



Managing Performance and Conduct Policy

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Policy Statement

UK Research and Innovation (UKRI) aims to provide a positive and inclusive working environment which will enable employees to perform to the best of their ability and to realise their full potential.

To this end, this policy sets out the framework by which employee performance will be managed, including line managers' responsibilities for ensuring that employees understand the requirements of their roles and in undertaking regular performance reviews against individuals' work and personal development objectives.

For its part, UKRI expects all employees to conduct themselves in a way that ensures that the organisation's business is carried out efficiently and effectively, and to adhere to the highest standards of professional and ethical practice.

Recognising that, on occasion, problems may arise in relation to an employee's performance or conduct, this policy details the capability and disciplinary procedures which will be followed. The aim will be to resolve any such problems promptly, fairly and fully.

Before following this policy, please consult the UKRI Code of Conduct and the HR Policy Framework.



Management Statement

The Managing Performance and Conduct Policy and Procedure (the 'Managing Performance and Conduct Policy') has been agreed with the Trade Union Side and complies with statutory legislation.

This policy applies to all UKRI employees and includes those employed on temporary or fixed term contracts but excludes visiting workers, students or those workers provided by a third-party agency.

References

UKRI Code of Conduct
UKRI Grievance, Harassment and Bullying Policy
UKRI Sickness Absence Policy
UKRI Data Protection Policy
UKRI Personal use of Social Media Policy
The Freedom of Information Act 2000
EU General Data Protection Regulations 2016/679
UK Data Protection Act 2018
Environmental Information Regulations 2004

Version Number	Status	Revision Date	Summary of Changes
Version 1.0	Complete	January 2020	New policy created



Managing Performance and Conduct

1. Principles

- 1.1 UKRI is committed to creating a workplace culture that is fair, flexible, safe, supportive and free from discrimination and employment disadvantage, where all employees are valued and treated with respect.
- 1.2 All new employees will have their roles and responsibilities explained and will be given any written guidance available and considered appropriate in relation to their area of work.
- 1.3 Employees will be given appropriate training and support to enable them to carry out their work.
- 1.4 UKRI will consider any reasonable adjustments or other special requirements needed by employees: for example, assistance in attending meetings, providing documentation in an alternative format. All parties are encouraged to be discrete and to only discuss matters under this policy with those directly involved.
- 1.5 Employees will be informed of the process should any procedures be implemented in accordance with this policy.

2. Principles – Managing Conduct

- 2.1 Line managers will make employees aware of the standards of conduct expected of them and where these evolve over time inform them of the required changes.
- 2.2 Where individual behavioural or conduct issues arise, UKRI's aim will be to resolve these promptly, effectively and, where possible, informally.
- 2.3 Formal disciplinary actions will only be taken against an employee once the case has been fully investigated.
- 2.4 The employee will be advised in writing of the nature of any allegations against them.
- 2.5 The employee will be given the opportunity to respond to any allegations and state their case before any decision is made.
- 2.6 In reaching decisions on appropriate disciplinary sanctions, managers will consider any mitigating circumstances.
- 2.7 No employee will be dismissed for a first breach of discipline except in the case of Gross Misconduct when the penalty will be summary dismissal, i.e. dismissal without notice or pay in lieu of notice.
- 2.8 An employee will have the right to appeal to a higher level of management against any disciplinary sanction imposed.
- 2.9 The procedure may be started at any stage if the employee's alleged misconduct warrants such action.
- 2.10 An employee is entitled to call witnesses to meetings within the disciplinary procedure, who the employee considers will be able to supply information that supports their case.
- 2.11 Attempting to influence, victimise or intimidate witnesses will be considered to be gross misconduct in line with the Disciplinary Procedure.

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3. Principles – Managing Performance

- 3.1 Line managers are responsible for the monitoring and management of the performance of those employees who report to them.
- 3.2 All employees will have their performance reviewed, their developmental needs considered, and clear objectives set on an annual basis as part of the Appraisal and Personal Development Review (APDR) process.
- 3.3 In cases of underperformance, wherever possible, an approach of coaching and counselling should be adopted before formal action is taken under this policy.
- 3.4 Line managers must consult HR before commencing any formal procedures.
- 3.5 At all stages, the exact nature of an employee’s underperformance will be explained and discussed with the employee.
- 3.6 Should an employee’s performance relapse within a reasonable timescale, UKRI reserves the right to begin formal procedures at any point.
- 3.7 All discussions and written records about performance issues will be treated confidentially. Notes should be taken of meetings and made available to the employee. Any disagreements will be noted.
- 3.8 An employee may appeal against any decision or action at any stage of the formal procedures. For details of the Appeals procedure, please refer to the HR Policy Framework.
- 3.9 There will be occasions when employees have a short-term dip in performance. These are usually resolved through discussion with the line manager through day to day interactions and will not result in further action. The Capability Procedure will be used for situations in which short-term dips extend into a persistent shortcoming or are repeated.

