

### **Performance Management: Review of policies, procedures and support available to staff**

Following the tragic death of a member of the College's staff community, Professor Stefan Grimm, the Provost invited the Senior Consul, Professor Richard Thompson, and the Director of Human Resources, Mrs Louise Lindsay, to consider the relevant College policies, procedures and the support available to all staff during performance review.

#### **Process**

Professor Thompson and Mrs Lindsay, supported by Ms Claire Westgate (Human Resources Manager), met and reviewed all relevant HR policies, procedures, template letters and website pages. There was careful consideration on accessibility and clarity of the information and the perceived usefulness from both a staff and management perspective. Appendix 1 contains the full list of the documentation and information that was included in the review.

There was wide communication that the review was being undertaken and some staff contacted either Mrs Lindsay or Professor Thompson to give their personal experience of performance reviews or the events leading up to the death of Professor Grimm and their knowledge of the support that was made available to him. The College Trades Unions (UNITE, UNISON and UCU) were also invited to submit observations and recommendations to the review (it was known that the UCU representative had met Professor Grimm to advise him during the performance review process).

#### **Findings**

##### **1. Employee Support Contacts**

A number of those who contacted the reviewers and who had been through performance management noted the benefit of an advocate or 'a senior person who helped articulate my case'. It was also noted there were a number of cases where staff did not feel that they had received the support that they needed

The reviewers noted that the College has Harassment Support Contacts and that it would be helpful to extend this scheme to establish an additional cohort of Employee Support Contacts, who would be trained academic and support staff. The Employee Support Contacts would have a clear purpose to provide additional support to members of staff going through performance, redundancy, grievance and disciplinary processes. It would be important for this cohort to include senior academic staff and many of the Consuls may be willing to participate in this scheme. It would also be useful for the member of staff to be offered the choice of someone outside their own work area or someone more local who is experienced in their field.

For the avoidance of doubt, this cohort of supporters would complement, not replace, the role of Trades Union or HR representatives.

*It is recommended that volunteers are sought for training in a new support role for staff and that any member of staff subject to informal or formal processes is offered the opportunity to be matched with an Employee Support Contact to provide independent guidance on process and to signpost the resources available to help individual members of staff.*

## 2. Clarification on the services provided by CiC and the necessity for visible marketing around the College

In addition to the above support, there is also support available from CiC, the College's employee assistance resource. The College website provides an overview of the specialist and independent services provided by CiC, which are completely confidential, and available to all staff and their immediate families. As well as counselling services, the company provides a wide range of practical help, including employment advice for staff and support for line managers.

Information on the services available are linked to on the Occupational Health and the HR webpages. The reviewers noted that there is a need for more publication of the wide range of resources available in both poster/postcard form and that more detail on the services should be provided on the College's webpages and in Reporter.

*It is recommended that information on the employee assistance programme be refreshed and re-launched to staff.*

## 3. Training for those new to management

It is understood that the College is reviewing the training offered to new staff and to new managers. The reviewers considered that all those new to management roles should be required to undertake training in performance and disciplinary procedures before undertaking these activities. Experienced managers should also regularly review and update their skills and knowledge of the College's processes through the refresher briefing from HR on appointment as Head of Department and when informal action is to be instigated for any member of staff.

*It is recommended that those new to management undertake training on staff processes and refresher training is provided to experienced managers on a regular basis.*

## 4. The role of appraisal in performance management

The review noted some ambiguity about the role of appraisal in the performance management process (known in the College as the Personal Review and Development Plan (PRDP)). The PRDP process is about to be re-launched by the College and it will place an equal emphasis on development support in addition to a retrospective review of the past year's performance and the setting of objectives for the year ahead. Where there are concerns about an individual's performance then it would be expected that these concerns would be noted in the PRDP record, with both parties agreeing a way forward. It should also be noted on the form if the member of staff does not agree with the performance concerns. The PRDP discussion is not a stage of informal performance management and the focus of the review should be a balance between assessment of performance, setting of objectives and identifying development needs.

*It is recommended that the role of the PRDP be clarified in the revised procedure.*

#### 5. Tailored, user-friendly documentation for employees

Whilst the College's policies and procedures are designed to be read by managers and staff, a separate people management guidance document exists for managers, but this is not matched with a separate guidance document for staff. The volume of information and the formality of the policy document may not be easily digestible, particularly for staff who are feeling stressed or anxious.

*It is recommended that a separate staff guidance document be produced for those subject to performance management. This document would provide summary guidance on timescales, flow charts of process steps and how the individual can access support.*

#### 6. Timescales

Although each performance management case should be dealt with on an individual basis, the current documentation does not provide guidance on the recommended timeframes for managing the informal process and when it is appropriate to move to the formal process. For example the informal action section of the policy refers to 'reasonable time to improve' and holding 'a number of informal meetings'. Whilst it would not be of benefit to prescribe exact numbers, guidelines would ensure that both managers and members of staff have an understanding of when informal action could progress to formal action. The appropriate timeframe between stages will vary based on the nature of the role.

