

Staff Disciplinary Policy

1. Purpose

1.1 The purpose of the disciplinary policy and procedure is to set standards of conduct within the College, and to address concerns in a transparent and consistent way. It is designed to provide a framework for dealing with employees who fail to achieve and maintain satisfactory standards of conduct.

2. Scope

2.1 This policy and procedure applies to all employees including senior post holders. For senior post holders, Appendix 2 should also be observed. For new employees who are in their probationary period, the College reserves the right to vary the procedure, for instance by omitting stages including for a first act of alleged misconduct.

3. Principles

3.1 All employees will be treated fairly and with respect in accordance with the College's Dignity at Work Policy and the Equality Act 2010.

3.2 Employees subject to disciplinary proceedings will have access to the Employee Assistance Programme (EAP).

3.3 Line managers should contact HR for advice and support in dealing with disciplinary matters at all levels.

3.4 Every effort should be made to deal with matters informally. Where this is inappropriate or does not result in the necessary improvements to behaviour or conduct, the formal stages of the procedure will be followed.

3.5 An employee who is subject to the disciplinary process may be accompanied at formal meetings by a representative or a work colleague.

3.6 The disciplinary procedure will normally operate sequentially through each stage. However, in more serious cases of misconduct, or where there has been an earlier pattern of unacceptable behaviour with insufficient improvement, the College reserves the right to begin the procedure at the most appropriate stage.

3.7 Disciplinary action will not be taken until the matter has been investigated and the employee has had an opportunity to state their case.

3.8 Where a disciplinary sanction is given, the employee will have the right of appeal.

3.9 Due regard will be given to the 'academic freedom' of academic staff to hold and express opinion, question and test established ideas, and present controversial or unpopular points of view, without putting their employment at risk. This right of 'academic freedom' is balanced by the obligation to use that freedom responsibly and professionally and within the law.

3.10 Notes of meetings will be taken to summarise key points.

3.11 In formal proceedings, a copy of the meeting notes will be distributed to the parties present to comment on their accuracy. If it is not possible to agree on the notes, both views will be incorporated into the record with the point(s) of disagreement noted.

3.12 The College prohibits the covert audio or video recording of formal or informal meetings or discussions. Covert recording will be considered a disciplinary matter.

Procedure

4. Initial action

4.1 Where minor concerns about conduct arise, the matter will normally be addressed informally in the first instance. The line manager should meet with the employee to discuss the concerns and seek any views and/ or any explanations from the employee. The employee will be informed that failure to meet the required standards of conduct is likely to lead to formal action.

4.2 Following the meeting the line manager will write to the employee with a summary of the discussion. No record of initial action will be kept on the employee's personnel file stored in HR, but the HR office will be copied into the correspondence.

4.3 If during this initial stage it becomes clear that the conduct is more serious, or if initial action does not resolve the issue, the employee will be informed in writing that the matter will be progressed through the formal stages of this procedure.

5. Formal procedure summary

5.1 Where formal proceedings are initiated; an Investigating Officer will be appointed. The purpose of the investigation is to establish the facts and determine whether a disciplinary hearing is required. See section 7 below.

5.2 If serious misconduct is alleged, the employee may be suspended from work. This will usually follow some initial enquiries as required. See section 8 below.

5.3 Where the investigation concludes that a disciplinary hearing is required, the employee will be given written notification. She/he will be informed of the

allegation(s) and will be provided with the relevant paperwork and evidence to be considered at the hearing. See section 9 below.

5.4 Following a disciplinary hearing, a warning (first or final written) may be issued. The employee may also be dismissed. See section 10 below.

5.5 An employee may appeal against any sanction issued under this procedure. An appeal should be made in writing to the Chair within 7 working days of notification of the outcome of a formal hearing. See section 11 below.

6. Disciplinary procedure overview - Allegation(s) of misconduct

Situation assessment

- Less serious incidents incur initial action which can resolve the situation.
- If unresolved or a more serious incident, then a formal investigation is required.

A formal investigation can lead to:

1. Suspension (after careful consideration)
2. Cause for concern but can be dealt with informally
3. Disciplinary hearing
4. Matter dropped (no case to answer)

A Disciplinary hearing can lead to:

1. Concerns not well supported - matter dropped (no case to answer)
2. Dismissal
3. Disciplinary sanction issued

Appeal

Both Disciplinary sanction and Dismissal can be appealed which will either be:

- Upheld
- Not upheld

7. Investigation

7.1 The employee will be informed in writing of the investigation and the allegation(s) and will normally be invited to attend an investigation meeting with the Investigating Officer. In addition, any witnesses to the alleged incident(s) will also be interviewed and a statement taken. In the event a face-to-face interview cannot take place, this will be collected by another means.

7.2 The Investigating Officer will prepare a report of the findings (see templates), and will make one of the following recommendations that:

- the matter is not progressed because there is no case to answer; or
- there is a cause for concern, but it can be dealt with informally; or
- There is a cause for concern and a disciplinary hearing is required.

The outcome of the investigation will be confirmed to the employee in writing.