4. Delegation

- 4.1 For information on the delegated authority, please refer to the UKRI HR Delegated Authority Framework.

5. Applying the correct policy and procedure

- 5.1 Please note that some issues will be dealt with under the following policies and/or procedures:

TYPE OF ISSUE	POLICY OR PROCEDURE
Performance issues relating to skill, aptitude or health quality	Capability procedure within this policy (see paragraph three)
Misconduct or performance issues relating to negligence, lack of effort or failure to cooperate with management	Disciplinary procedure within this policy (see Appendix A)
Performance issues during probation period	Probation Policy
Performance issues related to scientific misconduct	Policy and Guidelines on Governance of Good Research Conduct
Attendance issues due to ill – health	Sickness Absence Policy

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- 5.2 Where there is more than one issue, line management, in consultation with HR, will decide on the most appropriate policy or policies to follow, informing the employee.

6. Misconduct and Performance Issues

- 6.1 In instances of misconduct or underperformance, additional training, coaching and advice may support the individual to achieve the required performance level. This should be agreed in a conversation between the line manager and the employee.
- 6.2 If informal action does not bring about an improvement:
- 6.2.1 formal disciplinary action may be taken in the case of misconduct or;
- 6.2.2 the formal capability procedure may be followed in the case of under-performance or a lack of capability.
- 6.3 It is essential that any alleged instances of unsatisfactory performance or misconduct are managed promptly, objectively and as close to when the incident happened as possible.
- 6.4 Please see [Appendix A](#) and [Appendix B](#) for further information on the Disciplinary Procedure and process. [Appendix C](#) has more information on conducting an investigation, and [Appendix D](#) provides guidance on setting up a disciplinary hearing.

7. Capability

- 7.1 This procedure relates to performance issues relating to skill, aptitude or health. It is separate to the Disciplinary Procedure.
- 7.2 UKRI recognises that under performance and capability should not be treated as disciplinary matters unless it is determined that any failure to reach the required level of performance is caused by misconduct. For example, negligence, lack of effort or failure to cooperate with management. Such cases will be treated under the Disciplinary Procedure.
- 7.3 Please see [Appendix F](#) for further information on the Capability Procedure and Process.

8. Records

- 8.1 All letters confirming formal warnings are placed on the employee's file for the duration of the warning.



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Appendix A – Disciplinary Procedure

- A1.** All employees are expected to comply with certain standards of behaviour and conduct, which if not met will usually result in disciplinary action. Line managers and employees have a joint responsibility to ensure that employees are aware of and understand the rules and standards expected of them in their particular workplace.
- A2.** Gross Misconduct applies to those offences which are considered serious enough that the employment relationship is irretrievably damaged and make any further working relationship and/or trust between the employee and UKRI impossible.
- A3.** These offences may result in the employee being summarily dismissed under Stage 4 of the formal Disciplinary Procedure (See [Appendix B](#), paragraph 2.2.4).



A4. Examples of Misconduct and Gross Misconduct

Misconduct (examples include but are not limited to):	Gross Misconduct (examples include but are not limited to):
<p>Poor timekeeping/etiquette</p> <p>Poor attendance/unauthorised absences</p> <p>Misuse of UKRI facilities (including email and internet)</p> <p>Behaviours that do not support company values</p> <p>Failure to adhere to organisational and/or statutory rules applicable to an employee's work</p> <p>Failure to follow reasonable management instruction</p>	<p>Theft or fraud or deliberate falsification of UKRI records or equipment</p> <p>Physical violence or bullying</p> <p>Deliberate and serious damage to property</p> <p>Serious misuse of the UKRI's property or name</p> <p>Refusal to carry out any lawful and reasonable instructions</p> <p>Bringing UKRI's reputation into disrepute (including over social media and outside of work)</p> <p>Evidence of substance abuse that results in the employee being unable to perform their duties incapacitated</p> <p>Causing loss, damage or injury through serious negligence</p> <p>Serious wilful breach of health and safety rules</p> <p>Serious breach of confidentiality</p> <p>Serious breach of the Acceptable Use of Information and Communication Technology (ICT) Systems and Services Policy</p> <p>Deliberate unlawful discrimination, harassment or bullying</p> <p>Assisting, encouraging or procuring any other member of staff to commit any act which would justify Gross Misconduct</p> <p>Failing to report any outside legal action pending against you which may bring UKRI into disrepute</p> <p>Actions that cause a severe breakdown of trust in confidence between the employee and UKRI, that are irreparable</p>

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Appendix B– Disciplinary Processes

B1. Informal Procedure

- B1.1 Where minor breaches of behaviour and conduct are alleged to have occurred, these will be reviewed and dealt with informally by the employee's line manager.
- B1.2 Before disciplinary action is considered, line managers will:
 - B1.2.1 meet and discuss the matter with the employee,
 - B1.2.2 explore all reasonable options to encourage and support the employee in reaching the required standard,
 - B1.2.3 give the employee adequate time to improve.
- B1.3 The meeting should normally be conducted on a one to one basis and the line manager should record it by using a file note, so that the dates, frequency and brief content of meetings can be recalled.
- B1.4 Such discussions do not form part of the disciplinary procedure. In the event that a matter escalates and is dealt with under the formal Disciplinary Procedure, informal discussions may be referred to.

