the member of staff or their representative the opportunity to present the case, to answer any allegations, to offer an explanation and/or mitigations and call any witnesses, if appropriate;
 - c) allow the decision makers/panel and Investigating Officer the opportunity to question the member of staff and their representative and any witnesses who have been called.
- 12.2 Where witnesses are to be called, the Chair of the hearing or member of staff must give at least two working days advance notice of the hearing and provide details of the witnesses they intend to call. It will be for the panel to determine which witnesses they deem it appropriate to hear from.
- 12.3 A representative from HR will normally be present at meetings under all formal stages of this procedure to provide advice and guidance.
- 12.4 It may be necessary to adjourn a hearing and reconvene at a later date should a request for further evidence or information be deemed appropriate by the panel.

13 Overlapping staff concern and disciplinary cases

- 13.1 Where a member of staff raises a staff concern during a disciplinary process, and the staff concern and disciplinary cases are related, the expectation is that both cases will normally be dealt with concurrently as part of the disciplinary process.
- 13.2 Exceptionally where it is not appropriate to deal with both issues concurrently the disciplinary process may be temporarily suspended in order to deal with the staff concern.
- 13.3 If the staff concern is not related to the disciplinary process, the disciplinary process will continue and the staff concern will either be considered at the same time or the disciplinary may be concluded before the staff concern is considered.
- 13.4 The approach will be mindful of the need to avoid multiplicity of procedures and associated delay.

14 Resignation during an investigation

- 14.1 Where an individual leaves employment before the investigation is complete, any reference provided will normally state they left whilst under investigation and there is an unresolved investigation into alleged misconduct.

Should a reference request be received, the department should seek advice from Human Resources.

15 Disciplinary sanctions

- 15.1 Where misconduct is established at a disciplinary hearing, the sanctions which may be applied are as follows:
 - a) informal action only;
 - b) formal written warning;
 - c) formal, final written warning;
 - d) dismissal (but only in cases where the member of staff has been expressly warned, prior to the hearing, that dismissal is a potential outcome)
- 15.2 In some cases demotion or moving a member of staff to an alternative role may be considered particularly as an alternative to dismissal, but HR advice must be sought before this sanction is applied.
- 15.3 The level of sanction to be applied should normally be determined taking into account the seriousness of the misconduct, any live warnings and taking account of any mitigation presented. For example, depending on the seriousness of the misconduct and all of the evidence/mitigation presented, a formal final written warning can be issued as the sanction, notwithstanding that the staff member has a clean disciplinary record.
- 15.4 **Outcome of a hearing**

15.5 The outcome of a hearing will be communicated without unreasonable delay. This may initially be verbally on the day but the decision should always be provided in writing, normally within 5 working days of the hearing date.

15.6 Action short of dismissal

15.7 Any warning issued shall be confirmed in writing and shall:

- a) clearly state the reason for the warning;
- b) clearly state the period for which the warning will last and (where relevant) details of the expected improvement in conduct and how this will be monitored (with a timescale);
- c) state the consequence of any further misconduct during the periods specified in the warning including, where a formal final written warning has been issued, that the consequence of further misconduct could result in dismissal;
- d) inform the member of staff of their right of appeal and how this shall be exercised.

15.8 Where a warning is given a record of the warning will be placed on the member of staff's file in HR and will be kept on that file for the following periods, subject to satisfactory conduct:

- a) formal written warning - 12 months;
- b) formal, final written warning - 12 months.

These warnings will be considered spent at the end of the designated duration of the warnings.

15.9 A disciplinary panel may make additional recommendations that are relevant to the individual such as appropriate training, or the department e.g. a recommendation to review specific departmental process or procedure.

16 Dismissal

16.1 A decision to dismiss shall be confirmed in writing and shall:

- a) clearly state the reason for the dismissal;
- b) the date on which the employment will terminate;
- c) specify whether the dismissal is with or without notice/pay in lieu of notice;
- d) inform the member of staff of their right of appeal and how this shall be exercised;
- e) Details of dismissals for Grade 6-10 will be reported to Council periodically.

16.2 The dismissal of the Vice Chancellor and Warden, Deputy Vice Chancellor and Provost, University Secretary, or the Chief Financial Officer, requires final approval from Council.

