



UTC Cambridge Disciplinary & Appeals Policy

Lead member of SLT:
Governor:

Business Manager/HRM
Chair of Finance & Audit Committee (sub-Committee of FGB)

Legislation and reference:

Employment Act 2008

The Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2008
Equality Act 2010, chapter 3, section 64-80.

ACAS code of practice: Disciplinary and Grievance procedures, 11th March 2015, Available
at: <http://www.acas.org.uk/>

<http://www.cipd.co.uk/hr-resources/factsheets/discipline-grievances-at-work>.

Associated documentation

UTC Cambridge Equality and Diversity policy (July 2014)

UTC Cambridge Absence policy (July 2015)

UTC Cambridge Complaints policy (July 2015)

UTC Cambridge Vision

UTC Cambridge: Delivering Future Scientists

UTC Cambridge Mission

Through an innovative curriculum, developed with leading scientists from industry and academia, UTC Cambridge builds bespoke learning solutions delivered in a state of the art science and technology environment that empowers students to manage their academic and career development.

UTC Cambridge Values

We set ourselves challenging goals, are agile and resilient, to achieve our personal best.

By respecting one another we enhance our experience and benefit from different perspectives.

We take individual responsibility, ensuring team delivery.

By respecting our environment, our world, we make a difference.

We celebrate positive contribution and aspire to excellence.

We are morally and ethically responsible in scientific and environmental innovation.

Contents

1. Aims and Objectives of the procedure
 2. Scope of the Procedure
 3. General Principles
 4. Standards of Behaviour
 5. Stages of the Procedure
 6. Investigatory meeting
 7. Suspension pending a disciplinary meeting
 8. Formal procedure for disciplinary meetings
 9. Disciplinary sanctions
 10. Appeal
- Appendix 1 – Disciplinary procedure
Appendix 2 – Responsibilities
Appendix 3 – Non-confirmation of Employment
Appendix 4 - Management guidelines regarding dismissal

1. Aims and Objective of the Procedure

- 1.0 The purpose of this procedure is to help and encourage employees to achieve and monitor acceptable standards of conduct at work. The UTC Cambridge will apply disciplinary sanctions as a corrective measure, not as a punitive measure. The policy is designed to ensure consistent and fair treatment for all, in relation to disciplinary action taken in response to allegations of misconduct or unacceptable behaviour.

2. Scope of the Procedure

- 2.0 This Procedure applies to all directly employed UTC Cambridge staff. Specific arrangements for the Principal of UTC, as defined by the College's Articles of Government, are detailed in a separate procedure.

3. General Principles

- 3.0 The term "Principal" also refers to an Acting Principal or Principal Designate who have the Principal's authorisation to undertake responsibilities under this procedure.
- 3.1 The term "line manager" refers to any individual who, as part of their job, has responsibilities for the work of other employees.
- 3.3 The term "staff representative" refers to any individual who is a current staff member of UTC Cambridge.
- 3.4 An employee has the right to be accompanied by a staff representative at any formal stage of the disciplinary procedure. Members of staff choosing a representative should bear in mind it would not be reasonable to be accompanied by a colleague whose presence would prejudice the hearing or might have a conflict of interest. The College will also consider reasonable requests from employees for alternative representation where they have a specialised need for support.
- 3.5 In the interest of ensuring that disciplinary matters are resolved as speedily as possible, time limits are given for appropriate stages in this procedure. These are for guidance. If it is not practicable to adhere to these limits, they may be amended, ideally by mutual agreement. Due regard will be given to the personal circumstances of all parties involved in the procedure.
- 3.6 It is recognised that some staff may feel more comfortable if a disciplinary hearing or appeal is heard by someone within the organisation who can relate to their issues – e.g. of the same minority group and the college will therefore consider and respond to reasonable requests from employees as appropriate.
- 3.7 This procedure defines arrangements for communicating with employees and for establishing formal hearings. An employee has the right to request reasonable adjustments to be made to these arrangements and UTC Cambridge will respond as appropriate where they have a specific need and to ensure they are not disadvantaged by the arrangements.