B2. Formal Procedure

- B2.1 The formal Disciplinary Procedure will be invoked where:
 - B2.1.1 insufficient improvement occurs as a result of informal action; or
 - B2.1.2 a more serious breach of discipline is deemed to have occurred.
- B2.2 The stages of UKRI's Disciplinary Procedure are outlined below.
 - B2.2.1 **Stage 1: Verbal Warning:**
 - B2.2.1.1 for minor breaches of discipline or
 - B2.2.1.2 where informal discussions have not led to desired improvements,
 - B2.2.1.3 note of verbal warning discussion placed on employee's file, for a maximum of six months, then disregarded for disciplinary purposes.
 - B2.2.2 **Stage 2: Written Warning:**
 - B2.2.2.1 where breach of discipline is repeated or insufficient improvement following verbal warning,
 - B2.2.2.2 accumulation of minor offences or
 - B2.2.2.3 where the offence is deemed to be more serious,
 - B2.2.2.4 a written warning is placed on employee's file, for a maximum of 12 months, then disregarded for disciplinary purposes.

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B2.2.3 Stage 3: Final Written Warning:

- B2.2.3.1 where a further breach of discipline occurs, or acceptable standards are not being met following a first written warning or
- B2.2.3.2 more serious offence but one which does not warrant dismissal,
- B2.2.3.3 a final written warning placed on employee's file, for a maximum of 12 months, then disregarded for disciplinary purposes.

B2.2.4 Stage 4: Dismissal with Notice or Summary Dismissal, or Summary Dismissal:

B2.2.4.1 Dismissal with Notice:

B2.2.4.1.1 for standards of conduct which are still unsatisfactory following a final written warning (Stage 3),

B2.2.4.1.2 dismissal is with notice or payment in lieu of notice.

B2.2.4.2 Summary Dismissal:

B2.2.4.2.1 in cases where the offence is sufficiently serious or

B2.2.4.2.2 where there is reasonable belief of Gross Misconduct,

B2.2.4.2.3 dismissal is without notice (and without pay in lieu of notice but with accrued holiday pay).

Note: the above procedure may be invoked at any stage depending on the seriousness of the allegations.

B3. Authority Levels

B3.1 Line managers who have authority to issue sanctions within UKRI's Disciplinary Procedure are described in UKRI's HR Delegated Authority Framework.

B4. Suspension

B4.1 Suspension is where an employee continues to be employed on full pay and contractual benefits but is not permitted to attend work or undertake any work.

B4.2 Suspension should not be used as a disciplinary sanction. If an employee is suspended, it does not mean they have done something wrong or that UKRI assumes they have done something wrong.

B4.3 UKRI should only consider suspension from work if there is an allegation of gross misconduct, and where the employee's presence might seriously hamper any investigation, and

B4.3.1 working relationships have irretrievably broken down, or;

B4.3.2 the employee could tamper with evidence, influence witnesses and/or sway the investigation into the allegation, or;

B4.3.3 there is a risk to other employees, property or customers, or;

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- B4.3.4 the employee is the subject of criminal proceedings which may affect whether they can do their job.

- B4.4 The line manager must consult other appropriate parties and HR to form an initial view on whether the situation warrants suspending the employee.

- B4.5 If suspension is not deemed appropriate, then alternative working arrangements may be considered. These may include temporarily:
 - B4.5.1 being moved to a different area of the workplace,
 - B4.5.2 working from home,
 - B4.5.3 changing their working hours,
 - B4.5.4 being placed on restricted duties,
 - B4.5.5 working under supervision,
 - B4.5.6 being transferred to a different role within the organisation (the temporary role should be of a similar status to their normal role).

- B4.6 Suspending an employee
 - B4.6.1 If a suspension is necessary, the employee should be verbally advised of the suspension, the reason for it and the basis on which they will remain suspended. The suspension will normally come into effect immediately. This must be confirmed in writing.
 - B4.6.2 On suspending an employee, the line manager should inform the employee that they will have the opportunity to provide an explanation for the alleged offence as part of the investigation.
 - B4.6.3 An employee will be suspended from work on full pay and in receipt of their contractual benefits for the shortest period possible,
 - B4.6.4 A thorough investigation will be carried out as swiftly as possible. Line managers should advise the employee in writing of the progress of the investigation.
 - B4.6.5 The suspension period will be kept to a minimum and will be reviewed after 10 days and regularly thereafter.
 - B4.6.6 The employee must be advised that:
 - B4.6.6.1 they should not discuss the suspension with any employees and associated third parties of UKRI, other than their Trade Union representative, the accompanying work colleague or an official employed by a Trade Union;
 - B4.6.6.2 they should not enter UKRI premises without the express permission of the investigating manager;
 - B4.6.6.3 they should remain available during normal working hours;
 - B4.6.6.4 failure to comply with these availability requests will be considered a separate disciplinary matter and;

