

## Disciplinary Procedures

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## **1. INTRODUCTION**

1.1 This Disciplinary Procedure was developed and agreed at national level on 21 November 2008 by management and trade unions SIPTU, FORSA, UNITE and TUI.

## **2. SCOPE**

2.1 This procedure shall apply to all staff of TU Dublin except as outlined in this section.

2.2 Staff on probation will be dealt with in accordance with TU Dublin's policy on probation. The procedures set out below shall not apply to dismissals due to some substantial reason which is not attributable to fault on part of the staff member.

2.3 All members of management, including supervisory personnel, will be made aware of and be made fully conversant with this Procedure and adhere to its terms.

2.4 Isolated issues or omissions of a minor nature will where possible be dealt with informally.

## **3. PROCEDURE FOR DEALING WITH PERFORMANCE AND CONDUCT ISSUES**

3.1 TU Dublin is committed to encouraging appropriate behaviour and work performance from all staff. The purpose of the disciplinary procedure is to ensure that TU Dublin acts reasonably and fairly towards staff in investigating and dealing with alleged instances of unacceptable conduct or performance. Although disciplinary action will normally follow the progressive stages, the procedure may be implemented by TU Dublin at any stage of the process if the alleged misconduct warrants such action.

## **4. PRINCIPLES OF THE DISCIPLINARY PROCEDURE**

4.1 Each staff member is personally accountable for their own behaviour and work performance. Early intervention at the appropriate level to address perceived negative behaviour and/or underperformance is desirable for all parties so as to minimise the risk of TU Dublin having to escalate sanctions as provided for in these procedures.

4.2 Every effort will be made by the staff member's immediate manager<sup>1</sup> in appropriate cases to address alleged or perceived shortcomings in work standards, conduct or attendance through informal means without invoking the formal disciplinary procedure.

4.3 The procedure is intended to comply with the general principles of natural justice, which are included in the following guidelines.

4.4 There will be a presumption of innocence. No decision regarding disciplinary action can be made until a formal disciplinary meeting has been convened and the staff member has been afforded the opportunity to respond to the allegations raised.

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<sup>1</sup> The appropriate manager will be defined by the reporting and supervisory structures of TU Dublin appropriate to the different categories of staff

- 4.5 The staff member will be advised in writing in advance of a disciplinary meeting of the precise nature of the matters concerned and will be given copies of any relevant documentation<sup>2</sup>. In the case of a complaint, this detail will include the source and text of the complaint as received. A complaint should be in writing.
- 4.6 Anonymous complaints, of themselves, may not be used as the only evidence in a disciplinary procedure. Where an anonymous complaint(s) has been substantiated by further investigation, that complaint(s) may be introduced as supporting evidence in the disciplinary process.
- 4.7 The staff member will be advised of their right to be accompanied by a work colleague or trade union representative(s)<sup>3</sup> at any meeting under the formal disciplinary procedures.
- 4.8 The staff member concerned will be given the opportunity, including reasonable time, to consider and to respond fully to any complaints, allegations or issues of concern. This includes the right and opportunity to avail of appropriate representation at all times during the procedure.
- 4.9 Staff members will be entitled to examine all evidence available, to call any witnesses or persons providing such evidence for questioning, or to call such other persons as they deem appropriate in their support. The staff member may challenge any evidence that may be relied upon when reaching a decision.
- 4.10 In the event of there being relevant information or records in the possession of TU Dublin then such information will be provided to the staff member concerned in advance of any decision being taken in regard to the issue and in such time (having regard to the circumstances of the case) as to allow the staff member to use it in their defence.
- 4.11 The right of a staff member concerned to have access to and to view their personnel file (to include all records in relation to the staff member, in hardcopy or electronic format, held by TU Dublin) will be fully respected.
- 4.12 If there are any mitigating circumstances that the staff member wishes to be taken into account, the staff member will be afforded an opportunity to make these known at the disciplinary meeting(s).
- 4.13 The staff member concerned has the right to a fair and impartial examination of the issues being investigated, taking into account the allegations or complaints themselves, the response of the staff member concerned to them, any representations made by or on behalf of the staff member concerned and any other relevant or appropriate evidence, factors or circumstance.
- 4.14 In order to facilitate the disciplinary process, the manager and/or investigator where applicable, will not prejudge the outcome of the meeting and will take into account any mitigating circumstances before deciding on appropriate action.
- 4.15 Where circumstances warrant, a staff member may be placed on administrative leave with full pay pending an investigation, or pending the outcome of an investigation, a disciplinary hearing/meeting or the outcome of a disciplinary hearing/meeting.
- 4.16 It will be considered a disciplinary offence for any person to intimidate or exert inappropriate pressure on any person who may be required to attend as a witness.