Professor Grimm had been under review in the informal process for nearly two years. His line manager was using this period to help Professor Grimm obtain funding or alternative work (the review panel saw evidence of the efforts made in this regard). The subsequent formal process would have involved a minimum of two formal meetings with time to improve in-between formal meetings before consideration would have been given to the termination of Professor Grimm's employment. Understandably there is a reluctance to move into formal hearings, particularly when the member of staff is hard working and diligent, but the formal stages would have provided more clarity to Professor Grimm on process and support through the written documentation, representation at meetings and HR involvement.

*It is recommended that the new capability procedure and ordinance include greater clarity on timescales for informal action and how this might operate in different roles.*

#### 7. HR need to be informed that informal action is being carried out

The informal action section of the Disciplinary and Poor Performance policy and procedure correctly places the emphasis on line managers/supervisors discussing performance related concerns with members of staff, without attendance from HR or Trade Union representatives. The policy does not advise managers to inform HR that informal action is being carried out. Currently informal action can be carried out with no awareness of this outside of the line manager and the member of staff. In the absence of this communication from the line manager, HR cannot ensure that the appropriate guidance and information is provided to both parties, at the appropriate times. However, it should be made clear to staff that notifying HR does not mean that a record of the informal action will be kept on the member of staff's HR file. It should

also be made clear that consideration will be given at all times as to who needs to know about the action, to ensure that confidentiality is maintained.

*It is recommended that prior to the instigation of informal action, the line manager must contact their local HR representative to receive a briefing on the process for performance management, and so HR can make contact with the member of staff to ensure they are aware of support and process. This will also enable anonymised data on informal action to be collated, monitored, assessed and reported to Provost's Board on an annual basis.*

#### 8. Definitions of informal and formal performance management

The Poor Performance policy and procedure (Appendix 2) details the process to be followed for informal and formal action. Professor Grimm was subject to informal performance management at the time of his death and it is understood that he may have been unclear about the difference between the processes and the implications of the different stages.

The policy does not provide clear definitions on informal and formal action during performance management, and the distinguishing features between these two forms of action.

*It is recommended that further detail on the basis for informal and formal action be included in all procedures, including the new capability procedure and ordinance.*

#### 9. Performance management procedure

The Disciplinary and Poor Performance policy and procedure (Appendix 2) is the College's framework for dealing with performance issues. The reviewers noted that one procedure covering both misconduct and performance issues may set a punitive tone for a member of staff who was making best efforts but not meeting work objectives. It was noted that a revised capability ordinance procedure was about to be introduced for academic staff and this was welcomed.

*It is recommended that a capability procedure be introduced for all other staff to separate misconduct and performance processes.*

#### 10. Requirement for a more comprehensive set of template documentation

The HR Division have template letters available for HR staff in relation to disciplinary action and managing probation periods. They include the key information that should be included in the letter, as well as presenting this in a clear and concise format. There are no template documents covering performance management.

*It is recommended that performance management template documents be produced. It is further recommended that all performance management correspondence, both formal and informal, should be reviewed by a member of HR before dispatch by a line manager.*

## **Summary recommendations**

The following recommendations have been drawn up from the above findings:

1. Expand the Harassment Support Contact Programme to train volunteers, including academic staff, who can be matched with individuals going through informal or formal processes.
2. Refresh and re-launch information on the employee assistance services and ensure widespread distribution and regular update of promotional material.
3. Ensure regular training is given to new and experienced managers in core HR procedures.
4. Create a separate guidance and support document for staff to supplement the policy document. The document to include a clear and concise summary of the informal and formal process, a flowchart, the support available to staff and frequently asked questions.
5. Direct managers to inform HR before commencing the informal stage of performance management. All managers to have a briefing from their local HR representative in advance of the instigation of performance management.
6. Create a separate policy for performance management in the form of a capability procedure, which includes clear definitions for informal and formal performance management and further guidance on the timescales and correspondence in the different stages. Provide clarity on the role of the PRDP appraisal in performance management.
7. Create template documentation for performance management correspondence at informal and formal stages of the process. Direct managers to ensure all correspondence is reviewed by an HR representative before it is sent to a member of staff.

## **Additional recommendation**

Although this was not within the remit of the current review, a number of concerns were raised with the reviewers about the application and consistency of approach in the use of performance metrics in academia and in the College. The reviewers recommend that the College undertake a wider consultation and review of the application of performance metrics within Imperial College with recommendations to be considered by the Provost's Board in the summer term.

## **Conclusion**

The reviewers commend their recommendations to the Provost's Board and hope that, when implemented, the changes will improve the experience for members of staff during any difficult times in their employment with the College.