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- B4.6.6.5 their access to UKRI's IT systems will be restricted.
- B4.6.7 The manager should accompany the employee in leaving the building and should ensure the employee is:
 - B4.6.7.1 taken to collect any personal belongings,
 - B4.6.7.2 asked to return all UKRI property, including security passes and keys,
 - B4.6.7.3 escorted off the premises.
- B4.6.8 Line managers should immediately confirm in writing the suspension and include the following:
 - B4.6.8.1 the reason for and anticipated length of the suspension,
 - B4.6.8.2 the fact that the employee will continue to receive full pay and contractual benefits,
 - B4.6.8.3 the agreed 'contact' arrangements,
 - B4.6.8.4 the fact that a full and prompt investigation will be carried out and, where possible, by whom,
 - B4.6.8.5 that confidentiality will be maintained throughout the investigation process,
 - B4.6.8.6 that the Employee Assistance Programme is available for support.
- B4.6.9 UKRI will aim to conclude the investigation in as short a time as possible. In exceptional circumstances, if it is necessary for the suspension to be extended, the employee should be advised in writing giving the reasons for the extension.

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Appendix C – Investigation

C1. Purpose

- C1.1 To enable management to investigate impartially and in a timely manner any alleged or suspected misconduct on the part of an employee.
- C1.2 To try to establish all the facts of a particular case, before a decision is taken as to whether there are proper grounds to invoke the formal disciplinary procedure.

C2. Principles

- C2.1 The person who conducts the investigation (the investigating manager) will not be the same person as the manager who might conduct any subsequent disciplinary hearing and will normally be at the same or a more senior level. Investigating managers must have no prior knowledge of the case.
- C2.2 In normal circumstances, investigations will be carried out by internal managers. Where this is not possible or considered inappropriate, for example, in very sensitive cases, an investigator (with the appropriate skills and/or experience) external to UKRI may be appointed.
- C2.3 Managers carrying out an investigation will have received appropriate training and may wish to review the online ACAS guide on how to carry out an Investigation. HR will also provide advice and guidance to the investigating manager before, during and after the investigation.
- C2.4 Terms of reference will be issued to the investigating managers.
- C2.5 All investigations will be carried out in a confidential manner.

C3. The Investigation Procedure

- C3.1 Upon receipt of an allegation or suspicion of an event which warrants investigation, the employee's line manager should inform the employee:
 - C3.1.1 that an allegation or suspicion has come to light and that an investigation will now take place,
 - C3.1.2 of the nature of the allegation(s) and relative seriousness of it/them, and possible outcomes,
 - C3.1.3 the name and position of the manager that will be conducting the investigation,
 - C3.1.4 that the purpose of the investigation is to establish the facts.
- C3.2 In all circumstances, the investigating manager should invite the employee to attend an investigatory meeting.
- C3.3 The investigatory meeting is not a disciplinary hearing.

C4. Investigatory meeting

- C4.1 The nature of the allegation and where appropriate its potential seriousness and associated outcome should be confirmed.

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- C4.2 The employee has the right to provide a statement or a submission to give their version of events. This should be signed and dated.
- C4.3 The employee has the statutory right to be accompanied by a work colleague, a representative of a Trade Union or an official employed by a Trade Union.
- C4.4 The employee should be asked to name any relevant witnesses.
- C4.5 The investigation will normally be conducted promptly without unreasonable delays and completed within 10 working days.

C5. Conducting the investigation

- C5.1 The investigating manager should obtain evidence by interviews, as appropriate, and obtain other relevant data/information.
- C5.2 The investigating manager should:
 - C5.2.1 examine all relevant documentary evidence; and
 - C5.2.2 check with the employee if there are specific questions that they would like the investigating manager to ask of the witnesses.
- C5.3 They should also familiarise themselves with the Acceptable Use of ICT Systems and Services Policy. This outlines the circumstances in which monitoring of email correspondence or electronic files may occur.
- C5.4 Reasonable access is normally legitimate. Care should be taken to limit the investigation to those work-related issues that need to be addressed. An employee's private and home life must be respected.
- C5.5 The investigating manager should produce a written summary of all the evidence and present the findings to the manager responsible for deciding how to take the matter forward. In normal circumstances, this will be the employee's line manager.