- 3.8 It is the responsibility of all members of staff to behave appropriately and to adhere to the standards and requirements established by the College.

4. Standards of Behaviour

4.0 Misconduct

The following offences are examples which are normally regarded as unacceptable behaviour and misconduct:

- i. Unauthorised absence;
- ii. Persistent lateness;
- iii. Failure to notify the College as per the College's sickness procedure when absence is due to sickness;
- iv. Failure to report any loss of and/or damage to any property issued to or by the employee in connection with their employment;
- v. Failure to discharge without sufficient cause the obligations which statute, or the contract of employment places on the employee;
- vi. Victimisation of other employees or students in the course of duty;
- vii. Discrimination against individuals or groups of other employees, students or members of the public in the course of duty e.g. on the grounds of gender, marital status, race, culture, religion, disability, sexual orientation, caring responsibilities, offending past, geographic location and employment working pattern;
- viii. Inappropriate or unprofessional behaviour to a colleague, student or member of the public.

The above examples of misconduct are not exhaustive or exclusive and offences of a similar nature or gravity will be dealt with under this category.

4.1 Gross Misconduct

The following offences are examples of offences, which are very serious and are normally regarded as gross misconduct and may be grounds for summary dismissal:

- i. Theft or unauthorised possession of any property or facilities belonging to UTC Cambridge or to any employee or student;
- ii. Damage deliberately sustained to UTC Cambridge property;
- iii. Deliberate falsification of UTC Cambridge registers, reports, accounts, time sheets, expense claims or self-certification forms;
- iv. Bribery or corruption;
- v. Deliberate refusal to carry out duties or reasonable instructions or to comply with UTC Cambridge policies and procedures;
- vi. Serious acts of insubordination;
- vii. Serious negligence/incompetence, which causes unacceptable loss, damage or injury;
- viii. Falsification of any information given on an application form for a post to gain advantage;
- ix. Failure to disclose criminal convictions not exempt under the terms of the Rehabilitation of Offenders Act, 1975;
- x. Serious incapability as a result of being intoxicated by reason of alcohol or illegal drugs;

- xi. Violent, dangerous or intimidatory conduct;
 - xii. Violation of UTC Cambridge rules and procedures concerning health and safety at work;
 - xiii. Sexual, racial or other harassment or serious bullying of another employee or student;
 - xiv. Deliberately accessing or downloading unsuitable material from the internet
 - xv. Serious inappropriate or unprofessional behaviour to a colleague, student or member of the public;
 - xvi. Wilful unauthorised disclosure of information, classified as confidential which, by its release, could be harmful to UTC Cambridge, other employees or students;
 - xvii. A criminal offence, which may (whether it is committed during or outside the employee's hours of work for the College) adversely affects UTC Cambridge's reputation, the employee's suitability for the type of work they are employed by UTC Cambridge to perform or their acceptability to other employees or students.
- These examples of gross misconduct, are not exhaustive or exclusive and offences of a similar nature or gravity will be dealt with under this category.

4.2 Capability

1. This procedure applies only to members of staff about whose performance there are serious concerns and have been identified through the appraisal process and has been unable to address. If the performance of the staff member is not meeting expectations as outlined in the appraisal review, the member of staff will be invited to a formal capability meeting, outlined in the stages of the procedure below.
2. The procedure outlined below is an opportunity to discuss measures to improve poor performance within a set period of time.
3. If performance does not improve within the set period of time recorded during the capability procedure then sanctions may be applied in line with the formal disciplinary process.

