



## **DISCIPLINARY PROCEDURE**

### **1. Principles**

#### *Objective and scope*

- 1.1 This procedure has been drafted in the context of the belief that the vast majority of employees have always observed, and will continue to observe acceptable standards of performance and behaviour.
- 1.2 The following procedure will be applied in all instances in which potential disciplinary matters are addressed by College management, save to the extent that a minor reprimand is given for any minor act of misconduct committed by an employee. This procedure applies to all staff.
- 1.3 The College reserves the right to implement the procedure at any of the stages outlined in 5.1 below (sections a to d), taking into account the alleged misconduct of an employee. Employees will not ordinarily be dismissed for a first disciplinary offence, unless that offence is found to constitute gross misconduct. An investigation will always be undertaken prior to a decision being taken as to whether disciplinary action may be warranted..
- 1.4 The procedure may be varied where the College considers that is necessary to do so to ensure fairness. Any variation will be subject to consultation with the College's recognised trades unions.
- 1.5 In the course of a disciplinary process, an employee might raise a grievance about an issue which is related to the case. If this happens, the College may find it convenient to deal with both issues concurrently. There may be other situations where the College may find it more appropriate to suspend the disciplinary procedure for a short period while the grievance is dealt with.

#### *Right to be Accompanied*

- 1.6 Employees have the right to be accompanied at a formal disciplinary or appeal hearing by
  - a trade union official who is employed by a trade union; or
  - a lay trade union official, as long as he/she has been reasonably certified in writing by his/her union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings. Certification may take the form of a card or letter; or
  - a fellow College employee.

- 1.7 There is no statutory right for employees to be accompanied at a formal investigatory interview. However, the employee may be accompanied by a College colleague or trade union representative at the employee's request. If the employee chooses to be accompanied, s/he should inform HR of the name of their nominated party, so that arrangements for meetings can be made promptly and without undue delay.
- 1.8 The employee's chosen work colleague or trade union representative has the right to make representations on behalf of the employee, confer with the employee and ask questions during the hearing. S/he may not answer questions on behalf of the employee. S/he may summarise or make a closing statement on behalf of the employee at the conclusion of the meeting. However, there is no requirement for the College to permit the companion to answer questions on behalf of the employee, or to address the hearing where the employee indicates that he/she does not wish this.

### *Timescales*

- 1.9 Where time limits are referred to in the course of this procedure they may be varied by agreement between the employee and the College.
- 1.10 Meetings will be arranged in conjunction with the employee and scheduled within a reasonable timescale.
- 1.11 Where the employee is unable to attend an investigatory interview, disciplinary hearing or appeal hearing and provides a good reason for failing to attend, it will be adjourned to another day, normally within five working days of the originally scheduled date..
- 1.12 If the employee is unable to attend the rearranged hearing, the rearranged hearing will take place in the employee's absence, unless there are mitigating circumstances. The employee's fellow College employee or trade union representative may attend in such circumstances and will be given the opportunity to present the employee's case. The employee may choose to make written submissions in such a situation.
- 1.13 Where the chosen companion is unavailable on the day scheduled for the meeting, it will be rescheduled, provided that the employee proposes an alternative time within five working days of the scheduled date and at which the relevant College parties are available.

### *Trade union representatives*

- 1.14 If an employee who is an accredited representative of a trade union recognised by the College is suspected of having committed a disciplinary offence, this procedure will be carried out as normal.
- 1.15 However, the College will notify a full-time official of that trade union, having requested consent from the employee to do so. If the requested consent is not given, the procedure will be carried out as normal.

### *Role of Human Resources*

- 1.16 Human resources staff can provide advice on procedure to managers and/or staff. In meetings, the HR representative will normally take notes and advise on procedure but will not be involved in decision making. The HR representative will also assist the person hearing the manager/ supervisor in compiling any report which may be prepared at any stage of the process.

### *Documentation*

- 1.17 Written records will be held of meetings relating to the issue. After each meeting, notes of that meeting will normally be prepared by HR and circulated to the person interviewed for agreement. Two copies of meeting records will be provided to the employee against whom there is an allegation, one of which the employee may distribute to their chosen companion should they so wish.

### *Confidentiality*

- 1.18 As far as reasonably practicable, confidentiality will be maintained throughout the disciplinary procedure. Where it is necessary to interview witnesses or others, the importance of confidentiality will be emphasised. It will be explained to witnesses that any breach of confidentiality may lead to disciplinary action. All meetings and investigations will be treated confidentially, subject to any statutory requirements. Witnesses will be made aware that anonymity cannot be guaranteed.