8. Suspension

8.1 Suspension will be considered carefully and will only be used if there is a potential risk to the business, or if the employee's continued presence at work would prejudice the investigation or disciplinary process. Alternatives to suspension, such as temporary redeployment, will be considered first. The decision to suspend may be taken at any point during the disciplinary process. Authorisation to suspend will be sought from the Rector (or designate), or from the Director of Operations (or designate).

8.2 Suspension is not a disciplinary sanction and does not presume guilt. Suspensions will be for as brief a period as possible and will be kept under review. During the period of suspension, the contract of employment continues, and normal pay arrangements apply. The employee must remain contactable and attend meetings when required.

8.3 A suspended employee will not be permitted to enter College premises or to contact other employees (except for a trade union representative) without prior written consent. In addition, the employee's staff card and IT access will normally be suspended.

8.4 If, for the purposes of case preparation, a suspended employee wishes to contact another employee and/or to access IT services, the employee should contact HR who will make the necessary arrangements.

9. Disciplinary hearings

9.1 The employee will be given at least 5 working days' notice of the hearing and will have the right to be accompanied by a trade union representative or a work colleague.

9.2 The hearing will be chaired by a manager who has had no previous involvement in the case. Where dismissal is a potential outcome, the hearing will be chaired by a member of the Senior Management Team (SMT). Refer to Appendix 2 for additional information on the treatment of senior post holders. The Chair will be supported by a representative from HR, who will provide procedural advice. The Investigating Officer will also attend the hearing to answer questions and to present any

supporting facts and material. In addition, the Chair may decide to call witnesses to give evidence at the hearing. The employee will be informed of any witnesses to be called.

9.3 Further documentation may be provided by any party, but this should be made available as soon as possible, and at least 3 working days before the hearing.

9.4 If the employee is unable to attend the hearing for unavoidable reasons, s/he should inform the Chair as soon as possible and where feasible efforts will be made to reschedule the hearing, provided that an alternative date can be arranged within 5 working days of the original date. If the employee fails to attend the meeting without explanation or it appears that s/he has not made sufficient attempt to attend, the meeting may take place in the employee's absence.

9.5 During the hearing, the employee will be given the opportunity to respond to the evidence presented, and to state his/her case in full. The employee may call witnesses to the hearing, and the list of witnesses should be discussed and agreed with the Chair at least 3 working days in advance of the hearing. The employee must have a reasonable belief that any witnesses s/he calls have information that is pertinent to the matter being considered. Character witnesses will not be permitted. It is the employee's responsibility to arrange the attendance of the witnesses.

9.6 Once the Chair is satisfied that s/he has all the relevant information, including any mitigation presented by the employee, the Chair will close the hearing to consider all the evidence and make a decision.

9.7 Following the hearing, the employee will be informed of the outcome and conclusions orally in a meeting by the Chair and will also receive the outcome in writing. This will normally be within 7 working days. The outcome will confirm the Chair's decision in relation to the allegations (whether they are supported or not), what formal sanction will apply (if any), and the employee's right of appeal (if applicable). An extension of time to communicate the outcome can be put in place if this is specifically necessary, or in exceptional circumstances.

10. Disciplinary sanctions

10.1 There can be three outcomes of disciplinary action:

- First Written Warning (live for 12 months)
- Final Written Warning (live for 24 months)
- Dismissal (or demotion in specific and appropriate circumstances)

10.2 Where a minor offence or offences have been committed (see Appendix 1 for examples), a first written warning may be given. The warning will remain live for 12

months and during this period the College will rely on such a warning in the event of further misconduct.

10.3 Where the employee commits further disciplinary offences after a first written warning has been issued and remains live, or where the misconduct is sufficiently serious to omit a first written warning, a final written warning may be given. The warning will remain live for 24 months and during this period; the College will rely on such a warning in the event of further misconduct.

10.4 Warnings will be confirmed in writing and contain all the relevant and required information.

10.5 Disciplinary warnings will be cumulative, irrespective of the specific reasons for the warning. For example, if a first written warning is issued for unauthorised absence, then a different type of misconduct occurs, such as persistent lateness, a final written warning may be issued, following an investigation and hearing.

10.6 Expired warnings may be considered in subsequent proceedings; for instance where an employee's conduct is satisfactory throughout the period of a warning, but lapses very soon thereafter, or where there is evidence of a pattern of behaviour.

10.7 Incremental pay progression will be suspended during the period of any live warning and will resume on the next normal increment date following the expiry date of the warning.

10.8 A disciplinary warning may also be accompanied by other forms of disciplinary sanction, such as withholding of discretionary benefits. In addition, there may be a deduction from pay in cases of unauthorised absence. The deduction will be equal to the period of absence and will be made for the purposes of recompensing the College for the financial loss.

10.9 Live disciplinary warnings will be considered in the College's decision and response to requests and applications for re-streaming, promotion, progression and moves within the College.

Dismissal

10.10 The employee may be dismissed if:

- She/he commits further acts of misconduct following a final or first (if the subsequent allegations are sufficiently serious) written warning;
- She/he commits gross misconduct (see Appendix 1).