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Director of HR

Professor Richard Thompson  
Senior Consul, Department of Physics

# Appendix 1

## Signpost - Policies and Letters

Policy	Associated Letters	Support
<a href="#">Disciplinary and Poor Performance</a>	No template letters for Poor Performance	Reference to TU support
<a href="#">Appendix to the statutes</a>	No template letters for Poor Performance	Reference to TU support
<a href="#">Ordinances</a>	No template letters for Poor Performance	Reference to TU support
<a href="#">Sickness Absence</a>	Template letters refer to impact of absence from work	Reference to TU support Reference to CiC (letter and policy)
<a href="#">Probation - Academic</a>	Extension of probation Review	Probation Reference to TU support (letter and policy) Reference to CiC (extension letter only)
<a href="#">Probation - All other staff</a>	Extension of probation Review	Probation Reference to CiC (extension letter only)
<a href="#">People Management Guidance (HR restricted pages only)</a>	N/A	Reference to CiC
<a href="#">Conducting Investigations (HR Restricted pages only)</a>	N/A	Reference to CiC and TU support
<a href="#">Disciplinary and Poor Performance Hearings Flowchart</a>	N/A	No reference
<a href="#">PRDP webpage</a>	N/A	Assessment on whether training is needed to have an effective PRDP

LDC Courses

Course Title	Course Details
<a href="#">Coaching</a>	Help to address specific work related challenges
<a href="#">Building personal resilience</a>	Practical actions to avoid hitting pressure points
<a href="#">Stress Management - Keeping Cool Under Pressure</a>	Insights and tools to manage potential or actual stress
<a href="#">Decision Making</a>	Tools and models for approaching decision making with greater self-awareness, confidence and effectiveness.
<a href="#">Preparing successful Research Fellowship Applications</a>	This course introduces postdocs to fellowship funding and the process of making a fellowship application.
<a href="#">Taking Charge of Your Career: Managing Your First Research Group</a>	Working through a series of real life examples to develop a personal plan for managing research groups
<a href="#">Planning and Managing Research Projects in Academia</a>	This course is designed to introduce postdocs to the scientific, administrative and financial aspects of planning and managing a research project within the academic environment.
<a href="#">Time Management &amp; Personal Organisation for Postdocs</a>	Develop a realistic and disciplined approach to research and working effectively
<a href="#">Writing Skills Programme</a>	This comprehensive writing skills programme has been specifically designed to provide tailored support to postdocs in all aspects of their writing.
<a href="#">PRDP Briefing Session</a>	Develop or refresh awareness of the purpose of the PRDP and the benefits of the process. How to engage in a purposeful two way PRDP conversation. (Useful points for all discussions relating to performance)

## Support

Support	Details:
Trade Union	<a href="#">About Us</a>
Occupational Health	<a href="#">Staff can initiate a self-referral to see an Occupational Health Adviser, as well as going through their line manager or HR.</a>
CiC	<a href="#">Information on CiC is signposted from several different places on the Occupational Health website</a>
HR	An independent HR contact is available to provide advice on the policy and process, for some of the College's formal processes. As there is no template letter for the Poor Performance process this may not be happening in all cases.



## Appendix 2

### IMPERIAL COLLEGE LONDON

#### DISCIPLINARY & POOR PERFORMANCE POLICY & PROCEDURE

- 1. Introduction**
  - 2. Key Roles and Responsibilities**
  - 3. Definitions**
  - 4. Informal Action**
  - 5. Formal Action:**
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      - 5.1.4 Time Keeping
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    - 7.1 Convening a Hearing
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  - 8. Disciplinary Sanctions**
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    - 8.10 Termination of Employment
  - 9. Notes of the Hearing and Investigations**
  - 10. Suspension**
  - 11. Appeal**
  - 12. Glossary of Terms**
- Appendix 1 – Formal of Formal Hearing**

## 1 Introduction

- 1.1 The Disciplinary & Poor Performance Policy & Procedure applies to all staff except those staff in their probation period and those covered by the *Appendix to the College Charter and Statutes 2007* governing academic staff. The Probation Procedures and the Appendix to the Statutes are available for reference on the College intranet and from campus Human Resources Offices.
- 1.2 The Disciplinary & Poor Performance Policy and Procedure prescribes the College's policy on managing disciplinary problems including those of poor performance.
- 1.3 The College has separate procedures for managing issues of ill health, redundancy and scientific misconduct. Managers should refer to either the [Sickness Absence Policy and Procedure](#), [Change Management Policy and Procedure](#) or [Scientific Misconduct](#) for guidance.
- 1.4 The College treats equality of opportunity seriously and has an equality framework that is applicable to staff in order to promote and ensure equality of opportunity. Implementation of this Policy & Procedure must be clear and transparent and not subject to any unfair discriminatory practices.
- 1.5 Line managers and supervisors are required to familiarise and understand this policy.
- 1.6 The College Trades Unions have been consulted on this document and it follows the principles established by the ACAS Code of Practice April 2009. The Disciplinary & Poor Performance Policy & Procedure will be reviewed periodically to ensure that they are effective.
- 1.7 **Equality and Diversity**  
The College treats equality of opportunity seriously and has an equality framework that is applicable to staff in order to promote and ensure equality of opportunity. Implementation of this procedure must be clear and transparent and not subject to any unfair discriminatory practices.

Line managers and supervisors are required to familiarise and understand this procedure.