## **2. Investigation**

- 2.1 In the first instance, a line manager or supervisor should attempt to resolve issues informally if appropriate to the matter in question. If the line manager considers that formal action under this process is necessary, the manager should make the employee aware that action under this policy is being initiated.
- 2.2 On being advised by the employee's line manager or supervisor that a formal investigation is considered necessary, HR will determine an appropriate person to conduct the investigation. The investigation will normally be carried out by the employee's line manager or supervisor, but may be carried out by a manager or supervisor from another department.

- 2.3. The employee will be informed in writing, as soon as possible, that an investigation is required under this procedure. Written records will be kept of the investigation.
- 2.4 The employee will be invited to attend an investigatory interview and will be informed at the outset that the interview is an investigatory interview. The employee may be accompanied as set out in section 1.6 – 1.8 above.
- 2.5 The employee may suggest the names of individuals who may be called as potential witnesses. Witnesses will be called if it is considered that their statement is crucial to the investigation of the allegations in question. This will be determined by the investigating manager taking account of input from the employee and their chosen companion. Any reason for not calling witnesses will be given to the employee in writing.
- 2.6 When the investigation has been completed, the employee will be informed in writing of any recommendations and whether or not disciplinary action is considered to be warranted.
- 2.7 Examples of matters which the College may deem to be misconduct are given in Appendix A of this document. Please note that the examples listed are not exhaustive.

### **3. Precautionary Suspension**

- 3.1 There may be instances where precautionary suspension with pay may be deemed necessary while investigations are carried out. Suspension is not a disciplinary sanction nor is it a presumption of guilt.
- 3.2 In certain cases (for example in cases involving alleged gross misconduct, where relationships have broken down, the individual's continued presence may give rise to further misconduct or there are risks to an employer's property or responsibilities to other parties) consideration should be given to a brief period of suspension with full pay whilst an investigation is conducted.
- 3.3 Any decision to suspend will be taken by the Principal or the Vice Principal.
- 3.4 Any period of suspension will be kept as brief as possible and as it continues will be kept under review. The suspension will be lifted immediately should the circumstances of the case no longer justify it.
- 3.5 A member of staff who is suspended from duty may appeal to the College against the suspension. This appeal will be heard by the Principal or a representative of the Governing Body and will be final unless circumstances change
- 3.6 During a period of suspension, the employee, while not required to attend work, should remain available to assist in the disciplinary investigation, attend investigation or disciplinary meetings, or deal with any work-related questions. Further, if the suspension is lifted earlier than anticipated, the employee would

be expected to return to work immediately. If the employee wishes to go on holiday, he or she should request annual leave and the College will handle the request in accordance with the normal procedure.

#### **4. Disciplinary Hearing**

- 4.1 Where, upon completion of an investigation, there are reasonable grounds to believe that an employee has committed an act of misconduct, the employee will be invited to attend a disciplinary hearing.

##### *Determining who will conduct the disciplinary hearing*

- 4.2 HR will determine an appropriate person to conduct the disciplinary hearing. . This will normally be a manager of at least the same level as the manager who completed the investigation. Any member of management responsible for the investigation of the disciplinary offence(s) shall not be involved in hearing the disciplinary matter, although such managers may present any supporting facts and material to the disciplinary hearing if required.
- 4.3 Where the hearing could potentially result in dismissal, two managers normally of at least the level of the investigating manager will hear the matter.

##### *Prior to the hearing:*

- 4.4 In the event of a disciplinary hearing is considered warranted the College will:
- i. advise the employee in writing of the agreed hearing date;
  - ii. give the employee written details of the nature of his/her alleged misconduct;
  - iii. inform the employee the purpose of the hearing, that it will be held under the College's disciplinary procedure; and the level at which the hearing will be conducted;
  - iv. explain the employee's right to be accompanied at the hearing by a fellow College employee or trade union representative;
  - v. provide to the employee all relevant information (which should include any written statements or notes from meetings with witnesses; and
  - vi. where the allegation could lead to dismissal, advise the employee that this is a possible outcome.