4.3. Sickness absence and related performance.

1. UTC Cambridge has set out the procedure for the management of sickness absence in the UTCC Absence policy.

5. Stages of the Procedure

5.0 Normally the procedure will be followed in the order of the stages set out in Sections 6 to 9 below. However offences of a serious nature may be brought into the procedure at any stage, if an earlier stage would not be severe enough or appropriate to deal with it. No disciplinary action will be taken against an employee until UTC Cambridge has fully investigated the circumstances of the matter, having regard to the employee's response to the allegations. At every stage of the procedure the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.

5.1 Minor lapses from acceptable standards of conduct will usually be dealt with by the employee's line manager giving informal reprimands, which depending on the

situation may be confirmed in writing by the Line Manager, using the standard informal 'file note' template which can be provided by Human Resources.

- 5.2 If despite informal discussions the employee's conduct does not meet acceptable standards or the matter is more serious the Manager will seek advice from the Human Resources Department and the following procedure should apply:

6. Investigatory Meeting

- 6.0 UTC Cambridge will inform the employee as soon as possible that an investigation is to be conducted.
- 6.1 The Line Manager will undertake a preliminary investigation of the circumstances and where appropriate obtain statements from any available witnesses. The preliminary investigation will normally include meeting with the member of staff concerned to establish the facts of the case and determine whether there is a case to answer and therefore whether the formal disciplinary procedure should be instigated. Depending on the circumstances of the allegations, it may not always be necessary to conduct an investigatory meeting with the employee.
- 6.2 In cases where there is alleged gross misconduct UTC Cambridge will offer the employee the opportunity to be accompanied by an acknowledged staff representative at an investigatory meeting.
- 6.3 UTC Cambridge will ensure that the line manager conducting the investigation is different to the person chairing any subsequent disciplinary meeting.
- 6.4 If appropriate UTC Cambridge may suspend the employee, in accordance with Section 7, whilst the investigation is carried out.
- 6.5 If following the investigatory hearing the manager believes there to have been an act of misconduct or gross misconduct and believes it appropriate to instigate the formal disciplinary procedure they should make the recommendation through the Human Resources Department and a member of the Human Resources team will make the necessary arrangements for a disciplinary meeting to be held.

7. Suspension pending a disciplinary meeting

- 7.0 There may be circumstances during an investigation where suspension from duty pending the holding of a formal disciplinary meeting may be appropriate. Examples of circumstances in which suspension may be appropriate, depending on the facts of the situation, include gross misconduct cases; situations where there are risks to an employee's or UTC Cambridge property; or where there are reasonable grounds for concern that evidence has been tampered with, destroyed or witnesses pressurised.
- 7.1 The decision to suspend can only be made by the Principal or a member of SLT whom have been trained on the disciplinary policy and procedure.
- 7.2 If the Principal (or member of SLT) decides to suspend an employee from duty, he/she shall:
- i. confirm the suspension in writing to the employee without unreasonable delay; and
 - ii. inform the employee in writing of the reasons for the suspension, without unreasonable delay.
- 7.3 A period of suspension pending a disciplinary meeting will be kept as brief as possible and will be kept under regular review. Suspension does not form part of a disciplinary sanction.

7.4 An employee who is suspended from duty shall, throughout the period of suspension, continue to be entitled to their full pay.