## 2 Key Roles and Responsibilities

Individual responsible	Role/Responsibility
<b>Informal action:</b>	
Manager	Practice good people management, including meeting with staff regularly to discuss work issues and to offer advice on

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Director of HR Updated and agreed with Trades Unions February 2005, August 2007, August 2008, March 2010, September 2010, December 2012, March 2013,  
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	work related matters in an attempt to avoid issues arising. To comply with the informal procedure set out in the policy, including making reasonable attempts to resolve any problems in an informal manner and giving reasonable time for improvement where relevant. Ideally managers will address/pre-empt issues before they escalate.
Member of staff	Seek help and advice from manager(s) on work related matters when necessary and listen to advice given by managers. Staff have an obligation to inform their manager if they do not understand the advice given.
<b>Formal action:</b>	
HR	Give case specific guidance throughout the case. HR rep not involved in case will, on request, explain the procedure to individual who is the subject of the investigation
Trade Union/work colleague	Offer support and assistance to individuals and attend meetings/hearings in the capacity outlined in policy
Investigating Officer (normally member of staff's manager)	Carry out investigation and based on the evidence received, make a recommendation of either no action, further action or training needed.
Member of Staff	Prepare for and attend any meetings/hearings convened. Provide a written response to the allegation
Trade Union/work colleague	Offer support and assistance to individuals and attend meetings/hearings in the capacity outlined in policy
Manager	Carry out their designated role at any meetings/hearings. Confirm any action to individual as directed by the procedure, in line with timescales outlined in the policy
HR	Carry out their designated role at any meetings/hearings, including support of the manager (Chair) and provision of administrative support (note taking). Send any written communication, as set out in the procedure, in a timely manner.
Witnesses	Attend any meetings/hearings to answer questions put to them and confirm statements previously given and to maintain confidentiality in relation to the matter.

### 3 Definitions

#### 3.1 *Disciplinary*

Disciplinary issues cover situations of poor conduct and those performance issues that arise following negligence or deliberate unwillingness on behalf of the member of staff. Throughout this policy and procedure the terms 'disciplinary' and 'misconduct' are used interchangeably and both terms refer to matters related to the disciplinary process.

#### 3.2 *Poor performance*

Poor performance issues are problems arising where a member of staff is not sustaining the acceptable level of performance required to meet the requirements of their role in the quantity and quality of work despite genuine effort.

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## **4 Informal action**

- 4.1 It is expected and understood that line managers/supervisors will meet with their staff on a regular basis to discuss work and give advice and guidance on work matters. Where there are concerns about a member of staff's performance or conduct that warrant closer consideration (with the exception of alleged serious or gross misconduct) then the line manager/supervisor will informally discuss this with the member of staff.
- 4.2 Line managers/supervisors should practice good people management to minimise the need to deal with misconduct and unsatisfactory performance. For example:
- By providing accurate job descriptions and person specifications that enable capable people to be selected for vacancies.
  - Through communicating the College's standards of behaviour, the requirements of their job description, and how they are expected to deliver these to new starters in their induction.
  - Through management of the probationary period to enable line managers to develop the member of staff and to identify and resolve problems at an early stage.
  - By holding regular team and 1-2-1 meetings
  - By undertaking annual Personal Review and Development Plan (PRDP) meetings
- 4.3 The standards against which a member of staff will be assessed are communicated by their line manager/supervisor in accordance with the reasonable requirements of the post. If the member of staff is unsure of the required standard, they should discuss this with their line manager.
- 4.4 Reasonable attempts will be made to resolve any problems through one-to-one discussion, mediation, coaching and training without attendance from Human Resources or Trade Union representatives. The arrangements will vary depending on the circumstances of each case. The line manager/supervisor and member of staff will aim to agree objectives to address the problem together with any support or training that could be provided to assist the member of staff in meeting the required standards. An agreed written record of the actions that will follow any informal meeting will normally be given to the member of staff by their line manager/ supervisor.
- 4.5 Where informal discussions are taking place with a member of staff who has disclosed a disability (as defined by the Equality Act 2010) and the concerns relate to their performance then arrangements should be made to assess the impact of that disability upon the member of staff's role. An assessment should be made of any adjustments that might reasonably be put in place.
- 4.6 The member of staff will be given reasonable time to improve, and the period of review will be agreed at the meeting. Progress will be reviewed informally and regular feedback given to the member of staff. Positive support and encouragement will be offered to the member of staff to help them meet the required standards of conduct and/or performance.

- 4.7 If, during the course of an informal meeting or following a number of informal meetings, there is no improvement following informal measures, or in cases of alleged serious or gross misconduct, consideration will be given to taking further action. This action is dependent on the nature of the issue. It may be identified that the formal part of this policy and procedure, or the Sickness Absence Policy and Procedure or Change Management Policy and Procedure, may be appropriate. Usually it will be clear which formal procedure should be used. Where there is doubt, a Human Resources representative will advise.
- 4.8 This policy and procedure refers to Disciplinary and Poor Performance issues.