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<sup>2</sup> “any relevant documentation” means documentation which would have been made available following a request under the Freedom of Information Act

<sup>3</sup> For the purposes of this procedure “representative” includes a colleague of the staff member’s choice or a recognised trade union which holds the negotiating rights for the grade of the staff member but not any other person/body unconnected with the enterprise.

- 4.17 Where ill health may have affected the staff member's performance or conduct, this matter should be referred to a HR Manager where a confidential independent medical assessment may be organised and appropriate supports, e.g. Employee Assistance Programme, may be arranged.
- 4.18 Academic staff members shall have the freedom, within the law, in their teaching, research and any other activity, either in or outside TU Dublin, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions and shall not be disadvantaged, or subject to less favourable treatment by TU Dublin, for the exercise of that freedom.
- 4.19 All matters relating to the disciplinary procedure are strictly confidential to the parties and their representatives involved and breach of this confidentiality may in itself result in disciplinary action.
- 4.20 Where a decision is taken to impose a disciplinary sanction, the sanction imposed will be in proportion to the nature of the conduct/behaviour/performance that has resulted in the sanction being imposed.

## **5. INFORMAL DISCIPLINARY PROCEDURE**

- 5.1 If a staff members' standard of job performance, conduct, or attendance falls below an acceptable level they will in appropriate cases be made aware informally, by their manager, that this is unacceptable and informed of the required improvements. If the staff member concerned continues to fail to achieve the required work/conduct standards, the disciplinary procedure outlined below may be invoked.
- 5.2 Issues of professional competence will be dealt with by the provision of appropriate support. Disciplinary action in cases of underperformance will be taken only when the staff member has been advised of their shortcomings and given the opportunity to improve their performance. Reasonable and appropriate support, training and development measures will normally be provided. Where these have failed to result in specified improvement in performance of the staff member or have no reasonable prospect of resulting in an improvement in performance, disciplinary action will normally follow.

## **6. FORMAL DISCIPLINARY PROCEDURE**

- 6.1 Where a staff member's job performance, conduct or attendance does not meet the required standards despite informal intervention as per section 5 above, the matter will be dealt with under the formal disciplinary procedure.
- 6.2 Disciplinary warnings should specify the standards required and/or the extent to which job performance or conduct falls short of the standards required. Where possible they should also detail the required remedies such as the changes in behaviour necessary (and/or training or counselling if appropriate) to rectify the situation and detail the likely consequences if the required improvement is not forthcoming.
- 6.3 Generally, the steps in the procedure will be progressive; however, as pointed out in Section 3.1, depending on the gravity of the situation, a verbal warning, a written warning or a final written warning may be issued at the first stage of the procedure. In the case of gross misconduct, dismissal without notice or dismissal with payment in lieu of notice may be decided upon.
- 6.4 Warnings will cease to have effect following the specified period of satisfactory conduct/performance and will be removed from the record. Where the record(s) of verbal and written warnings are removed from

files TU Dublin will need to make arrangements for the preservation of these records for the purposes of the Freedom of Information Acts.