8. Formal Procedure for disciplinary meetings

- 8.0 If there are reasonable grounds to believe that an employee has committed an act of misconduct, UTC Cambridge will invite the employee to attend a disciplinary meeting. The employee will be advised of the nature of the allegation against them and they will be provided with any relevant papers (such as written evidence and witness statements) to enable the employee to prepare for the meeting. UTC Cambridge will provide notice of this in writing at least 24 hours before the disciplinary meeting takes place.
- 8.1 Documentation to be used at the hearing should be exchanged by the employer and the employee via HR at least 24 hours before the meeting.
- 8.2 The employee will be given an opportunity to state their case and will be given the right to be accompanied by an acknowledged staff representative of their choice. Before the meeting takes place, the employee should inform UTC Cambridge who they have chosen as their representative.
- 8.3 Representatives of UTC Cambridge, the employee and the employee's acknowledged staff representative should make every effort to attend the meeting. If the employee fails, without good reason and advanced notification, to attend a disciplinary meeting which UTC Cambridge has instructed them to attend, UTC Cambridge reserves the right to go ahead with that meeting, forgoing the employee right to either submit written representations and/or be represented by an acknowledged staff representative.
- 8.4 However if an employee has notified in advance that the chosen representative is not available on the date of the initial hearing the employee may delay the date of the hearing once up to 5 working days to enable the chosen representative to attend. The location and timing of any alternative hearing should be convenient to both the employer and the employee.
- 8.5 The disciplinary hearing will usually be chaired by a UTC Cambridge line manager, unless they have been previously involved in the investigatory stage. If this is the case an alternative manager will chair the hearing. However where dismissal is a possible outcome, the meeting will be chaired by the Principal or Deputy Principal.
- 8.6 At the disciplinary hearing the investigatory manager will present the findings of the investigation and any supporting material.
- 8.7 The disciplinary chair and the employee should be allowed to ask questions and present evidence.
- 8.8 The Human Resources Manager will be present at all disciplinary hearings (but not informal meetings unless requested) to provide professional advice and guidance.

9. Disciplinary sanctions

Stage 1: Formal Verbal Warning

- I. If conduct does not meet acceptable standards, the employee will normally be given a Formal Verbal Warning. The employee will be advised of the reason for the warning via a file note, confirming the improvement required and the time limit within which such improvement must be achieved. The warning will clarify that if the employee commits a further offence of misconduct during a six month period, stage 2 will be considered. The employee will be advised of the right of appeal in accordance with Section 10 of the procedure.

- II. A copy of the file note and any investigation meeting notes will be placed on the colleague's personal file, held within the HR department. After 6 months, the warning will be disregarded for disciplinary purposes, subject to the employee's conduct having been satisfactory throughout that period.

Stage 2: First Written Warning

- I. A First Written Warning will be given if:
 - the employee commits a more serious offence of misconduct, warranting a corrective sanction above a verbal warning; or
 - the employee fails to comply with a formal verbal warning given under Stage 1;or
 - despite having been given, under Stage 1, a formal verbal warning as a result of misconduct the employee commits a further offence of misconduct.
- II. The written warning letter will give details of the employee's misconduct, the improvement required and the time limit within which such an improvement must be achieved. The warning will state that, if the employee commits a further offence of misconduct during a six month period specified in the warning, action under Stage 3 will be considered. The written warning will also advise the employee of the right to appeal in accordance with Section 10 of the procedure.
- III. A copy of the letter will be placed on the employee's personal file held within the Human Resources department. After 6 months, the warning will be disregarded for disciplinary purposes, subject to the employee's conduct having been satisfactory throughout that period.

Stage 3: Final Written Warning

- I. A Final Written Warning will normally be given if:
 - the employee fails to comply with a first written warning given under Stage 2 of the disciplinary procedure; or
 - despite having been given a warning under Stage 2 of the procedure, the employee commits a further offence; or
 - the employee's misconduct, although not considered to be serious enough to justify a summary dismissal, is sufficiently serious to warrant a final written warning.
- II. This final written warning will give details of the employee's misconduct, the improvement required and the time limit within which such improvement must be achieved. The warning will state that, if the employee commits a further offence of misconduct during a 12 month time limit specified in the warning, their employment may be terminated. The final written warning will also advise the employee of the right of appeal in accordance with Section 10 of the procedure.
- III. A copy of the letter will be placed on the employee's personal file held within the Human Resources department. After 12 months, the warning will be disregarded for disciplinary purposes, subject to the employee's conduct having been satisfactory throughout that period.

