

13 PROCEDURE FOR DEALING WITH DISCIPLINARY MATTERS

13.1 Introduction

- a) It is the College's policy to ensure that fair and consistent arrangements exist for dealing with disciplinary issues.
- b) This procedure is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance.
- c) The following procedures apply to all members of staff except those academic and academic-related staff whose disciplinary arrangements are laid down in the College's Statutes.

13.2 General

- a) The officer appointed by the College as being responsible for the particular category of staff concerned will provide guidance and constructive criticism. This Officer (usually a Department Manager of the person) has the authority to take disciplinary action. Later stages of disciplinary action (Stage 2, 3 & 4) will be taken in conjunction with the Human Resources Manager. All matters shall be dealt with without undue delay and shall be dealt with in a confidential manner.
- b) Wherever practicable, any formal procedures other than in cases of conduct or gross misconduct will be preceded by private and informal counselling. Should it be the case that informal counselling does not resolve the problem then the formal procedures will be invoked in accordance with paragraphs 11-14 (below).
- c) The formal procedures are designed to deal with situations where the staff member concerned already knows what is expected by way of standards of work and behaviour.
- d) Minor breaches will be dealt with by informal counselling in the first instance, but regular minor breaches or a number of minor breaches shall cause the formal procedures to be invoked.
- e) Informal counselling may include an employee being advised that there is a time limit for improvement to a satisfactory standard. That standard shall be explained to the employee (see paragraph 2 above). Unless there are abnormal circumstances, a period of six months (including any period of appeal) shall be regarded as sufficient to demonstrate the improvement. Once the six months have expired and the improvement has been acknowledged by the officer to whom the employee is responsible, the record (if any) relating to the need for improvement shall be expunged.
- f) Disciplinary action will only be taken after a full examination of the case. At every stage in the procedure the employee will be informed of the nature of the case. The employee will be informed that they have the right to be accompanied by a work colleague or a recognised union representative to meetings. Witnesses may be called to investigatory meetings by either party; but will only attend the relevant part of the interview, not the whole meeting and will be required to observe strictest confidentiality. The employee will be given the opportunity to respond and consideration will be given to this response before any decision is made. Adjournments may be required in order to obtain further information. No employee will be dismissed for a first breach of discipline except where there is gross misconduct. Employees will be given an explanation for any sanction taken.
- g) The employee will have a right of appeal against any disciplinary penalty imposed.

13.3 The Formal Procedure

Where informal counselling is ineffective or inappropriate the formal procedure will be operated. At every stage of the procedure the following 3 steps will take place:

a) **Step 1**

The employer shall invite the employee to an investigatory meeting and shall inform the employee in writing of the alleged conduct or performance and any supporting evidence which has led to disciplinary action being contemplated.

b) **Step 2**

The disciplinary hearing shall be held with the employee. The employee has the right to be accompanied by a work colleague or a recognised union representative to all meetings. The representative of the College shall state their case, let the employee respond and bring forth any supporting evidence. Only after the meeting, having heard all the evidence and after a thorough investigation has taken place, will a decision be made. The employee will be informed of the disciplinary outcome in writing. The employee will also be informed in writing that they may appeal the decision within 5 working days.

c) **Step 3**

If the employee decides to appeal the decision, they can choose to be accompanied at the appeal meeting by a work colleague or a recognised union representative. The appeal meeting will be heard by the Vice-Principal who has not been involved in the disciplinary action, or if involved in the disciplinary action another College Officer will be appointed to hear the appeal.

13.4 The Levels of Warning:

a) **Stage 1 - Oral Warning**

If after a thorough investigation and meeting it is found that conduct or performance does not meet acceptable standards the employee will normally be given a formal Oral Warning. She/he will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure, that further breaches of the organisation's policies and procedures could lead to disciplinary action and of her/his right of appeal. A record of the Oral Warning will be kept on their person file, but it will expire after six months, subject to satisfactory conduct and performance.