10.11 Where employment is terminated, the employee will normally receive their contractual notice unless it is summary dismissal for gross misconduct, in which case there is no entitlement to notice, or payment in lieu of notice.

10.12 Where dismissal is an appropriate outcome, the Chair may decide to act short of dismissal if this is suitable; for instance, if there is strong mitigation. This action could include demotion (with the appropriate pay reduction) and/or transfer to a different role or work area. These options will be considered only where it is practicable and in the interest of the College's business operations with due risks being assessed.

11. Appeal

11.1 The employee should write to the Chair of the disciplinary hearing within 7 working days clearly stating the grounds for appeal and should also include any new documentary evidence that they wish to be considered. Grounds for appeal must be from one or more of the following:

- The sanction applied was inconsistent or disproportionate.
- New information has come to light that would affect the decision.
- There was a procedural irregularity that had an impact upon the decision.

11.2 Where the Chair and Human Resources are satisfied that there are genuine grounds for an appeal, s/he will nominate a suitable manager to consider the appeal. This will be a manager not previously involved in the case, who is of at least an equivalent grade to the Chair at the previous stage. Where the appeal is against dismissal, the Rector (or designate) will hear the appeal. The Chair will be supported by a representative from HR who will provide procedural advice. Refer to Appendix 2 for additional information on the treatment of senior post holders.

11.3 Where the Chair and Human Resources are of the view that there are no genuine grounds for appeal, s/he will write to the employee outlining the reasons for this decision.

11.4 Where it is decided that there are grounds for an appeal, the College will respond within 7 working days of the submission of a formal appeal. An extension of time to can be put in place if this is specifically necessary, or in exceptional circumstances. The employee will be given at least 5 working days' notice of the meeting and will have the right to be accompanied by a trade union representative or a work colleague.

11.5 If the employee is unable to attend the meeting for unavoidable reasons, refer to 9.4 above.

11.6 The appeal meeting will only consider the stated grounds for the appeal and will not reconsider all matters raised within the original hearing. In considering the grounds for the appeal, the Appeal Chair will assess whether or not the conclusion reached in the original hearing was appropriate.

11.7 Following the appeal meeting, the employee will be informed of the outcome in writing within 7 working days, wherever possible. An extension of time to communicate the outcome can be put in place if this is specifically necessary, or in exceptional circumstances.

The decision of the Chair will be final and there is no further right of appeal.

12. The right to be accompanied

12.1 An employee has the right to be accompanied by a work colleague, a trade union representative or an official employed by a trade union at any formal meeting under this procedure.

12.2 If the employee wishes it, the companion may address the meeting; respond on behalf of the employee to any view expressed in the meeting and sum up the case on behalf of the employee. The companion may not answer questions on the employee's behalf or prevent the College from explaining the case.

12.3 Where the chosen companion is unavailable on the day scheduled for the hearing/ appeal hearing, it will be rescheduled, provided that an alternative time can be arranged within 5 working days of the original date.

13. Special cases

13.1 If the employee is an accredited representative of a trade union recognised by the College for collective bargaining purposes, no action will be taken under this procedure until the matter has been discussed informally with a full time official of the trade union (having received consent from the individual).

13.2 If the employee raises an unrelated grievance at any point during this procedure, both processes will normally run concurrently. A separate manager will be appointed to hear the grievance. Where the grievance is related to the disciplinary process, the employee should raise the matter with the Chair at the hearing/ appeal hearing.

13.3 If the employee has requirements because of a disability or informs the College of a medical condition that may be relevant, the matter should be referred via HR to **Occupational Health** where appropriate, by mutual agreement.

13.4 If the employee goes on sick leave during the disciplinary process, the process will normally continue. Input from **Occupational Health** will be sought as appropriate and the College will put in place any reasonable adjustments as necessary.

13.5 Where a student raises a complaint about the behaviour of a member of staff, the matter will normally be reviewed under the [Student Complaints Procedure](#).

13.6 If an employee is charged with or convicted of a criminal offence during their employment with the College, this is not necessarily a reason for disciplinary action,

but in some cases will be. Consideration will be given to what impact the charge or conviction has on their suitability to do the job, their relationships with work colleagues, students and customers, any related risks and on the College's reputation. The question in such cases is whether the employee's alleged conduct warrants action because of its employment implications.

13.7 The disciplinary process will not normally be delayed because an offence is under investigation by the police or because of any legal proceedings. This will be considered on a case-by-case basis by SMT and HR.

14. Dismissal of senior post holders

14.1 The same procedure will apply to the dismissal of senior post holders (members of the SMT). Where the decision to dismiss is a likely outcome of any disciplinary hearing, the hearing will be held with a Special Committee of the Board of Governors.

14.2 The senior post holder will have the right to make representations to the Committee and may be accompanied by a work colleague or union representative.

14.3 The Special Committee shall consist of at least three but no more than five members of the Board. The Chair of the Board of Governors, the Deputy Chair, the Rector and staff and student governors will not be eligible for membership of the Special Committee.

14.4 Any appeal against the decision to dismiss, will be managed as per the procedure in Section 11. The appeal will be considered by the Chair of the Board who may delegate this responsibility to another governor or panel of governors.