Stage 4: Dismissal

- I. The Principal or Deputy Principal may, following a disciplinary meeting, give notice of dismissal to the employee, if:

- the employee fails to comply with a final written warning given under Stage 3; or
 - despite having been given, under Stage 3, a final written warning, the employee commits a further offence of misconduct within the 12 month period; or
 - the employee is found to have committed an act of gross misconduct.
- II. Where it is the view of the Principal that the employee is guilty of gross misconduct, they may summarily dismiss the employee. Such dismissal will be without notice or payment in lieu of notice.
 - III. The notice of dismissal will be in writing and will specify the reasons for dismissal, the date on which the employment will terminate and the right of appeal against the dismissal in accordance with Section 10 of the procedure.
 - IV. The Principal or Deputy Manager may non-confirm employment within the set probationary period within the employee's contract. (see guidelines attached)

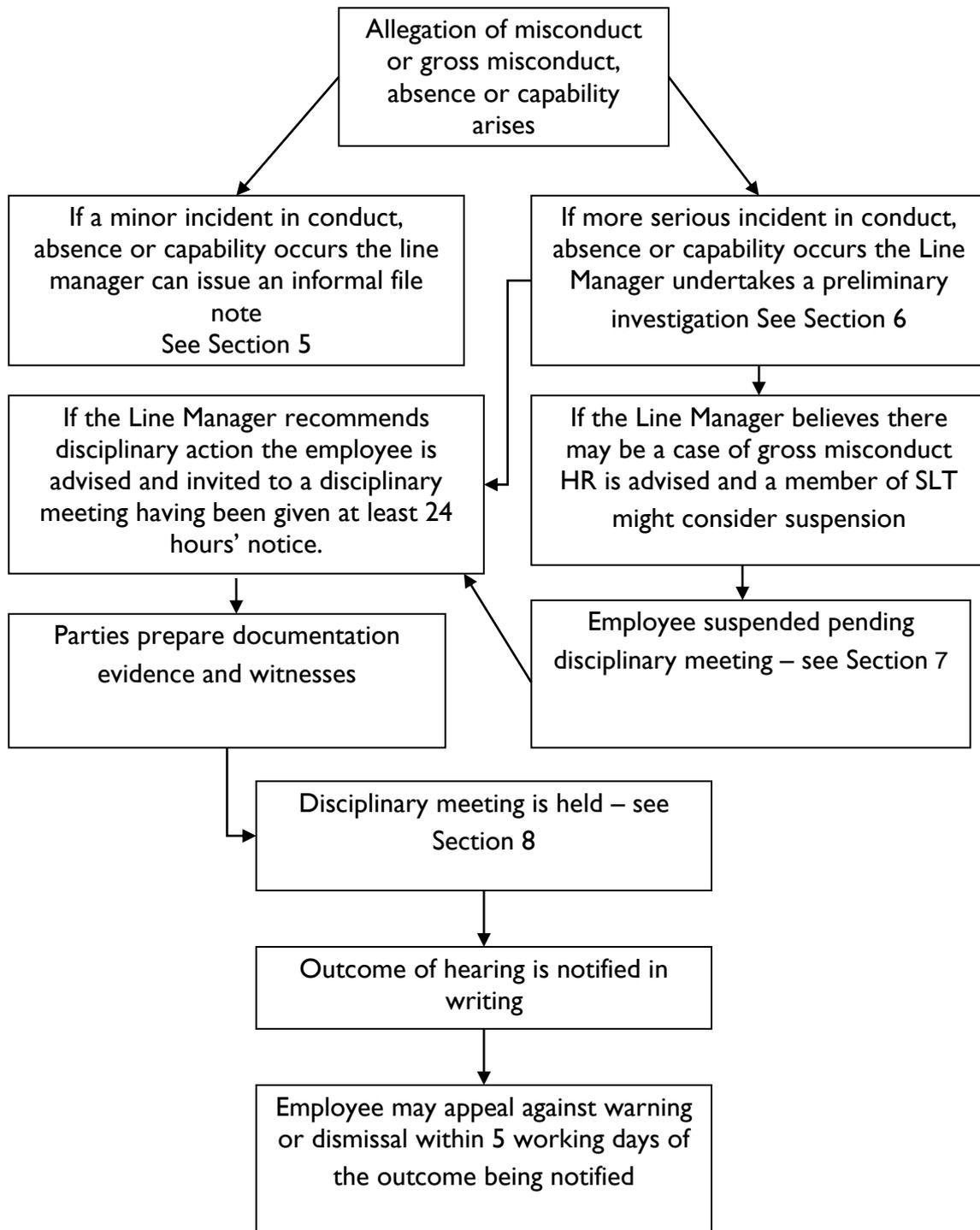
10. Appeal

- I. An employee who wishes to appeal against a disciplinary decision must do so within 5 working days of the date of the decision. To do so, the employee should inform the Senior Human Resources Advisor in writing, stating the grounds for appeal.
- II. Where the appeal is against a formal warning, it will be heard by a Senior Manager who has not been involved in the disciplinary process in question so far. Wherever possible, the manager hearing the appeal will be Senior to the manager who chaired the original disciplinary meeting.
- III. Where the appeal is against dismissal (including summary dismissal), it will be heard by either:
 - A. the Principal, where the decision to dismiss was made by the Deputy Principal; or
 - B. a UTC Cambridge Governor, where the decision to dismiss was made by the Principal. The committee shall not include the Principal, staff members, parent members or student members.
- IV. The appeal meeting will be held as soon as reasonably practicable after the notice to appeal has been received. The employee will be given at least five days notice of the meeting date to allow them to prepare for the meeting.