17 Appeals

- 17.1 A member of staff who wishes to appeal against a disciplinary warning or dismissal shall inform the Director of HROD within 10 working days of the date of the written notification of the warning. Full details of the grounds of appeal must be included.
- 17.2 Any appeal against a dismissal will not delay the date of dismissal but if the appeal is successful and the member of staff is reinstated, their continuity of employment will be preserved.
- 17.3 An appeal against a disciplinary warning, up to and including the level of formal final written warning, will be heard without unreasonable delay by two appropriate senior members of staff not previously involved in the case, agreed with HR.
- 17.4 An appeal against dismissal will be heard by an Appeal Panel (of people not previously involved in the case) comprising three individuals of appropriate seniority.
- 17.5 In cases of an appeal against dismissal, where the member of staff is in grades 6 to 10, the decision of the Appeal Panel will be reported to Council periodically.
- 17.6 Appeal hearings will normally be attended by the member of staff and the manager who took the action resulting in the appeal (assuming they are still employees of the University). A representative of HR will also normally be present at the appeal hearing.
- 17.7 A member of staff will normally be given at least 5 working days written notice of the date of the appeal hearing.
- 17.8 The appeal hearing may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. In exceptional circumstances, a rehearing may be required, this will be at the University's discretion depending on the circumstances of the case.
- 17.9 The member of staff will receive copies of any supporting documentation which the University intends to rely upon at least five working days in advance of the hearing. This will include the investigation report (or report produced in accordance with 8.5 above) and meetings notes produced as part of the investigatory process. The member of staff must also provide copies of any documents which they intend to rely upon and/or their statement of case to HR as far in advance of the meeting as possible and no later than two clear working days before the hearing for distribution to the individual(s) hearing the appeal and the other party or parties involved.
- 17.10 Staff will be entitled to be accompanied to an appeal hearing in accordance with section 22 below.
- 17.11 In all cases, the person(s) hearing the appeal shall have the authority to reach any of the following conclusions:
 - a) that the original decision of the disciplinary hearing be upheld in its entirety;
 - b) that the grounds for appeal be found in their entirety and that the disciplinary action be expunged from the member of staff's record or that the dismissal is overturned;
 - c) that a greater or lesser sanction be substituted for that imposed by the original disciplinary hearing (in line with the sanctions at 15.1 above).

18 Cases involving criminal offences

- 18.1 A member of staff should not automatically be subject to formal disciplinary action solely as a result of being arrested, charged, convicted or cautioned for a criminal offence which has occurred outside their employment. The University may however treat such circumstances as a disciplinary matter should it be considered relevant to an individual's employment.
- 18.1 In such circumstances, consideration will be given to whether the offence is one that makes them unsuitable for their type of work, prevents them from attending or undertaking work, or has a serious impact on their relationships with other members of staff or students or could impact on the reputation of the University.
- 18.2 The University will not normally wait for the outcome of any criminal proceedings before deciding what reasonable action, if any, to take under this Regulation. Where the employee is unable or has been advised not to attend a disciplinary hearing or to say anything about a pending criminal matter, the University may have to take a decision based on the available evidence. Advice should be sought from HR in such a situation.

19 Confidentiality

- 19.1 Statements, letters and other communications are confidential to those involved in the disciplinary process.
- 19.2 The manager and those involved in any process under this Regulation must be mindful of GDPR and must store materials securely and only maintain them for as long as is reasonable and necessary.

20 Non-attendance

- 20.1 Members of staff are expected to attend all meetings convened under this Regulation.
- 20.2 If a member of staff does not attend a disciplinary or appeal hearing without good reason, the hearing may proceed in their absence. Normally however, reasonable attempts to make contact with the individual to ascertain the cause of their absence will be made. The hearing may be adjourned to another date, unless it has already been adjourned, then the hearing may proceed in the absence of the member of staff.
- 20.3 Should a member of staff be unable to attend a hearing for a genuine reason (e.g. health), consideration of alternatives will be explored such as moving an in-person meeting to Teams or Zoom or vice versa, allowing written representation to be made or allowing a TU rep to provide a submission or other agreed alternatives.
- 20.4 Where a member of staff is persistently unable or unwilling to attend a disciplinary or appeal hearing without good reason, a manager will make a decision on the evidence available.

21 Union Officials

- 21.1 If a Head of Department or Manager believes a union branch secretary/shop steward or other official has, or may have, committed an act of misconduct under the University's Disciplinary Regulation, advice should be immediately sought from Human Resources.
- 21.2 Normally, no action will be taken until the circumstances of the case have been discussed with a senior trade union representative or an official employed by the union, after obtaining the member of staff's agreement.

22 Representation

- 22.1 All staff have the right at hearings and appeals, under this Regulation, to be accompanied by a trade union representative or work colleague. For the avoidance of doubt, the work colleague must be a current employee of Durham University, not acting in a legal capacity. The member of staff must make all such arrangements for their own representative/work colleague to attend the hearing(s).
- 22.2 If a representative or work colleague is unavailable on the date of the formal hearing, the manager should rearrange the hearing on a suitable alternative date, provided this is within a reasonable timescale e.g. within five working days after the date initially proposed. The hearing will normally only be re-arranged once and thereafter the hearing will proceed.
- 22.3 The trade union representative or work colleague accompanying the member of staff is entitled to put forward/sum up the member of staff's case and to respond on the member of staff's behalf to any view expressed at the hearing. The trade union representative or work colleague does not have a right to answer questions on behalf of the member of staff.
- 22.4 A representative from HR will normally be present at meetings under the formal part of this procedure to provide advice and guidance. If required, a further person appointed by HR will act as note taker during the meeting.

23 Notes and Recording of meetings/hearings

- 23.1 Video and or audio recording of meetings is not permitted.
- 23.2 Notes of meetings/hearings should capture the main points and actions arising from the meeting and are not intended to be verbatim. The member of staff and their work colleague or trade union representative are free to take their own notes if they wish. Notes will be shared with the parties following the meetings/hearings. See also point 10 above.

24 Equal Opportunity

- 24.1 All parties involved in the operation of these regulations shall ensure that the application is in line with the University's Equality, Diversity and Inclusion Policy.

24.2 Where a member of staff is disabled, consideration will be given to any reasonable adjustments that the University can make to enable employees to participate in the application of this Regulations.