

Staff Disciplinary and Dismissal Policy and Procedure

1. Introduction

It is essential that certain standards of conduct and performance are maintained to protect the smooth running of the School, the service to its students and its employees.

The Disciplinary Procedure applies to all employees and workers and is designed to ensure fair treatment for those whose job performance is below required standards and those involved in breaches of the School rules, as well as to encourage improvement in individual performance, conduct and attendance.

Depending on the seriousness of the case, the Disciplinary Procedure may be entered into at any of the stages outlined below. Except for those instances of gross misconduct, dismissal will not be the first step. No dismissals will take place without the prior approval of the School's Director (or nominee).

In general, particular shortcomings on the part of an employee in meeting job requirements or standards will be initially brought to their attention by their manager in informal conversations and may be accompanied by the offer of assistance towards achieving improvement.

This Disciplinary Policy and Procedure is not contractual and the School reserves the right to amend the Policy and Procedure from time to time.

2. General Principles

- The procedure is designed to establish the facts quickly and to deal consistently with all disciplinary issues.
- No disciplinary action will be taken until the matter has been fully investigated.
- Save in exceptional circumstances, the School will investigate and discuss with you any concerns relating to your conduct, capability and/or attendance. Where reasonably possible and to the extent that data protection obligations and confidentiality allow, you will be given access to all relevant information which will allow you to respond to the concerns.
- Employees will have the opportunity to respond to any concerns or allegations against them.
- If a warning is appropriate, you will be given one, which will include a summary of the incident or circumstances, the corrective action required, the time in which the correction must be achieved or no further misconduct must occur, and the likely consequences of failure to make the necessary improvements.
- You have the right to appeal against any disciplinary penalty.
- You will be given notice of any disciplinary hearing as quickly as reasonably possible and, where it is not possible for you or your chosen representative to attend, the meeting will be rearranged for an alternative date within 5 working days of the initial hearing date.

- With the exception of 'gross misconduct', no employee will be dismissed for a first breach of discipline.
- All witness statements, records and proceedings will be treated with confidentiality.

3. Misconduct and Unsatisfactory Performance

The following are examples of misconduct or unsatisfactory performance. The list is not exclusive or exhaustive:

- Poor performance
- Bad timekeeping
- Unauthorised absence
- Minor damage to School property
- Minor breach of School rules
- Failure to observe School procedures
- Failure to follow reasonable management instructions
- Abusive behaviour
- Unsatisfactory attendance record
- Inappropriate use of School property
- Incompetence
- Unsuitability
- Lack of application
- Failure to consistently achieve targets
- Misuse of email/internet/telephone
- Any breach of School health and safety policy and management.

4. The Procedure

Stage One – Informal discussion

Before taking formal disciplinary action, and where appropriate, your Manager will seek to resolve the matter by informal discussions with you. The outcome of this discussion could be a letter from your Manager advising you that if there is no improvement in your standards, or if a further offence of similar nature occurs, then formal disciplinary procedure will be implemented. If a letter is issued at this stage, this is an informal warning.

Stages Two to Four – Formal disciplinary procedure

- Where it is not appropriate for the allegations to be considered informally, the alleged misconduct is not minor, there is persistent misconduct and/or there has been a consistent failure to perform to the required standard, the following procedure will be followed.
- The School will set out in writing the alleged misconduct or failure to perform to the required standard which led it to contemplate taking disciplinary action against you. This letter will include the possible outcomes of the disciplinary procedure including dismissal, if applicable.
- Before carrying out a disciplinary hearing, there will be an investigation into the allegations. If the allegations were raised under or resulted (in part or in full) from concerns being raised in accordance with another policy or procedure, the Registrar (or nominee) will determine what appropriate action will be taken to deal with the allegations including, but not limited to, and as

relevant, appointing a single investigating officer to investigate the allegations under the applicable procedures. This will be in consultation with the HR Director (or nominee) if the other applicable procedure is a student procedure, for example the Student Complaints Procedure or the Bullying, Harassment and Sexual Misconduct Policy. You can be accompanied to an investigation meeting by a colleague or an accredited Trade Union representative. Upon completion of the investigation, the investigating officer will make findings of fact and recommendations for next steps and the HR Director will then normally decide whether the matter should be considered at a disciplinary hearing. If so, the following procedures should be followed.