- V. At the appeal meeting, the employee will be given the opportunity to state their case and has the right to be accompanied by an acknowledged staff representative.
- VI. If the chosen companion of the employee is unavailable on the date of the initial meeting, the employee may delay the date of that meeting once by up to 5 working days to enable the chosen companion to attend. The location and timing of any alternative meeting should be convenient to both the employer and the employee, but should not unduly delay the process.
- VII. At the appeal, the disciplinary sanction will be reviewed. Please note that as the case will be reviewed from an independent perspective, the appeal chair has the ability to uphold, increase or decrease the level of sanction. The appeal decision will be notified to the employee (and, where it is a decision of a UTC Cambridge Governor, also notified to the Principal) in writing without unreasonable delay following the appeal meeting. The appeal decision is final.

The records of the investigatory/disciplinary/appeal will be handled in accordance with the Data Protection Act 1998 at all times.

Appendix I.

Disciplinary Procedure



Appendix 2.

11. Responsibilities

11.0	Preliminary investigations	Line Manager
11.1	Suspensions	Principal or trained member of SLT
11.2	Disciplinary Meetings	Line Manager or above
11.3	Appeals against sanctions	UTC Cambridge Governor, Principal or Deputy Principal
11.4	Professional Advice and Guidance	Human Resources Manager
11.5	Note Taker	Admin Clerk

Appendix 3.

Non confirmation of Employment

1. The Principal or Deputy Principal may, following a non-confirmation of employment meeting, give notice of dismissal to the employee, if:
 - the employee fails to adequately meet the requirements set out in the probationary review according to the Job description; or
 - the employee is disinterested in improving performance, despite training and development; or
 - the employee is incapable of fulfilling the role according to the description, due to aptitude or capability; or
 - the employee is found to have committed an act of gross misconduct; or
 - Absence exceeds accepted levels, according to the UTC Cambridge attendance policy.

Line Managers must complete an initial probationary review meeting with every new starter to set expectations and targets according to the individual job description for that role.