- 6.5 There may however be occasions where a staff member's conduct/performance is satisfactory throughout the period the warning is in force only to lapse very soon thereafter. Where a pattern of such conduct/performance emerges and there is evidence of an undermining of the disciplinary process, the staff member's previous conduct and pattern of behaviour may be considered as a whole in a future disciplinary procedure.

## **7. STAGE 1**

### **Formal Verbal Warning:**

- 7.1 The first step in any formal process is to let the staff member know in writing the issue that has given rise to the invoking of the disciplinary procedure. The staff member will be advised of the precise nature of the complaint, the reasons why this is not acceptable, details of previous meetings, the standards not achieved, the improvements required and the timescale for improvement. The letter will also invite the staff member to a formal disciplinary meeting at which the issue will be discussed and it will also inform them of their right to be accompanied at the meeting. A staff member who fails to respond to earlier informal discipline or whose job performance/conduct/attendance does not meet the required standards will normally be invited to a formal disciplinary meeting by their manager.
- 7.2 Adequate notice of meetings under this stage will be given in writing to the staff member.
- 7.3 At each disciplinary meeting all facts and details, and any investigation report will be presented to the staff member by their Manager or relevant Management resposdee.
- 7.4 The staff member will be afforded an opportunity and adequate time to respond and state their case fully and to challenge any evidence that is being relied upon for a decision.
- 7.5 Following the meeting(s), the Manager or relevant Management resposdee must decide whether disciplinary action is justified or not. Where it is decided that no action is justified, the staff member will be so informed as soon as possible and, thereafter, in writing.
- 7.6 Where it is decided that disciplinary action at this stage is justified the Manager or relevant Management resposdee will inform the staff member that they are giving a formal verbal warning. Disciplinary action may be taken notwithstanding a staff member's failure to attend the disciplinary meeting, in the absence of good reason.
- 7.7 The staff member will be advised that the warning is a formal sanction and constitutes the first stage of the formal disciplinary procedure and failure to improve will result in further action.
- 7.8 The staff member will be advised of their right to appeal against the disciplinary action being taken and the appeal process.
- 7.9 A record of the verbal warning will be retained on the staff members personnel file and a copy will be issued to the staff member. Subject to satisfactory service, the verbal warning will cease to have effect following the expiry of six months.

7.10 If the timescale set out for improvement is not met, the matter may be progressed to the next stage of the process without the formal warning having expired.

7.11 Stage 1 is normally carried out by the immediate Manager of the staff member, as defined in paragraph 4.2 above. On occasion it may be necessary for the disciplinary process to be carried out by another member of management.

## **8. STAGE 2**

### **Written Warning:**

8.1 If it is alleged that the staff member fails to make the necessary improvements or if the poor performance/conduct/attendance continues or is more serious, they will be invited in writing to a formal disciplinary meeting by a Senior Line Manager or President's nominee.

8.2 A letter will be sent to invite the staff member to a formal disciplinary meeting at which the matters of concern will be discussed. The staff member will be advised of the precise nature of the complaint, details of previous meetings and the standards not achieved or maintained. The staff member will be informed of their right to be accompanied at the meeting.

8.3 Adequate notice of meetings under this stage will be given in writing to the staff member.

8.4 At each disciplinary meeting all facts and details, and any investigation report will be presented to the staff member by the Senior Line Manager or President's nominee.

8.5 The staff member will be afforded an opportunity and adequate time to respond and state their case fully and to challenge any evidence that is being relied upon for a decision.

8.6 Following the meeting(s), the Senior Line Manager or President's nominee must decide whether disciplinary action is justified or not. Where it is decided that no action is justified, the staff member will be so informed as soon as possible and, thereafter, in writing.

8.7 Where it is decided that disciplinary action at this stage is justified the Senior Line Manager or President's nominee will inform the staff member that they are giving a formal written warning. Disciplinary action may be taken notwithstanding a staff member's failure to attend the disciplinary meeting in the absence of good reason.

8.8 The formal written warning will give details of the complaint, details of previous meetings, the standards not achieved, the improvements required, the timescale for improvement and details of the appeals procedure and the appeals process.