##### *Format of the hearing*

- 4.5 The employee will be entitled to a full explanation of the case against him/her and be informed of the content of any statements provided by witnesses. (S/he will already have received copies of witness statements, as noted above).
- 4.6 He/she will be permitted to set out his/her case and answer any allegations. The employee will be given a reasonable opportunity to ask questions and present evidence.

- 4.7 He/she will also be given the opportunity to raise points about any information provided by witnesses.
- 4.8 The College may adjourn the disciplinary proceedings if it appears necessary to do so (including for the purpose of gathering further information or interviewing any further witnesses if required). The employee will be informed of the likely period of any adjournment.
- 4.9 If further information is gathered, the employee will be given a reasonable period of time, together with his/her fellow College employee or trade union representative, to consider the new information prior to the reconvening of the disciplinary proceedings.

#### *Communication of Decision*

- 4.10 As soon as possible after the conclusion of the disciplinary proceedings, the decision will be conveyed in writing to the employee. This correspondence will inform the employee what disciplinary action, if any, is to be taken, and his/her right of appeal under this procedure.

### **5. Disciplinary action and sanctions**

- 5.1 Where, following a disciplinary hearing, the College determines that the employee has committed a disciplinary offence, the following disciplinary action may be taken:

a. Verbal warning:

A verbal warning will ordinarily state that any further misconduct will render the employee liable to further, more severe disciplinary action. The employee should be informed of the period that the warning will remain "live," this is normally three months. A copy of the letter informing the employee of this sanction will be sent to the individual, and a copy will be retained on the personnel file for the duration of the warning.

During this period, the College may rely on such a warning in the event of further misconduct on the part of the employee.

b. First written warning:

The employee may receive a first written warning where either

- more serious misconduct has been committed or
- further minor misconduct has been committed by an employee following a recorded verbal warning that remains "live."

The warning will:

- i. set out the nature of the offence committed;

- ii. inform the employee that further misconduct is liable to result in further disciplinary action under this procedure;
- iii. specify the period for which the warning will remain "live", after such period; and
- iv. state that the employee may appeal against the warning.

The first written warning will normally remain "live" for six months.

c. Final written warning:

A final written warning may be given where

- an employee commits further misconduct after a first written warning has been issued and remains "live", or,
- where serious misconduct amounting to gross misconduct has been committed, thereby justifying summary dismissal, but the people hearing the matter decide, after taking into account all appropriate circumstances, that a lesser penalty is appropriate.

Such a warning will:

- i. set out the nature of the offence committed;
- ii. inform the employee that further misconduct is likely to result in his/her dismissal; and
- iii. state that the employee may appeal against the warning.
- iv. The final written warning will normally remain "live" for twelve months.

d: Dismissal

- i. Where the employee has committed further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning given under c. above, the employee may be dismissed with notice or with pay in lieu of notice.
- ii. Where the College establishes that an employee has committed an act of gross misconduct, the employee may be summarily dismissed.
- iii. Where a final written warning is given to an employee instead of dismissal (i.e., where there are mitigating circumstances relating to the finding of gross misconduct), the College may also impose on the employee:
  - in line with any provision in the contract of employment, demotion or transfer to a job of a lower status.
  - redeployment
  - withholding of an increment

- 5.2 The type of misconduct and applicable sanction are summarised below (subject to the caveats cited in the text of this policy):

<b><i>Type of misconduct</i></b>	<b><i>Sanction</i></b>	<b><i>Duration</i></b>
Minor misconduct	Verbal Warning	3 months
More serious misconduct/ repeat of minor misconduct	First written warning	6 months
Serious misconduct	Final written warning	12 months
Gross misconduct	Dismissal, or final written warning plus demotion, redeployment, or transfer to job of lower status	

- 5.3 Once a disciplinary warning has lapsed (as per the stated timescales above), it will be removed from the employee's personal file.

## **6. Appeal**

- 6.1 An employee may appeal against any disciplinary sanction imposed against him/her under this procedure.

### *Lodging an Appeal*

- 6.2 The employee must provide written notice of the appeal within five working days of being informed of the disciplinary sanction being imposed against him/her. When lodging the written notice of appeal, the employee should outline:
- the grounds of appeal; and
  - whether he/she is appealing against the finding that he/she has committed the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed.
- 6.3 Appeal hearings will normally take place within 10 working days of receipt of the employee's written notice of appeal.