- A copy of the investigation findings will be sent to you. If the investigation finds it is appropriate to continue with the formal process, you will be invited to attend a disciplinary hearing to discuss the matter as soon as is reasonably possible. You will also be informed of your right to be accompanied by a colleague or an accredited Trade Union representative.
- Noting that the scope of any investigation and decision may be different to the staff disciplinary procedure, the details or outcome of any student complaint procedure will normally be shared with the member of staff to the extent that is reasonably necessary so they can respond to any allegations against them and so they are aware whether or not they were upheld.
- The disciplinary hearing will take place before any disciplinary action is taken. You must take all reasonable steps to attend the disciplinary hearing. The School reserves the right to proceed with the hearing without you present, especially in cases where it is deemed that the hearing should be dealt with as a matter of urgency. After the disciplinary hearing the School will inform you of its decision and notify you of your right to appeal against the decision if you are not satisfied with it.

Stage Two – First written warning

- If the offence is confirmed and a warning letter deemed appropriate, you will be given a 'Written Warning', which will be recorded on your personal file. This will be issued for a period of up to but not exceeding 6 months and will be disregarded after this period of time has elapsed, subject to satisfactory conduct from the date of the warning, as stated at the disciplinary hearing.
- The warning will also inform you of the right of appeal, and that a Final Written Warning may be considered if there is no sustained satisfactory improvement or change.

Stage Three – Final written warning

- If the offence is serious enough to merit only one warning, if there is no improvement in your standards, or if a further offence occurs after receiving a Written Warning, you will be given a Final Written Warning, which will be recorded on your personal file. This will be issued for a period of up to but not exceeding 12 months and will be disregarded after this period of time has elapsed, subject to satisfactory conduct from the date of the warning, as stated at the disciplinary hearing.
- It will be made clear to you that any recurrence of the offence or other misconduct within a stipulated period will result in dismissal or other action as set out below and refer to the right of appeal.

Stage Four – Dismissal

- If there is no satisfactory improvement, if further misconduct occurs within the timeframe of the Final Written Warning, or the School is satisfied that you have committed an act of Gross Misconduct, you may be dismissed.
- Dismissal decisions can only be taken by a Director, and you will be provided, as soon as reasonably practicable, with written reasons for dismissal, the date on which your employment will terminate, and the right of appeal. The decision to dismiss will be confirmed in writing. With the exception of dismissals for acts of Gross Misconduct, dismissals are with notice.

5. Gross Misconduct

An employee may be summarily dismissed in cases of proven serious misconduct.

No list of offences falling within this category can be exhaustive, but some examples of serious misconduct, making an employee liable to summary dismissal, include:

- Theft of the School's or another employee's property or other criminal offences affecting the relationship of the School with the employee
- Assault within the premises or grounds of the School
- Insubordination or persistent refusal to carry out legitimate instructions
- Attendance for work under the influence of non-prescription drugs or alcohol
- Indecency
- Behaviour likely to seriously endanger the safety of persons on the premises of the School
- Gross industrial misconduct including, but not limited to, fraud, misuse of the School's property and/or name or bringing the School into disrepute
- Exceptional dereliction of duty or negligence
- Contravention of statutory requirements relating to the employee's employment
- Bullying, harassment or sexual misconduct
- Serious infringement of Health and Safety Rules
- Serious breach of confidentiality leading to damage to the School's reputation or ability to conduct its business, or causing damage or distress to an individual
- Serious breach of the School's internet and email policy

6. Suspension

- In order to protect the interests of both parties, employees may be suspended on full pay. During this time of suspension, their rights under their contract of employment will continue, but during the period of suspension they will not be entitled to access School premises, access any of the School's IT systems or contact staff or any other party who may be witnesses in any investigation except at the prior request or with the prior consent of the School and subject to such conditions as they may impose. Failure to obey any conditions attached to suspension will be treated as a disciplinary matter in itself. The decision to suspend will be notified by a Senior Manager and confirmed in writing.
- Any period of suspension (including those necessary for Police investigations) will be for as short a time as possible and will normally be on full pay. The only exception may be where you are sick and unable to co-operate in the investigation process due to sickness. Then you will receive your contractual sick pay applicable at that time. If you are off sick whilst suspended, you will still be bound by the terms of your suspension during your sickness period and should therefore remain away from site and not make contact with anyone in the business other than the contact you have been given in relation to the suspension.