## **5 Formal Action**

### **5.1 Investigations –**

Where formal disciplinary action is being considered, it is College policy that the relevant facts and any evidence should be gathered in order that an informed discussion and decision can take place. Human Resources representatives will provide case specific guidance and assist during an investigation. The following should therefore be read as an outline guide on the information gathering process.

- 5.1.1 Where a member of staff has disclosed a disability (as defined by the Equality Act 2010) then arrangements for investigations should include consideration of any requirements for reasonable adjustments to accommodate the disability.
- 5.1.2 Where a member of staff has difficulty understanding written or spoken English then appropriate accommodations should be made.
- 5.1.3 The investigating officer will normally be the immediate line manager/supervisor but an alternative person can undertake this role if appropriate. Guidance should be sought from Human Resources.
- 5.1.4 **Time keeping:** Where there is concern about time-keeping the facts will be readily available to the immediate line manager/supervisor. As part of an investigation the line manager/supervisor will need to compile records as evidence of the extent of the problem. An investigation into time-keeping will also include gathering any notes and records of previous discussions about the problem.
- 5.1.5 **Performance:** Investigation into poor performance will usually require compiling examples of unsatisfactory work and/or records of deadlines not met. As part of the investigation the line manager/supervisor should check the standards of work against any requirements notified to the member of staff. Earlier discussions held with the member of staff should be reviewed together with any explanations given to account for the problems. If there are other staff in the section it is also useful to compare the standards of performance to ensure consistency in action.
- 5.1.6 **Conduct:** Where a misconduct issue has been raised then the line manager/supervisor will initially speak to the member of staff to establish the immediate facts of the case from the employee's perspective. If, following this initial meeting, it appears that there is

cause for further review, then a full investigation will be conducted.

Breach of the College's [Information Systems Security Policy](#) on the use of collaborative internet environments or the conditions of use of IT facilities, may count as a misconduct issues.

- 5.1.7 The investigating officer should gather statements and interview the member of staff and possible witnesses. These investigation meetings should be undertaken promptly before recollections fade. The member of staff and witnesses may be accompanied during an investigation meeting by a Trade Union representative or a work colleague. Under exceptional circumstances the manager and Human Resources representative will consider requests for accompaniment by a relative or friend, this individual must not be a legal representative. A member of Human Resources may also be present to assist with the investigation.
- 5.1.8 Notes will be taken at each investigation meeting. Each person interviewed will be provided with a copy of the notes of their individual meeting and asked to confirm that these notes are an accurate record of the meeting.
- 5.1.9 The investigating officer, with assistance from Human Resources, will review the notes of the investigation meetings and any other documentary evidence that has been gathered. In complex cases, after review of the evidence, it may be necessary to meet again with a witness or the member of staff if information needs to be corroborated or clarified.
- 5.1.10 The timetable for gathering evidence should be discussed with all parties and will usually be within ten working days. Investigation of a disciplinary matter must be given priority and every effort should be made to minimise delays.
- 5.1.11 Based on their investigations an investigating officer may determine:
  - (a) that there is no case to answer;
  - (b) that the matter is appropriately dealt with by training or under other College procedures; or
  - (c) that there are sufficient grounds for convening a formal hearing.

If the investigating officer decides to refer the matter to a formal hearing then a report should be prepared summarising the investigation. The report should include all the notes of the investigation meetings and all the evidence gathered during the course of the investigation. A member of Human Resources can assist an investigating officer with the report.

## **6 Grievance**

- 6.1 In the course of dealing with a disciplinary or poor performance matter a member of staff may raise grievance issues about the conduct of the investigation or the investigating officer. A Human Resources representative will review any grievance raised during the course of a disciplinary or poor performance matter and, in consultation with the member

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of staff and/or their representative, decide how the grievance should be considered based on the circumstances of the case.

- 6.2 As a guide, where the grievance constitutes a response to the allegations under investigation then the member of staff's comments will be considered in the formal hearing or appeal. Where the grievance is an allegation of harassment or bullying (including cyber bullying) then consideration will be given to suspending the process to review the allegation under the grievance procedure (information is available from the Grievance procedure on the [intranet](#) or campus Human Resources offices). Where there are allegations of discrimination consideration will be given to bringing in another manager to deal with the case. Grievances not related to the case may be reviewed separately under the College's Grievance Procedure.