b) **Stage 2 - Written Warning**

If the offence is a serious one, or if a further offence or a further breach of the organisations policies and procedures occurs, a Written Warning will be given to the employee by the responsible Officer and the Human Resources Manager. This will give details of the complaint, the improvement required and the timescale. It will warn that action under Stage 3 will be considered if there is no satisfactory improvement and will advise of the right of appeal. A copy of this written warning will be kept on their personnel file but it will expire for disciplinary purposes after nine months subject to satisfactory conduct and performance.

c) **Stage 3 - Final written warning or disciplinary suspension**

If there is still a failure to improve and conduct or performance is still unsatisfactory, or if the mis-conduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal (in effect both first and final written warning), a Final Written Warning will normally be given to the employee, by the responsible Officer and the Human Resources Manager. This will give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement and will advise of the right of appeal. Any appeal must be lodged with the Human Resources Manager within seven working days of the warning. A copy of the final written warning will be kept on their personnel file but it will expire after 12 months subject to satisfactory conduct and performance.

d) **Stage 4 - Dismissal**

If conduct or performance is still unsatisfactory and the employee still fails to reach the prescribed standards, Dismissal will normally result. Only the Human Resources Manager in conjunction with the responsible Officer can take the decision to dismiss. If dismissed, the employee will be provided, as soon as reasonably practicable, with written reasons for dismissal, the date on which employment will terminate and the right of appeal.

c) Alternative to Dismissal

As an alternative to dismissal (except in cases of dismissal for gross misconduct), consideration will be given to imposing a penalty of a disciplinary suspension without pay for up to a maximum of five working days. If you are in a Supervisory or managerial position then demotion to a lower status at the appropriate rate may be considered as an alternative to dismissal, except in cases of gross misconduct. Should this be the case an extension to the Final Written Warning will also be issued.

f) Insufficient Improvement

It is possible for an improvement to have been made during the designated period, but of insufficient extent. In such cases, the responsible officer may, if she/he believes that the employee is capable of further improvement to reach the required standard, extend the period by a further period of not more than six months from the time the warning was issued.

In summary the disciplinary action taken against an employee will be based on the following procedure:

OFFENCE	FIRST OCCASION	SECOND OCCASION	THIRD OCCASION	FOURTH OCCASION
UNSATISFACTORY CONDUCT	Formal verbal warning	Written warning	Final written warning	Dismissal
MISCONDUCT	Written warning	Final written warning	Dismissal	
SERIOUS MISCONDUCT	Final written warning	Dismissal		
GROSS MISCONDUCT	Dismissal			

We retain discretion in respect of the disciplinary procedures to take account of the length of service of an employee and to vary the procedures accordingly. If an employee has a short amount of service he/she may not be in receipt of any warnings before dismissal but will retain the right to a disciplinary hearing and will have the right of appeal.

If a disciplinary penalty is imposed it will be in line with the procedure outlined above, which may encompass a formal verbal warning, written warning, final written warning, or dismissal, and full details will be given to you.

In all cases warnings will be issued for misconduct, irrespective of the precise matters concerned, and any further breach of the rules in relation to similar or entirely independent matters of misconduct will be treated as further disciplinary matters and allow the continuation of the disciplinary process through to dismissal if the warnings are not heeded.

13.5 Disciplinary Rules

It is not practicable to specify all disciplinary rules or offences that may result in disciplinary action, as they may vary depending on the nature of the work. In addition to the specific examples of unsatisfactory conduct, misconduct and gross misconduct shown in this handbook, a breach of other conditions, procedures, rules etc. within this handbook will also result in the disciplinary procedure being used to deal with such matters.

13.6 Rules Covering Unsatisfactory Conduct and Misconduct

These are examples only and not an exhaustive list.