8.9 The staff member will also be advised that the warning is a formal sanction and constitutes the second stage of the formal disciplinary procedure and failure to improve will result in further action.

8.10 The staff member will also be advised of their right to appeal against the disciplinary action being taken and the appeal process.

8.11A record of the written warning will be retained on the staff members personnel file and a copy will be issued to the staff member. Subject to satisfactory service, the written warning will cease to have effect following the expiry of 9 months.

8.12If the timescale set out for improvement is not met, the matter may be progressed to the next stage of the process without the formal warning having expired.

8.13Stage 2 is normally carried out at Senior Line Manager level or President's nominee. A representative from Human Resources will also be involved in an advisory capacity.

## **9. STAGE 3**

### **Final Written Warning**

9.1 If it is alleged that the staff member fails to make the necessary improvements or if the poor performance/conduct/attendance continues or is more serious, they will be invited in writing to a formal disciplinary meeting by a Senior Manager or President's nominee to review the increasingly serious nature of the situation.

9.2 A letter will be sent to invite the staff member to a formal disciplinary meeting at which the matters of concern will be discussed. The staff member will be advised of the precise nature of the complaint, details of previous meetings and the standards not achieved or maintained. The staff member will be informed of their right to be accompanied at the meeting.

9.3 Adequate notice of meetings under this stage will be given in writing to the staff member.

9.4 At each disciplinary meeting all facts and details, and any investigation report will be presented to the staff member by the Senior Manager or President's nominee.

9.5 The staff member will be afforded an opportunity and adequate time to respond and state their case fully and to challenge any evidence that is being relied upon for a decision.

9.6 Following the meeting(s), the Senior Manager or President's nominee must decide whether disciplinary action is justified or not. Where it is decided that no action is justified, the staff member will be so informed as soon as possible and, thereafter, in writing.

9.7 Where it is decided that disciplinary action at this stage is justified the Senior Manager or President/Director's nominee will inform the staff member that they are giving a final written warning. Disciplinary action may be taken notwithstanding a staff member's failure to attend the disciplinary meeting in the absence of good reason.

9.8 The final written warning will give details of the complaint, details of previous meetings, the standards not achieved, the improvements required, the timescale for improvement and details of the appeal procedure and the appeal process. The staff member will be advised that failure to improve may lead to Stage 4 of the procedure.

9.9 The staff member will be advised of their right to appeal against the disciplinary action being taken and the appeals process.

9.10A record of the final written warning will be retained on the staff members personnel file and a copy will be issued to the staff member. Subject to satisfactory service, the final written warning will cease to have effect following the expiry of 12 months.

9.11If the timescale set out for improvement is not met, the matter may be progressed to the next stage of the process without the formal warning having expired.

9.12Stage 3 is carried out by a senior member of management or President's nominee. A representative from Human Resources will also be involved in an advisory capacity.

## **10. STAGE 4**

### **Disciplinary Sanction up to and including dismissal**

10.1Where it is alleged that

- the staff member has failed to meet the necessary improvements or the poor performance/conduct/attendance has continued following a final written warning, or
- the performance/conduct/attendance issue is more serious,

the Stage 4 disciplinary procedure which provides for disciplinary sanctions, up to and including dismissal, may be invoked.

10.2A letter will be sent to invite the staff member to a formal disciplinary meeting at which the matters of concern will be discussed with a Senior Manager or President's nominee. The staff member will be advised of the precise nature of the complaint, details of previous meetings and the standards not achieved or maintained. The staff member will be informed of their right to be accompanied at the meeting.

10.3Adequate notice of meetings under this stage will be given in writing to the staff member.

10.4At each disciplinary meeting all facts and details, and any investigation report will be presented to the staff member by the Senior Manager or President's nominee.

10.5The staff member will be afforded an opportunity and adequate time to respond and state their case fully and to challenge any evidence that is being relied upon for a decision.

10.6Following the meeting(s), the Senior Manager or President's nominee must decide whether a disciplinary sanction is justified or not. Where it is decided that no action is justified, the staff member will be so informed as soon as possible and thereafter in writing.