## **7 Formal hearings**

### **7.1 Convening a Hearing**

- 7.1.1 A member of staff should be given adequate time and information to prepare for a formal hearing. It is College Policy that a member of staff will be given no less than five working days' written notice of a formal hearing. They will be supplied with any information that will be considered during the hearing including, if applicable, all statements gathered during an investigation.
- 7.1.2 Where a member of staff has a disability then arrangements for a formal hearing should include consideration of any requirements for reasonable adjustments.
- 7.1.3 Where a member of staff has difficulty understanding written or spoken English then appropriate accommodations should be made.
- 7.1.4 A member of staff has a statutory right to be accompanied at a formal hearing by either a Trade Union representative or work colleague. Under exceptional circumstances the manager and Human Resources representative will consider requests for accompaniment by a relative or friend, this individual must not be a legal representative. In advance of the hearing the member of staff should advise the manager hearing the case of the name of the person who will be accompanying them.
- 7.1.5 Where it is known that the member of staff is an official of the Trade Union then the Human Resources representative will bring a copy of the request to attend the formal hearing to the attention of the relevant full-time regional officer.
- 7.1.6 If a member of staff is unable to arrange accompaniment on the date proposed, or fails to attend the meeting for reasons outside of their control, then reasonable efforts will be made to rearrange the formal hearing for a mutually suitable time.
- 7.1.7 In the event that a member of staff is unable to attend a formal hearing or cannot attend a rearranged hearing then they may be given the opportunity to respond to the allegation(s) in writing. If a member of staff does not attend a rearranged hearing or submit a response to the allegation(s) in writing within an agreed time scale, then the

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Chair of the hearing may make a decision on appropriate action in the member of staff's absence. This decision will be made without the benefit of the member of staff's oral or written statement if they have not attended or provided written documentation.

7.1.8 The formal hearing will be chaired by a line manager or another senior manager nominated by the Head of Department/Division. The manager hearing a disciplinary or stage two poor performance case should ideally have had no prior involvement in the investigation. A Human Resources representative will be present.

7.1.9 The hearing should be an objective review of the case conducted in a way that allows all parties the opportunity to hear and comment on the issues under consideration before a decision is made.

## **7.2 Constitution of Panel**

### **7.2.1 Conducting a Formal Stage One Poor Performance Hearing**

A formal stage one poor performance hearing will normally be less formal than a disciplinary hearing, although the investigation process and compilation of evidence should normally be as thorough and as detailed as that required for a formal stage two poor performance hearing and will comprise the following parts:

- The member of staff's line manager who will chair the hearing and present the issues of concern and who may be accompanied by a Human Resources representative.
- The member of staff who may be accompanied by a Trade Union representative or work colleague.
- Depending on the complexity of the case and the level of involvement of the Human Resources representative, administrative support may be present to take notes of the meeting.

### **7.2.2 Conducting a Stage Two Poor Performance Hearing and Stages One and Two Disciplinary Hearings**

Formal stage two poor performance and stages one and two disciplinary hearings will normally comprise the following parties:

- a senior manager who will chair the hearing and decide on the appropriate sanction. The senior manager will be accompanied by a Human Resources representative. The senior manager and their supporting Human Resources representative will have no prior involvement in the investigation of the case.
- the member of staff and the member of staff's work colleague or Trade Union representative. Exceptionally the Trade Union may request that two representatives (either regional or local) are present at a formal hearing. The Chair of the Hearing will consider this request based on the complexity of the case. If agreement is given then one representative will take the main role of spokesperson and the other



representative will provide a supporting role, assisting the main representative with paperwork and background information.

- the immediate line manager/investigating officer will present the issues of concern. In complex cases the investigating officer may be accompanied by a Human Resources representative who has assisted with the investigation.
- suitable administrative support should be present to take notes of the hearing.

7.2.3 Where dismissal is a possible outcome the hearing will be chaired by the Head of Department/Division or a senior member of staff as their nominee.

### **7.3 Conducting a formal hearing**

7.3.1 At a formal hearing the line manager/investigating officer should explain the complaint against the member of staff and go through the evidence that has been gathered calling witnesses as appropriate. If necessary, the Human Resources representative who assisted with the investigation may take an active role in the hearing to assist in the presentation of the case. This may include asking questions of witnesses to clarify evidence.

7.3.2 The member of staff should be allowed to set out their case and answer any allegations that have been made. The member of staff should also be allowed to ask questions, present evidence, call witnesses and be given an opportunity to raise points about any information provided by witnesses. A format for conducting a formal hearing is attached at Appendix 1.

7.3.3 The person accompanying the member of staff may not answer questions on behalf of the member of staff but can address the hearing to present the member of staff's case, question witnesses, respond to views expressed and sum up the case. The member of staff may confer with the person accompanying them during the hearing.

7.3.4 Witnesses may be called to a formal hearing and should be available to answer any questions on their statement. During a hearing, witnesses will be requested to make an oral statement, or to confirm the contents of a previously written statement. Witnesses may be questioned by the member of staff, their representative, the management representative or Human Resources representative. Witnesses usually withdraw from the hearing after questioning.

7.3.5 During the formal hearing it may be appropriate to arrange an adjournment to seek further information. All parties can request an adjournment through the hearing's Chair. The Human Resources representative will provide guidance if this is necessary.