C6. Witnesses

- C6.1 Where there have been witnesses to an event, they may be interviewed as part of the investigation. The interviewee will be asked to confirm that the notes of the interview are an accurate record and which should clearly state their account of events including the questions posed of the witnesses. Additionally or alternatively, witnesses may be asked to provide a signed and dated witness statement.
 - C6.1.1 Witnesses should be made aware that should the case proceed to a disciplinary hearing; the interview notes or their statement will be shared to the alleged perpetrator. Where the case is not proceeding to a disciplinary hearing the witness statements will be kept confidential, although their content may be referred to within the investigatory report.
- C6.2 UKRI recognises that witness statements will be only be anonymised in exceptional circumstances.
- C6.3 Should a witness be unwilling to confirm the accuracy of meeting notes, or make a statement, Investigating Managers should consider carefully as to whether they can use the information the witness has provided and its impact on the case.

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- C6.4 Third party witnesses should not be compelled to provide statements. They should be dealt with sensitively and their consent obtained before using or referring to any statements they have given.

C7. Possible Outcomes

- C7.1 Once the investigation is complete, the line manager should decide what further action to take. Options include:
- C7.1.1 **no disciplinary action to be taken** - having read the investigatory report, it may be deemed that there is no case to be heard,
 - C7.1.2 **arrange a disciplinary hearing** - if it is considered that the matter warrants a disciplinary hearing, this should be done without delay and preferably within 10 working days.
- C7.2 In order to give employees time to prepare, prior to the disciplinary hearing, they will be given a copy of the documentary evidence including witness statements.
- C7.3 In cases where no disciplinary action is required, it may still be appropriate to advise or remind the employee of the standards required of them in the future and/or put in place formal or informal training. Any agreed actions will be confirmed in writing.
- C7.4 If there is no case to answer a letter should be sent to inform the individual of that outcome.

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Appendix D – Disciplinary Hearing

D1. Setting up a disciplinary hearing

- D1.1 If it has been decided that there is a case to be heard, the line manager will, in discussion with HR, arrange for a manager to be appointed to hold a disciplinary hearing. In order to avoid a conflict of interest this manager should have had no part in the investigation.
- D1.2 The letter notifying the requirement to attend a disciplinary hearing will include:
- D1.2.1 the specific allegations or charges to be answered,
 - D1.2.2 the date, time and location of the meeting,
 - D1.2.3 copies of any evidence collected during an investigation, including any witness statements,
 - D1.2.4 information about the potential consequences of a finding that the allegation is upheld. For example, if there is an allegation of Gross Misconduct, confirmation that this could result in Summary Dismissal.
 - D1.2.5 confirmation of the right to be accompanied by a work colleague, a representative of a Trade Union or an official employed by a Trade Union. The employee should confirm that person's attendance and identity before the hearing commences. The representative will be able to:
 - D1.2.5.1 put forward and sum up the employee's case,
 - D1.2.5.2 respond on the employee's behalf to any view expressed at the hearing,
 - D1.2.5.3 confer with the employee during the hearing,
 - D1.2.5.4 They will not be able to answer questions on the employee's behalf.
- D1.3 The employee may also notify the line manager of any questions they would want asked of any witness or work colleague at the hearing. If the employee wishes to call witnesses to attend the disciplinary hearing, this should be arranged with the line manager in advance of the meeting.
- D1.4 Employees will be given written notice of the requirement to attend in order for them to prepare for the hearing and to organise representation. The disciplinary hearing would normally then take place within 10 working days of the written notification. The specific timing will depend on the amount of evidence and any other surrounding circumstances.
- D1.5 The employee may request a postponement of up to five working days where their chosen companion is not available to attend on the proposed date and time.

D2. The Purpose of the Disciplinary Hearing

- D2.1 The purpose of the disciplinary hearing is for evidence to be presented and considered. The manager conducting the disciplinary hearing will remind the employee of each of the allegations they face and will go through the evidence that had been gathered.

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- D2.2 The employee will have the opportunity to set out their case, by responding to the allegations made and to put forward an explanation of their actions/behaviours. They will be entitled to ask questions about the allegations they face and any other questions that they have, and to put forward any mitigating circumstances.
- D2.3 At the end of the meeting, the Chair should consider the alleged offence in light of the employee's response, the evidence provided, and, if they consider it to be necessary, investigate matters further before coming to their decision.

D3. Confirmation of Decision

- D3.1 UKRI will confirm its decision in writing to the employee normally within five working days of the disciplinary hearing.
- D3.2 Possible outcomes are:
- D3.2.1 that the allegations have not been upheld and there is no action to be taken, or
 - D3.2.2 that the allegations have been upheld in full or in part and a sanction will be applied.

D4. Warnings

- D4.1 Depending upon the severity of the matter or matters which have led to the Disciplinary Procedure being invoked and/or the employee's current disciplinary record (whether relating to the same or similar conduct or behaviour) or lack of it, the employee may be issued with a Stage 1 oral warning, a first written warning or a final written warning.
- D4.2 A written warning or a final written warning should set out the nature of the misconduct or serious misconduct, any penalty (e.g. withholding pay award), and the change in behaviour required. The employee will also be informed of the consequences of further misconduct.
- D4.3 It may be appropriate to advise or remind the employee of the standards required of them in the future and/or put in place formal or informal training and/or other support mechanisms.
- D4.4 In addition to receiving a warning, the employee may be required to undergo a specified course of training specifically related to the behaviour or conduct in question and/or an agreed course of action.