10.7Where it is decided that disciplinary sanction short of dismissal is justified, the Senior Manager or President's nominee will inform the staff member of the nature of the disciplinary sanction. Paragraphs 10.10, 10.11 and 10.12 set out details of these sanctions. Where it is decided that dismissal should be recommended, the procedures set out in paragraph 10.13 and 10.14 below will apply.

10.8Disciplinary action may be taken notwithstanding a staff member's failure to attend the disciplinary meeting(s) in the absence of good reason.



10.9 Stage 4 is carried out by a senior member of management or President's nominee not previously involved in the matter. A representative from Human Resources will also be involved in an advisory capacity. The Senior Manager or President's nominee concerned will act reasonably in all cases when deciding on appropriate disciplinary action.

10.10 In cases of less serious offences, or where TU Dublin is of the view that there is a realistic prospect of improvement in performance/conduct/attendance, the following disciplinary sanctions may be applied singly or in combination by the relevant Senior Manager or President's nominee, in consultation with Human Resources. These sanctions include, in no particular order:

- Removal from certain duties or transfer
- Suspension<sup>4</sup> with pay
- Deferral/Denial of Access to Progression
- Deferral/Denial of Access to Promotion
- Deferral of Increment(s)
- Removal of Increment(s)
- Demotion and Consequent Reduction in Pay
- Suspension without Pay<sup>5</sup>

10.11 Depending on the nature of the offence, these sanctions can be limited in time or unlimited in time and/or linked to improvements in performance/conduct/attendance. A record of the disciplinary sanction(s) applied at this stage will be retained on the staff member's personnel file and a copy will be issued to the staff member.

10.12 A period of suspension without pay or demotion may arise at the end of an investigation that concludes that the staff member has been guilty of a breach of their employment contract, amounting to misconduct but not gross misconduct. Similar action may be taken in cases of gross misconduct where there are mitigating circumstances. Any deduction of pay will be in accordance with the Payment of Wages Act, 1991.

10.13 Failure to meet the required standard of performance, conduct or attendance following the issuing of a final written warning or suspension/demotion may result in a recommendation being made to dismiss the staff member. In respect of such recommendations, dismissal with notice may be imposed as a disciplinary sanction in cases where the staff member has been found to have committed a serious offence, or where there has not been an improvement in performance/conduct/attendance despite written warnings. In cases of gross misconduct, dismissal without notice or dismissal with payment in lieu of notice may apply.

10.14 A decision to dismiss a staff member is taken by the President or their nominee as appropriate.

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<sup>4</sup> Suspension, by its nature, means a sanction limited in time

<sup>5</sup> Where relevant, the TU Act 2017 may apply

**In the case of officers appointed to TU Dublin (formerly DIT, ITB and ITT) prior to 1 February 2007, the following procedure shall apply in relation to dismissal.**

The President may, having first considered any representations that may be made by the officer concerned and provided that the statutory grounds exist, decide to suspend the officer under section 7 of the Vocational Education (Amendment) Act, 1944 as extended to TU Dublin by TU Dublin by the TU Act 2017 and thereafter report the suspension and the reasons therefor to the Minister for Education and Skill. It will then be for the Minister for Education and Skills to deal with the matter under the 1944 Act.

Alternatively, in accordance with relevant legislation, the President may themselves having satisfied themselves that dismissal/removal from office is appropriate request the consent of the Minister for Education and Skills so as to remove the person concerned from office. It will be a matter for the Minister for Education and Skills to withhold or grant their consent.

**In the case of all non officer staff members regardless of when appointed, and officer grade staff members appointed to TU Dublin (formerly DIT, ITB and ITT) after 1 February 2007, the following procedure shall apply in relation to dismissal.**

The President together with a Human Resources Manager will meet with the staff member and their representative, and will inform them of the decision to dismiss, and the basis for this decision. The staff member will be informed of the appropriate notice arrangements, and their right to appeal.