## **8 Disciplinary Sanctions**

- 8.1 Following a formal hearing (including a formal stage one poor performance hearing), the senior manager chairing the hearing must decide whether formal action is necessary. Where it is decided that no action is justified then the member of staff should be informed in writing. Where it is decided that formal action is justified, the manager will need to consider what form this should take. Before making any decision the manager should take account of the member of staff's disciplinary/performance and general record, length of service, actions taken in any previous similar cases, the explanations given by the member of staff and whether the intended action is reasonable under the circumstances. The Human Resources representative will provide guidance to the senior manager on appropriate action.
- 8.2 If a formal warning is considered appropriate then it will be confirmed in writing by the line manager with advice from the Human Resources representative.
- 8.3 The warning will state:
- the reason for the warning, outlining the details of the concern with the member of staff's conduct or performance;
  - the improvement that is expected from the member of staff;
  - the assistance and support arrangements that are available to assist improvement;
  - the time scale over which the improvement must be achieved;
  - the likely consequence if there is no significant and sustained improvement in conduct or performance;
  - the length of time the warning will be active, normally one year;
  - the member of staff's right of appeal against the warning and the procedure for doing so.
- 8.4 A copy of the letter with the outcome of the formal hearing will be sent to the member of staff as soon as practicable after the hearing and normally within ten working days.
- 8.5 It is College policy that a member of staff should normally receive two formal written warnings before consideration is given to the termination of employment. It should be made clear that the second warning is a final warning and dismissal may follow if improvement is not forthcoming.
- 8.6 Exceptionally, the nature of the concern with the member of staff's conduct or performance may warrant consideration being given to issuing a final written warning, or to dismissal, or to summary dismissal for matters of serious or gross misconduct, in circumstances where no previous warnings have been issued.
- 8.7 Where a member of staff has an active disciplinary or poor performance warning on file then consideration will be given to withholding incremental progression through the salary spine. The member of staff will be informed in advance in the warning letter if incremental progression is to be withheld. This will not apply retrospectively. The review period for the reinstatement of the incremental progression will also be noted in the letter. A line manager may reinstate incremental progression where there is sustained improvement in conduct or performance. This may be implemented before the

expiry of the formal warning but it will not be backdated to the normal incremental date if this has passed.

8.8 **Gross misconduct** - the following offences are considered serious enough that they may warrant dismissal without prior formal warnings (the list is not to be considered exclusive or exhaustive):

- theft, fraud and deliberate falsification of records;
- physical violence;
- bullying (including cyber bullying) and/or harassment;
- deliberate damage to property;
- serious insubordination as demonstrated by wilful refusal to carry out reasonable requirements of the post or management requests;
- misuse of College property or name;
- misuse of computer facilities including use of internet and email (see <http://www.ict.ic.ac.uk/services/security/policy> );
- bringing the College into disrepute;
- serious failure of competence through alcohol or illegal drugs or breach of a local requirement to be alcohol free at work;
- negligence with serious consequences which causes or might cause unacceptable loss, damage or injury;
- serious infringements of health and safety rules;
- serious breach of confidence (subject to the Public Interest (Disclosure) Act );
- knowingly or recklessly disclosing personal data in breach of the Data Protection Act;
- conviction of any criminal offence which the College views as making the individual unfit to hold their post;
- vexatious or malicious behaviour;
- fraudulent absence from work;
- proven serious discriminatory behaviour on the grounds of race, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief [including lack of belief], sexual orientation, disability or age.

*(Note that allegations of theft, violence or criminal damage should be reported to Security and may also warrant referral to the police).*

8.9 The potential for summary dismissal does not negate the requirement for a full investigation or the right to a hearing, prior to any decision being made, in accordance with this procedure. Managers should seek advice from Human Resources.

- 8.10 **Termination of employment.** Where dismissal is a possible outcome the case will be heard by the Head of Department/Division or a senior member of staff as their nominee.
- 8.11 If, following a formal hearing, dismissal is considered appropriate then the Head of Department/Division or nominee has the authority to dismiss with agreement from the Human Resources representative. Where there is a decision to dismiss, it will be confirmed in writing. The letter will be from the Head of Department/Division or nominee, but may be prepared by a Human Resources representative. The letter will contain the reasons for the dismissal, the date employment will end and the right to appeal.
- 8.12 In cases of gross misconduct the member of staff may be dismissed summarily without notice.

## **9 Notes of the Hearing and Investigation**

- 9.1 Notes and records of matters dealt with under the Disciplinary & Poor Performance Policy & Procedure should be handled on a confidential basis and stored securely. The covert recording of informal or formal meetings, e.g. by use of a mobile phone or other recording device will not be permitted, and will result in disciplinary action.

The outcome of all action will be monitored centrally by the College to comply with statutory requirements. Spent disciplinary and poor performance records may be retained by the Human Resources Division in a separate file for reference in the event of a dispute or legal proceedings but not for reference in the event of further action. Retention and subsequent removal of this information should be done in accordance with requirements under the Data Protection Act.