You will be liable to disciplinary action if you are found to have acted in any of the following ways:-

- a) failure to abide by the general health and safety rules and procedures;
- b) smoking in designated non smoking areas;
- c) consumption of alcohol on the premises;
- d) persistent absenteeism and/or lateness;
- e) unsatisfactory standards or output of work;
- f) rudeness towards customers, students, members of the public or other employees, objectionable or insulting behaviour, harassment, bullying or bad language;
- g) failure to devote the whole of your time, attention and abilities to our business and its affairs during your normal working hours;
- h) unauthorised use of E-mail and Internet;
- i) failure to carry out all reasonable instructions or follow our rules and procedures;
- j) unauthorised use or negligent damage or loss of our property;
- k) failure to report immediately any damage to property or premises caused by you;
- l) use of our vehicles without approval or the private use of College vehicles without authorisation;
- m) failure to report any incident whilst driving our vehicles, whether or not personal injury or vehicle damage occurs;
- n) if your work involves driving, failure to report immediately any type of driving conviction, or any summons which may lead to your conviction;
- o) carrying unauthorised goods or passengers in our College vehicles or the use of our vehicles for personal gain; and
- p) loss of driving licence where driving on public roads forms an essential part of the duties of the post.

13.7 Gross Misconduct

The following list provides examples of offences which are normally regarded as gross misconduct. It is not exhaustive:-

- a) Theft or unauthorised possession of money or property, whether belonging to us, another employee, or a third party.

- b) Fraud, deliberate falsification of any records (including time sheets, absence records and so on in respect of the individual themselves or another employee);
- c) Undertaking private work on the premises and/or in working hours without express permission;
- d) Working in competition with us;
- e) Dangerous behaviour, fighting, assault on another person; physical violence or bullying;
- f) Serious misuse of an organisation's property or name
- g) Deliberately accessing internet sites containing pornographic, offensive or obscene material;
- h) Unauthorised entry to computer records, with the intent to cause detriment to the College or another person;
- i) Gross insubordination and/or continuing refusal to carry out legitimate instructions;
- j) Grossly indecent or immoral behaviour, deliberate acts of unlawful discrimination or serious acts of harassment;
- k) Taking part in activities which result in adverse publicity to ourselves, which cause us to lose faith in the employee's integrity or bringing the organisation into serious disrepute;
- l) Incapability at work or poor performance caused by intoxicants, alcohol or drugs;
- m) Possession, supply or use of illicit drugs;
- n) Causing loss, damage or injury through serious negligence;
- o) Deliberate destruction, damage or sabotage of College's or another person's property on the premises;
- p) Unauthorised absenteeism for 5 days or more;
- q) A serious breach of health and safety rules, that may endanger the lives of or may cause serious injury to employees or any other person;
- r) Interference with or misuse of any equipment for use at work that may cause harm;
- s) Abuse of the personal harassment policy; and
- t) Abuse of the protected disclosure provisions.

An employee who is accused of an act of gross misconduct may be suspended from work on full pay, usually for no more than five working days (however this may need to be extended), while the College investigates the alleged offence. If the College is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice. This will be confirmed in writing to the last address which the employee has given to the College.

13.8 Appeals

- a) An employee who wishes to appeal against a decision should notify the Human Resources Manager within five working days of the notice. The appeal notification should be in writing and should state the reason for the appeal.
- b) Appeals will be heard by:-

- i) Appeal against formal warning (Stages 1, 2 & 3 of the Formal Procedure) – two members of HR Committee, who were not directly involved in taking the disciplinary action.
 - ii) Appeal against Dismissal (Stage 4 of the Formal Procedure) - not less than three members of HR Committee but, the Principal (or Vice-Principal) may nominate members of Governing Body to substitute for any shortage of HR Committee members.
- c) The responsible officer/s concerned may give evidence to the Appeal panel but shall not be a member of the Appeal panel.
- d) Witnesses may be called to the Appeal Panel by either party. The employee may choose to be accompanied by another person to all meetings.
- e) Once lodged with the Human Resources Manager, an appeal must be held within three weeks. The appellant must be notified of the Panel's decision within seven days of the appeal meeting. The Panel's decision shall be final.

13.9 Other Employment Matters

There may be other occasions when the employer gives notice to the employee, which are not regarded as disciplinary. These could include ill-health termination, retirement, redundancy and expiry of fixed term contracts. In such cases the responsible Officer concerned and / or the Human Resources Manager shall consult with the employee so that the employee understands what is being proposed. The employee will be given the opportunity to put forward alternative proposals. Once all alternatives have been considered a decision will be made and the employee shall then be notified in writing. The employee may choose to be accompanied by a work colleague or a recognised union representative. The employee may appeal any decision in accordance with paragraph 16 b).