D5. Dismissal

- D5.1 If an employee is to be dismissed with notice, they will be informed of:
- D5.1.1 the fact that they will be dismissed,
 - D5.1.2 the reason for the dismissal,
 - D5.1.3 the date on which the employment will terminate,
 - D5.1.4 whether or not they will remain suspended during their notice period (if already suspended),
 - D5.1.5 whether or not they are required to work their notice period,



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D5.1.6 the right of appeal and the appeal process.

D5.2 If an employee is to be dismissed without notice (summary dismissal) they will be informed of:

D5.2.1 the reason for dismissal,

D5.2.2 the fact that they are to be summarily dismissed,

D5.2.3 the date on which the employment will terminate without notice and that this will be,

D5.2.4 without payment in lieu of notice but with accrued holiday pay,

D5.2.5 the right of appeal and the appeal process.



Appendix E - Example Format of Disciplinary Hearing

E1. The Chair should:

- E1.1 introduce those present at the hearing and explain their roles,
- E1.2 explain the purpose of the hearing, which is to:
 - E1.2.1 give the employee an opportunity to give their account, and
 - E1.2.2 consider whether a disciplinary sanction should be taken in accordance with the Disciplinary Procedure.
- E1.3 Explain the process (i.e. how the hearing will be conducted):
 - E1.3.1 give the precise alleged breaches of conduct,
 - E1.3.2 outline the case,
 - E1.3.3 go through the evidence,
 - E1.3.4 ensure employee has had sight of:
 - E1.3.4.1 relevant documentation,
 - E1.3.4.2 witness statements.
- E1.4 Invite the employee to reply by stating their case,
- E1.5 call witnesses if necessary and if advance notice has been provided to the other party,
- E1.6 conduct general questioning to establish/clarify facts,
- E1.7 allow the employee to ask the chair or any witnesses questions,
- E1.8 allow the employee to put forward any mitigating circumstances,
- E1.9 allow the employee (or their representative) to request an adjournment,
- E1.10 adjourn the hearing in order to consider all evidence, employee responses and any mitigation put forward. Adjournments should be as short as possible but long enough to enable proper consideration of the case before a decision is made.
- E1.11 summarise the main points:
 - E1.11.1 of the allegations,
 - E1.11.2 of the evidence that they will consider,
 - E1.11.3 raised by employee,
 - E1.11.4 to be checked before they can reach their decision (if applicable).
- E1.12 Reconvene – ideally in person to convey:
 - E1.12.1 the decision,



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E1.12.2 whether further time is required before reaching a decision and the expected timeframes.

E1.13 Confirm in writing:

E1.13.1 the allegations and decisions around each,

E1.13.2 if a warning is given, the length of time it will remain 'live' on file and whether pay awards will be withheld during the duration of the warning,

E1.13.3 the reasons for the decision,

E1.13.4 the improvements required with timescales,

E1.13.5 the consequences of not reaching and sustaining the standards required,

E1.13.6 employee right of appeal and appeal process.



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Appendix F - Capability Procedure

F1. Informal procedure

- F1.1 An employee's performance should be monitored on an ongoing basis. The UKRI's Appraisal and Personal Development Review (APDR) is a formal mechanism for reviewing and recording an employee's performance against the work objectives.
- F1.2 Where there is evidence that an employee is not performing to the required standards, the area(s) of under-performance should initially be resolved, where possible, through informal discussion between the employee and their line manager.
- F1.3 The line manager should arrange an informal one-to-one meeting with the individual.
- F1.4 At this meeting the line manager will:
 - F1.4.1 make clear the areas in which the individual's performance is below expectations,
 - F1.4.2 demonstrate and explain the reasons why, and give examples,
 - F1.4.3 explore with a view to identifying possible reasons for the under-performance, including underlying health issues,
 - F1.4.4 give the individual the opportunity to explain their performance and to raise any concerns that they may have about the job,
 - F1.4.5 ensure that the employee is aware of the required improvements in relation to each element of the duties about which there is a concern,
 - F1.4.6 set a reasonable timeframe for the achievement of the improvements. Following discussions, it may be appropriate to agree and implement a Personal Improvement Plan,
 - F1.4.7 outline the steps to be taken to assist and encourage improved performance. This will include any training, guidance and/or support which is to be given,
 - F1.4.8 detail when the employee's performance will next be reviewed.
- F1.5 The content and outcome of the meeting will be confirmed in writing by the line manager to the employee.
- F1.6 A copy of this communication, together with any performance and development review documentation will be placed on the employee's personal file for 12 months.