- Suspension is a neutral act – it is not a form of disciplinary action nor does it pre-empt the outcome of any subsequent disciplinary hearing. The decision to suspend an employee will only be taken in circumstances where it is deemed necessary to facilitate a fair investigation and hearing and protect the interests of those involved.

7. Appeals

- If you wish to appeal against any disciplinary decision, you must do so within 5 working days. This appeal must be in writing, stating the grounds upon which you are appealing and be given to your Manager.
- A meeting will then be arranged which must include a Director or Senior Manager who if possible has not been involved in the process.
- At any appeal meeting employees shall be entitled to have a work colleague or accredited Trade Union representative present. The decision at this stage is final, and the result will be confirmed in writing as soon as reasonably practicable.

8. Right to be accompanied to disciplinary meetings

Employees have the right to be accompanied by a work colleague or accredited Trade Union representative at any disciplinary investigation or disciplinary hearing. The School reserves the right to refuse attendance and request an alternative representative if it considers that the chosen individual might have a conflict of interest.

Before the meeting or hearing, the employee should inform the Director and/or Manager conducting the meeting or hearing who they have chosen as a companion.

9. Dismissal procedure

Where the School is contemplating dismissing an employee – other than in circumstances where the disciplinary procedure is appropriate – including on the grounds of redundancy or non-renewal of a fixed term contract, the School will normally observe the procedure set out below. Each step and action under the procedure will be taken without unreasonable delay.

Step One – Letter

You will be advised in writing of the fact that the School is contemplating dismissing you and the circumstances or characteristics which have led to the School contemplating your dismissal (and the basis for that), together with the time, date and location for a formal meeting to discuss and consider the matter. All evidence which the hearing officer is considering will be made available to you in good time prior to the hearing.

Step Two – Meeting

- The meeting will take place at a time and location that is reasonable for both parties. The meeting will not take place until you have had a reasonable opportunity to consider your response to the information contained in the School's letter.
- You must take all reasonable steps to attend the meeting. Where you cannot attend the meeting, you should inform the person conducting the meeting as soon as practicable. If you fail to attend for a reason which was unforeseeable at the time that the meeting was due to take place, another meeting will be arranged. If you refuse to attend any disciplinary or dismissal meeting, a decision will be taken in your absence. The meeting will normally be conducted by

a Director. The meeting will be conducted in such a way as to allow both you and the School to explain their case.

- After the meeting, the School will inform you of its decision. Any decision taken will be confirmed in writing and you will be notified of your right to appeal. Dismissal decisions can only be taken by a Director, and you will be provided, as soon as reasonably practicable, with written reasons for dismissal, the date on which your employment will terminate, and the right of appeal. The decision to dismiss will be confirmed in writing. With the exception of dismissals for acts of Gross Misconduct, dismissals are with notice.

Step Three – Appeal

- All employees have the right to appeal against any decision to dismiss them. An employee who has been dismissed may appeal in writing to the Chair of the Board of Governors who will nominate two governors to hear the appeal. An appeal must be lodged within five working days and will normally be heard within fifteen days of receipt. The employee is entitled to representation by a Union representative or another current member of staff.
- An appeal hearing will then be arranged. The hearing will take place at a time and location that is reasonable for both the School and you.
- You must take all reasonable steps to attend the hearing. Where you cannot attend the hearing, you should inform the person conducting the hearing as soon as practicable. If you fail to attend for a reason which was unforeseeable at the time that the meeting was due to take place, another meeting will be arranged. If you refuse to attend the rearranged hearing, a decision will be taken in your absence.
- The School will inform you of the decision in relation to your appeal after the appeal hearing. The decision made at the appeal hearing will be final.

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