## **10 Suspension**

- 10.1 In certain cases, for example where the nature of the allegation(s) are serious and may constitute gross misconduct, it may be appropriate to suspend an employee on full pay, pending an investigation. Apart from a situation where a member of staff does not have a legal or statutory right to work and therefore pay will be stopped, a decision to suspend a member of staff should not be taken lightly and should only be used where absolutely essential. The period of suspension will normally be limited to a maximum of four weeks. Suspension for a period longer than this must be approved by the Director of HR Operations or an equivalent senior manager within HR.
- 10.2 Suspension is not a disciplinary sanction and does not represent disciplinary action. Regular contact should be maintained with the member of staff to advise them of the progress of the investigation.
- 10.3 Where two members of staff are involved, careful consideration should be given to the longer term impact on a fair disciplinary process if only one member of staff is to be suspended because of operational requirements.
- 10.4 The immediate line manager/supervisor will normally advise a member of staff that they are to be suspended in a meeting (see 5.5 below). Unless a serious gross misconduct

incident arises out of normal working hours, the line manager should seek guidance from HR on the necessity of suspension before arranging a meeting.

- 10.5 Present at the meeting will be a Human Resources representative and the member of staff, who will be offered the opportunity to be accompanied by a work colleague or Trade Union representative. Under exceptional circumstances the manager and Human Resources representative will consider requests for accompaniment by a relative or friend, this individual must not be a legal representative. In circumstances where representation or HR attendance cannot immediately be arranged, the member of staff will be provided with written information on the reason for suspension and also offered the opportunity of a further meeting, at the earliest opportunity, when HR and/or representation is available. Notes taken at a suspension meeting should be provided to the member of staff.
- 10.6 Staff on suspension should be informed in writing of the reason for the suspension and should be provided with a copy of this Policy and Procedure. The member of staff should be advised of the expected duration of the suspension, and any conditions about attending the workplace, contact with other staff or witnesses. The member of staff should be advised that they must make themselves available for contact during normal working hours and that any applications for annual leave during the period of suspension should be made in the usual way.

## 11 Appeals

- 11.1 In all cases of formal disciplinary or poor performance action the member of staff has the right of appeal against the decision to issue a formal written warning or to dismiss. In the written notification of the formal disciplinary or poor performance action, the member of staff will be informed of the name of the person to whom an appeal should be addressed and the timescale for doing so. If the member of staff wishes to appeal they must set out the grounds of their appeal in writing.
- 11.2 ***Appeals against a written warning*** will be heard by a senior line manager with a member of Human Resources, both of whom will have had no previous involvement in the case. ***Appeals against dismissal*** will be heard by a College panel consisting of three members of the College not previously involved in the case, with a Human Resources representative present as Secretary to the Appeal Panel. A member of staff has a statutory right to be accompanied at the appeal hearing by either a Trades Union representative or work colleague. All appeal hearings will be convened as soon as practicable.
- 11.3 If new evidence is introduced during an appeal hearing it may be referred back to the original formal hearing in order that they may review the disciplinary sanction. The appeal hearing may be reconvened in the event that the member of staff does not accept the subsequent decision of the original hearing.
- 11.4 Appeal hearings will be conducted in accordance with the following terms of reference:
- To review whether the matter under consideration was adequately investigated and substantiated;

- To review whether the College's procedures were correctly and fairly implemented;
- To consider whether the disciplinary or poor performance action was reasonable in the circumstances known to management at the time of the hearing.

11.5 In the event that an appeal panel decides to reinstate a member of staff who has been dismissed then this will be done in a manner which maintains continuous service and without loss of pay (assessment will be made of any income received by the member of staff while not in College employment).

11.6 The College regards the appeal decision as final.

## 12 Glossary of Terms

Cyber bullying	using the internet and related technologies to harm another person in a deliberate, repeated and hostile manner
Poor Performance	Not sustaining an acceptable level of performance to meet requirements of role
Disciplinary/misconduct issues	Situations of poor conduct and performance issues resulting from negligence or deliberate unwillingness of member of staff
Disciplinary sanctions	Approved course of action following formal hearing
Gross misconduct	Offences considered serious enough to possibly warrant dismissal without prior formal warnings
Summary dismissal	Dismissal without notice

## Appendix 1

### FORMAT OF FORMAL HEARINGS

- 1 The Chair of the Panel introduces all those present, explains the purpose of the hearing and how it will be conducted.
- 2 The management representative will put the case in the presence of the member of staff and his/her representative and will call any witnesses in support of the case.
- 3 Both the management representative and any witnesses may be questioned by the member of staff or their representative and by the Panel on the information given by them.
- 4 The member of staff or his/her representative shall put the case in the presence of the management representative and may call any witnesses in support.
- 5 Both the member of staff, his/her representative and any witnesses may be questioned by the management representative and by the Panel on the information given by them. Witnesses will withdraw after giving evidence.
- 6 The management representative may then make a closing statement followed by the member of staff or his/her representative.
- 7 Both parties will then withdraw while the Panel, together with the secretary to the Panel deliberate in private to consider the evidence given.
- 8 The Panel may recall the parties to clarify evidence or seek further information. If recall is necessary, both parties shall be recalled.
9. The Panel will announce their decision to the member of staff and his/her representative and the management representatives at the end of the proceedings or later as they determine appropriate. The decision will be confirmed in writing no later than fourteen days after the hearing.
10. In the case of an appeal hearing the decision is final.