F2. Ill Health

- F2.1 It is the manager's responsibility to ensure that questions are asked at initial meeting stages to try and identify any underlying health issues as early as possible; the employee may also raise any underlying health issues that may be affecting their performance.
- F2.2 Where an underlying health issue has contributed to unsatisfactory performance, advice will be sought from an occupational health advisor before acting under the Capability Procedure (for more information on Occupational Health referrals see the Sickness Absence Management Policy).

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- F2.3 If an employee does not consent to or attend an Occupational Health appointment, a decision regarding the management of the case will be made on the information available.
- F2.4 Where under performance could be related to an employee's disability the line manager should contact HR for further guidance.

F3. Formal process

F3.1 First review:

F3.1.1 if, after the stated timeframes, the desired improvements in the employee's performance have not been met or where a first instance of reduced performance is sufficiently serious to warrant formal action the employee should be invited in writing to a formal meeting under the Capability Procedure.

F3.1.2 The letter of notification must indicate:

F3.1.2.1 the specific areas where the employee's performance is below expectations and why the formal process has been initiated,

F3.1.2.2 that the purpose of the meeting is to further discuss and review performance standards and to determine an appropriate course of action,

F3.1.2.3 that the meeting is being held formally under the UKRI's Capability Procedure,

F3.1.2.4 the date, time and location of the meeting,

F3.1.2.5 at all stages of the formal procedure, the employee has the right to be accompanied by a work colleague or represented by a Trade Union representative.

F3.1.3 At the meeting, the line manager will:

F3.1.3.1 remind the employee of the earlier informal discussions (where these have happened), why the formal process has been instigated and the steps taken to support an improvement in their performance,

F3.1.3.2 explain as precisely as possible, the reasons for their concerns about the employee's performance,

F3.1.3.3 give the employee the opportunity to explain their reduced performance,

F3.1.3.4 if no further action under the Capability procedure is required, this will be confirmed in writing and a copy placed on the employee's personal file.

F3.1.4 If after taking into consideration any explanations offered by the employee, the line manager remains concerned, the line manager will issue the employee with a formal warning which should cover:

F3.1.4.1 the exact details of the underperformance,

F3.1.4.2 any previous discussions and or support given,

F3.1.4.3 the specific improvements required in performance,

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- F3.1.4.4 further consideration given to additional training and / or support,
 - F3.1.4.5 any agreed actions and / or monitoring arrangements,
 - F3.1.4.6 details of when the next review of the employee's performance will take place,
 - F3.1.4.7 what further action(s) might take place should the required improvements not be achieved, i.e. moving to the next stage of the formal procedure,
 - F3.1.4.8 the employee's right to appeal and details of the appeal process,
 - F3.1.4.9 a reasonable timeframe for the next review.
- F3.1.5 A copy of this letter will be placed on the employee's personal file for a period of 12 months.
- F3.2 Regular feedback on performance should be maintained throughout any review period. Review periods should be up to three months depending on the nature of the employee's job, its associated responsibilities and the discrepancy between the required standards or performance and actual performance.
- F3.3 No review period should exceed 12 months.
- F3.4 Line managers should monitor agreed dates for reviews.
- F3.5 If referral to Occupational Health has not been utilised and is considered appropriate, this should be offered, and a further meeting arranged once the report from Occupational health is received.
- F3.6 If the employee's performance improves to the required standard(s) within the timescale set out, the line manager should confirm both verbally and in writing to the employee that the formal Capability procedure has been closed. The employee's performance should continue to be reviewed within the APDR process to ensure that the enhanced performance is sustained. A copy of any letter providing such confirmation must be recorded on the employee's personal file.
- F3.7 Second Review:
- F3.7.1 if the required levels of performance have not been achieved by the end of the 1st review period, following discussion and consultation with an appropriate more senior manager, the manager should invite the employee to a further formal meeting. Managers should seek advice from HR, and a member of HR should also attend the meeting.
 - F3.7.2 The letter of notification must indicate that the purpose of the meeting, referring to the previous meeting, is to review performance standards. The letter of notification must indicate:
 - F3.7.2.1 the specific areas where the employee's performance is below expectations,
 - F3.7.2.2 that the purpose of the meeting is to further discuss and review performance standards and to determine an appropriate course of action,
 - F3.7.2.3 that the meeting is being held formally under UKRI's Capability Procedure,