10.15 The staff member will be advised of the procedure for appealing and the appeals process.

## **11. MISCONDUCT AND GROSS MISCONDUCT**

11.1 Offences connected with the disciplinary procedure as set out in paragraphs 4.16 or 4.19 can be considered as misconduct or gross misconduct depending on the circumstances.

11.2 Findings of bullying will be considered as either misconduct or gross misconduct depending on the seriousness of the offence.

### **Misconduct**

11.3 The following definitions are designed to assist in the operation of these disciplinary procedures and in identifying the types of behaviour that are considered unacceptable. The definitions are examples only, and each case must be considered on its merits.

11.4 Misconduct occurs when a staff member fails to adhere to either acceptable or appropriate levels of conduct or work performance. It will result in the earlier stages of the disciplinary procedures being followed. Examples include:

- Repeated poor performance
- Unauthorised absence(s)
- Regular or persistent lateness
- Unsatisfactory attendance
- Refusal to obey a legitimate instruction
- Disregard of safety and/or security regulations
- Deliberate minor damage to or misuse/abuse of TU Dublin property

- Wilful neglect of duties including incapability due to abuse of alcohol or non-prescribed drugs
- Inappropriate workplace behaviour

The above examples are only intended as illustrative of misconduct which would not be considered as gross misconduct. They are not intended to define the full range of conduct, behaviour, performance or other issues which may give rise to the taking of disciplinary action.

### **Gross Misconduct**

11.5 Gross misconduct is any act or omission which is so serious as to require TU Dublin to consider terminating the staff member's contract of employment without having to go through all the steps in the disciplinary process. The following are some examples of offences which constitute gross misconduct where the progressive stages of the disciplinary procedure may not apply and which may result in dismissal without notice:

- Theft
- Serious act of dishonesty in relation to one's employment
- Deliberate and serious damage to TU Dublin property
- Fraud or deliberate falsification of documents which includes unauthorised removal and destruction of document(s) and TU Dublin record(s). This includes but is not limited to paper records, any information kept on computer disks/memory cards and any other form of record
- Gross negligence or dereliction of duties
- Refusal to comply with a legitimate instruction(s) resulting in serious consequences
- Serious or persistent incapacity to perform duties brought on by alcohol, illegal drugs, by use of unprescribed drugs or by deliberate misuse of prescribed medication
- Having illegal drugs, substances or materials on one's person or in one's possession, custody, or control on TU Dublin premises, except in cases where approval has been granted to hold such material for research and the said possession, custody and control is consistent with that approval
- Serious breach of health & safety regulations
- Serious abuse/misuse of the organisations property/equipment
- Serious and deliberate breaches of confidentiality
- Unlawful discrimination, sexual harassment or harassment of a serious nature against a staff member or customer, including students
- Physical violence
- Deliberately accessing and/or downloading pornographic or obscene material from the internet and/or email
- Circulation, dissemination or display of offensive, obscene or indecent e-mails, text messages or other material, including material downloaded from the internet
- Bringing TU Dublin's name into serious disrepute
- Serious and deliberate failure to comply with a legitimate instruction
- Serious and significant non-compliance with the requirements of any formal TU Dublin policy or procedure
- Conviction of any criminal offence which may render the staff member unsuitable for employment or which will adversely affect TU Dublin's interests

**Note: the above list is not exhaustive.**

11.6 The employment of a staff member might also terminate in cases of frustration of contract<sup>6</sup> or job abandonment<sup>7</sup>.