2. The initial meeting should be held within the first two weeks to ensure the new starter understands the line manager's expectations and has the opportunity to identify any training needs. The subsequent Probationary review meetings should be planned for at the 3 month point and 6 month point, at which time the line manager will indicate any performance, capability or absence issues.
3. Where the Line Manager is of the view that UTC Cambridge will not be confirming employment within a probationary period due to performance, capability or absence, then the Line Manager will inform HR to invite the employee to a non-confirmation of employment meeting.
4. If a Line Manager has determined that UTC Cambridge will not confirm the employee's employment, then the Line Manager must specify the reasons for dismissal at the Probationary Review or at a subsequent review meeting.
5. Where it is the view of the Principal or deputy Principal that the employee is guilty of gross misconduct, they may summarily dismiss the employee. Such dismissal will be without notice or payment in lieu of notice, in accordance with section
 - V. The notice of dismissal will be in writing and will specify the reasons for dismissal, the date on which the employment will terminate and the right of appeal against the dismissal in accordance with Section 10 of the procedure.
 - VI. The Principal or Deputy Manager may non-confirm employment within the set probationary period within the employee's contract. (see guidelines attached)

Appendix 4 Management Guidelines regarding dismissal:

UTC Cambridge should provide a new starter with a proper induction into the business and his role within it. This induction should include setting and communicating the standards of performance expected of the employee with, where appropriate, specific targets and timescales. That way, everybody knows what is expected. Any training needs should be identified and, if necessary, a training plan for the employee put in place.

New appointments should always be made subject to completion of a satisfactory probationary period. Legally contractual rights start after 2 years, but for employee engagement a probationary period of 6 months is more typical - normally long enough for the employer to complete a proper assessment of the employee's skills and his aptitude for the role. If it soon becomes clear that the employee simply cannot do the job then the employment should be ended straightaway. There is no need to wait until the end of the probationary period. It is the manager's responsibility to ensure that there is no doubt regarding the employee's capability by the end of the probationary period. The probationary period should only be extended if the employee has been unable to complete the probationary period due to ill health, making it difficult for the manager to assess capability at which point the manager should explain the position carefully to the employee and extend the period of probation.

If the decision is taken to dismiss an employee for poor performance during or at the end of his probationary period or at some later time before the employee has acquired protection against unfair dismissal then the process need not be complicated. The employee can simply be told of the decision to dismiss him and then either given notice and required to work it or terminated there and then and given a suitable payment in lieu of notice. Either way, the decision should be confirmed in writing and it should be made clear to the employee that his incapability or poor performance was the reason for his dismissal. One word of caution: extra care must be taken if the employer has a contractual disciplinary procedure or if the employee is within a month of gaining protection against unfair dismissal.

Dismissals:

It is the employer (UTCC) who is required to show that poor work performance is the reason for the dismissal and that it is reasonably believed the employee was incompetent. It will be necessary to produce evidence of the employee's failings and the steps or measures that were taken to try to bring performance to the standards required within agreed timescale.

Can an employer dismiss an employee for incapability?

Section 98 (3)(a) of the Employment Rights Act 1996 states that 'capability in relation to an employee means his capability assessed by reference to his skill, aptitude, health or any other physical or mental quality..'

Generally, this falls into three categories:

Qualifications - defined as 'any degree, diploma or other academic, technical or professional qualification relevant to the position' held by the employee

Incompetence or poor performance - occurs where, usually through no fault of their own, the employee is simply incapable of delivering work to the required standard. For example, a person who works in a dog kennels who frequently forgets to lock the kennels and feed the animals. (Obviously, great care must be taken to ensure that the incompetence is not related to a disability - see our Disability discrimination FAQs.)

Illness - for example, where an employee's illness makes it impossible for them to perform their duties.

It is for the employer to show that it reasonably believed in the employee's lack of capability after making reasonable enquiry. A fair procedure, aimed at highlighting poor performance and giving the employee the opportunity to improve their performance, is usually invoked prior to dismissing an employee for capability. Such a procedure may form part of a disciplinary procedure or a separate capability process.

In all cases, UTCC procedures should be followed and Acas Code of practice on disciplinary and grievance procedures should be followed as well. In longer illnesses there may be an overlap with disability discrimination. Guidance on capability dismissals is also available on the GOV.UK website.