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- F3.7.2.4 the date, time and location of the meeting,
- F3.7.2.5 at all stages of the formal procedure, the employee has the right to be accompanied by a work colleague or represented by a Trade Union representative.
- F3.7.3 At the meeting, the manager will:
 - F3.7.3.1 review the history of the case,
 - F3.7.3.2 remind the employee of the steps which have been taken to assist and support the employee to achieve the required level of performance, including any reasonable adjustments,
 - F3.7.3.3 listen to any explanations, mitigating circumstances and concerns which the employee chooses to put forward as reasons for their under-performance,
 - F3.7.3.4 consider any additional training and support which might reasonably be provided to enable the employee to achieve the required level of performance,
 - F3.7.3.5 inform the employee that their job will be at risk if satisfactory performance levels cannot be achieved and subsequently maintained,
 - F3.7.3.6 set a reasonable timeframe for the next review.
- F3.7.4 The outcome of the meeting will be communicated in writing to the employee. In addition, in the absence of a satisfactory explanation resulting from this second review meeting, UKRI may issue a second formal warning. This should include:
 - F3.7.4.1 details of the underperformance (including reference to previous discussions and actions taken),
 - F3.7.4.2 the specific improvements required in performance,
 - F3.7.4.3 details of when the next review will take place,
 - F3.7.4.4 the employee's right to appeal and details of the appeal process,
 - F3.7.4.5 any further action should the required improvements not be achieved, i.e. moving to the next stage of the formal procedure.
- F3.7.5 A copy of this letter will be placed on the employee's personal file.
- F3.7.6 If the employee's performance improves to the required standard(s) within the timescale laid down, the manager should confirm both verbally and in writing to the employee that the formal Capability procedure has been closed. The employee's performance should continue to be reviewed within the APDR process to ensure that the enhanced performance is sustained. A copy of any letter providing such confirmation must be recorded on the employee's personal file.

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F3.8 Final Review:

- F3.8.1 if the required levels of performance have not been achieved, following discussion and consultation the line manager should invite the employee to a further formal meeting.
- F3.8.2 The employee will be advised in writing of the purpose of the meeting and that it could result in the termination of their employment on the grounds of capability. The employee should also be reminded of their right to be accompanied by a work colleague or represented by a Trade Union representative.
- F3.8.3 At this stage the line manager will review all the evidence jointly with a representative from HR and the appropriate senior manager as described in UKRI's HR Delegated Authority Framework. These individuals will form the Review Panel.
- F3.8.4 The appropriate senior manager who, in order to avoid a conflict of interest, has had no previous involvement in the case, should act as Chair and decision-maker.
- F3.8.5 At the meeting, the Review Panel will:
 - F3.8.5.1 review the history of the case, including the steps taken to assist and support the employee in their achievement of the requisite standards of performance, including any reasonable adjustments made following referral to Occupational Health,
 - F3.8.5.2 hear and consider the employee's account of their current performance levels and progress made against agreed objective,
 - F3.8.5.3 the Review Panel will consider the possible outcomes. These may include:
 - F3.8.5.3.1 further time to allow for improvement. This should be considered where there is evidence to suggest that the extension of time is likely to lead to the required improvement in performance; or
 - F3.8.5.3.2 decision to dismiss on the grounds of capability (with notice or with pay in lieu of notice) because there has been insufficient improvement in the employee's performance,
 - F3.8.5.3.3 no further action.
- F3.8.6 A decision to redeploy an employee to other duties or to a more suitable post is only possible with the employee's consent and care must be taken that the employee's consent is full and genuine.
- F3.8.7 Redeployment of employees should only be considered against existing vacancies. UKRI is not obliged to create alternative employment or duties. UKRI selection processes will apply for anyone being re deployed.
- F3.8.8 The outcome of the meeting will be communicated in writing to the employee, within five working days of the meeting.
- F3.8.9 For outcomes short of dismissal, the letter must include:

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F3.8.9.1 details of the outcome, with timeframes and reasons for the action; and

F3.8.9.2 the likely consequences within a specified period of further failure to improve or deterioration in performance (which may be more severe action or a recommendation to dismiss).

F3.8.10 Where the outcome is dismissal, the letter must include:

F3.8.10.1 the reason for the dismissal,

F3.8.10.2 whether the dismissal is with notice or with payment in lieu of notice,

F3.8.10.3 the date on which the employment will terminate; and

F3.8.10.4 details of the employee's right of appeal.

F3.8.11 A copy of the letter must be placed on the employee's personal file.

F4. Timescales

F4.1 An employee should normally be given 10 working days' written notice to attend a formal meeting to discuss their performance in order for them to prepare and to organise representation if they so wish.

F4.2 Should the employee's companion not be able to attend on the date proposed by UKRI, the employee can offer an alternative time and date as long as it is reasonable and falls within five working days after the date first proposed by UKRI.

F4.3 Letters confirming the outcome of discussions should normally be sent within five working days of the meetings. If there is a delay the employee will be made aware of this and provided with a revised timeframe.

F5. Grievances

F5.1 If an employee raises a formal grievance during the formal stages of the Capability Procedure, actions under the procedure may be put on hold (if appropriate) and a grievance hearing convened under the UKRI Grievance, Harassment and Bullying Policy. In these circumstances, line managers must consult with HR.

F5.2 As a general rule:

F5.2.1 where the employee's grievance relates to contemplated dismissal or action under the Capability Procedure, the appropriate forum for addressing concerns is the Appeal Hearing.

F5.2.2 Where an employee claims that action under the Capability Procedure is in itself an act of discrimination, it should be pursued under the Grievance Procedure as a separate course of action.