## **12. PROCEDURE IN CASES OF ALLEGED GROSS MISCONDUCT**

### **Investigation**

12.1 In all cases of alleged gross misconduct, a full investigation will immediately be carried out to establish the facts in accordance with the following principles

- This investigation will be carried out by the President or their nominee(s) as appropriate.
- The investigation will be conducted thoroughly and objectively and with due respect for the rights of the staff member to natural justice.
- The Investigation will be governed by clear terms of reference.
- The Investigator(s) will be (a) senior manager(s) not previously involved in the case or in some instances a suitable third party.
- Every effort will be made to carry out the investigation without undue delay and to adhere to the agreed timescales. However, the timescales may be extended in exceptional circumstances.
- The staff member will be advised of the right to be accompanied by a union representative(s) or work colleague throughout the investigation.
- The provisions of paragraphs 4.16, 4.19 and 11.1 will apply to this investigative process

12.2 The staff member may be placed on administrative leave pending the processing or outcome of an investigation. This is a protection for all involved and not a disciplinary sanction.

12.3 On completion of the investigation, the investigator(s) will submit a written report of their findings to senior management and to the staff member. If the outcome of the investigation is that disciplinary action is warranted in respect of the alleged misconduct, a disciplinary meeting will be convened by the President/Director nominee and invoked at the appropriate stage of the disciplinary process.

## **13. APPEAL**

13.1 An staff member on whom a disciplinary sanction (including warnings) has been imposed at any stage of the procedure has the right of appeal. The staff member should inform Human Resources in writing of their intention to appeal and the initial grounds for the appeal. The notice of appeal should be submitted by close of business on the tenth working day following the staff member being notified of the disciplinary sanction.

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<sup>6</sup> Frustration of contract does not include appropriate use of an TU Dublin's sick leave policy or policies in respect of other approved leave

<sup>7</sup> Job abandonment might include a failure to return to employment on completion of career break or other leave having been communicated with and having failed to respond to TU Dublin within a reasonable period of time

13.2 The appeal will be conducted as soon as possible thereafter. The staff member will be given an opportunity to state their case and will be entitled to be accompanied/represented by a fellow staff member, of their choice or by their Union representative(s) being the Union holding recognition rights for that grade but not any other person/body unconnected with the enterprise.

13.3 At Stages 1, 2 and 3 the appeal will be heard by another Manager at or above the level of the Manager taking the action and who had no other previous involvement with the case. The person/persons hearing the appeal will not have been involved in the original disciplinary meetings or any investigative process.

13.4 At Stage 4 or in cases of gross misconduct the appeal will be heard by a Disciplinary Panel comprising of up to two TU Dublin senior managers (not previously involved in the process) nominated by the President or their nominee and an external third party Chair agreed between TU Dublin and the staff member or Union acting on behalf of the staff member concerned.

13.5 Where the grounds of the appeal relate to

- an overly severe sanction, or
- correct procedures not having been applied, or
- mitigating circumstances,

it is accepted that a *de novo* appeal is not appropriate. A decision on whether an appeal on any other ground will proceed by way of a *de novo* hearing will be made by the person hearing the appeal (under Stages 1 to 3) or by the Chairman of the Panel (under Stage 4).

13.6 The person/Panel hearing the appeal is entitled to overturn, modify or uphold the decision.

13.7 The person/Panel may withdraw, reduce, vary or increase the sanction appealed against.

13.8 The decision on appeal is the final stage of TU Dublin procedure and is binding subject to any external appeal that may be brought.

13.9 In the case only of dismissal of staff at officer grade, only appointed to TU Dublin prior to 1 February 2007, the case, where appropriate, will be dealt with under section 7 and section 8 of the Vocational Education (Amendment) Act, 1944 as extended to TU Dublin by the TU Act 2017.

## **14. REVIEW**

14.1 This Procedure will be open to review at the request of either management or of one or more of the unions, including with a view to periodic up-dating so that it complies with developments in employment legislation, case law, guidelines issued by the WRC or other appropriate body and with good practice generally.

### **NOTE:**

As and from 1 September 2020, as the University continues to put in place control measures to combat the spread of coronavirus, including remote working, all references to meetings in this document will be conducted remotely and all correspondence to the staff member concerned will be sent electronically until such restrictions cease.

## 15. QUERIES

**Contact:** Employee Relations Team

**Email:** [Employeerelations@tudublin.ie](mailto:Employeerelations@tudublin.ie)