### *Determining who will hear the appeal*

- 6.4 The appeal will be heard by a manager of at least the same level as the person who imposed the initial disciplinary sanction and who has not been involved in the decision to impose the disciplinary sanction on the employee.
- 6.5 Where the appeal is against the sanction of dismissal, the appeal will normally be heard by three managers of at least the level as the managers who imposed the sanction. The appeals panel may involve members of the Governing Body.



### *Appeal Hearing*

- 6.6 The appeal panel is obliged to consider any representations made by  
(a) the employee,  
(b) the employee's chosen companion (c) the manager(s) who conducted the disciplinary hearing and imposed the disciplinary sanction.
- 6.7 The panel hearing the appeal must decide on the basis of both sets of representations, together with any subsequent facts that may have come to light, whether or not to uphold the disciplinary sanction.

### *Decision of Appeal Panel*

- 6.8 Upon completion of the appeal, the panel conducting the hearing will convey his/her decision to the employee. The decision will be conveyed in writing normally within 5 working days of the date of the appeal hearing. Any delay will be explained to the employee.
- 6.9 In the event that the panel upholds the appeal, all records of the disciplinary sanction will be removed from the employee's record.
- 6.10 In the event that the panel does not accept the representations made by or on behalf of the employee, the disciplinary sanction will be upheld.
- 6.11 The College's decision at the appeal is final. No more than one appeal can be lodged against any disciplinary sanction issued.
- 6.12 In the event that a decision to dismiss is overturned, the employee will be reinstated with immediate effect and he/she will be paid for any period between the date of the original dismissal and the successful appeal decision. His/her continuous service will not be affected.
- 6.13 If the disciplinary decision was to dismiss the employee summarily without notice and the appeal panel upholds the dismissal, the College will be under no obligation to reinstate or pay the employee for any period between the date of the original dismissal and the appeal decision. The original date of termination will stand.

## **7. Review**

- 7.1 This procedure will be periodically reviewed in consultation with the College's recognised trade unions. Any amendment to it will be notified to employees in writing by the College and such written advice will inform employees as to the date when any amendment comes into effect. This may be by means of the College's intranet or via use of notice boards.

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*For distribution to:* All Staff

## **APPENDIX A**

Please note that these examples are not exhaustive.

### **Minor Misconduct**

Examples of matters which the College may view as amounting to disciplinary offences which may be deemed to be minor misconduct are (but are not limited to) the following:

- Absenteeism
- Poor timekeeping, e.g., lateness, excessive time away from the job
- Failure to comply with the Absence Notification Certification Procedure
- Carelessness
- Ignoring safety/hygiene/security rules
- Failure to maintain a tidy and safe working environment
- Misuse of telephone or computer
- Failure to wear any uniform/protective clothing provided
- Failure to complete time/stock/ work sheets or other documentation as instructed

### **Serious Misconduct:**

Examples of matters which the College may view as amounting to disciplinary offences which may be deemed to be serious misconduct are (but are not limited to) the following:

- Dangerous physical horseplay
- Neglect causing damage to or loss of property of the College, students, other employees or visitors
- Serious neglect of safety/hygienic/security rules
- Serious misuse of telephone or computer
- Wilful or excessive wastage of material
- Repeated use of foul language
- Gambling without permission on the premises
- Insubordination.

## **Gross Misconduct:**

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the employer. In the event that an employee commits an act of gross misconduct, the College will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice.

Matters that the College may view as amounting to gross misconduct include (but are not limited to):

- Theft, fraud or other offences of dishonesty;
- falsification of records, reports, accounts, expense claims or self-certification forms, whether or not for personal gain;
- bullying or harassment
- obscene behaviour at work;
- violent behaviour
- deliberately ignoring safety/ hygiene/ security rules and thereby endangering one's own or another's physical well being or safety;
- wilful damage to or gross negligence to property of the College, staff, students or any other visitor;
- unauthorised use of vehicles, property or supplies of the College;
- drunkenness or being under the influence of illegal drugs while at work;
- possession, custody or control of illegal drugs on the College's premises;
- extreme breach of the College's rules, including, but not restricted to, health and safety rules and rules on computer/IT use;
- gross negligence in the conduct of one's duties;
- conviction of a criminal offence that is relevant to the employee's employment;
- bribery offences under the Bribery Act 2010.
- falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain to the employee;
- conduct that brings the College's name into disrepute;
- disclosing confidential College information to a third party;
- discrimination or harassment of a fellow worker on the grounds of sex, sexual orientation, race, disability, age or religion or belief.