



INTRODUCTION

This document outlines some general principles and guidelines in relation to the required standards of conduct and performance for non-academic staff at the College, and also provides guidance relating to the procedures which the College intends will help promote fairness and order in the treatment of individuals. It is the College's aim that the rules and procedures should emphasise and encourage improvement in the conduct of individuals, where they are failing to meet the required standards, and not be seen as a means of punishment.

Every effort will be made to ensure that any action taken under these procedures are fair, with you being given the opportunity to state your case and appeal against any decision that you consider to be unjust.

The following rules and procedures should ensure that:

- a. the correct procedure is used when inviting you to a disciplinary hearing;
- b. you are fully aware of the standards of performance, action and behaviour required of you;
- c. disciplinary action, where necessary, is taken speedily and in a fair, uniform and consistent manner;
- d. you will only be disciplined after careful investigation of the facts and the opportunity to present your side of the case. On some occasions temporary suspension on contractual pay may be necessary in order that an uninterrupted investigation can take place. This is not, and must not be regarded as, disciplinary action or a penalty of any kind;
- e. other than for an "off the record" informal reprimand, you have the right to be accompanied by a fellow employee or Trade Union official, who may act as a witness or speak on your behalf. At all stages of the formal disciplinary process, a witness(s) can be called other than the individual you have chosen to accompany you to the meeting. Witness(s) may not be entitled to be present for the whole hearing;
- f. if you are disciplined, you will receive an explanation of the penalty imposed and you will have the right to appeal against the finding and the penalty.

DISCIPLINARY RULES

It is not practical 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 policy, a breach of other conditions, procedures, rules, etc, may also result in the disciplinary procedure being used to deal with such matters.

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. unauthorised consumption of alcohol on the premises;

- d. consumption of alcohol within four hours of commencing duty;
- e. persistent absenteeism and/ or lateness;
- f. unsatisfactory standards or output of work;
- g. rudeness towards visitors, members of the College or of the public or other employees, objectionable or insulting behaviour, harassment, bullying or other language;
- h. failure to devote the whole of your time, attention and abilities to College business and its affairs during your normal working hours;
- i. unauthorised use of email and internet facilities;
- j. failure to carry out all reasonable instructions or follow College rules and procedures;
- k. unauthorised use or negligent damage or loss of College property; and
- l. failure to report immediately any damage to property or premises caused by you.

SERIOUS MISCONDUCT

1. Where one of the unsatisfactory conduct or misconduct rules has been broken and if, upon investigation, it is shown to be due to your extreme carelessness or has a serious or substantial effect upon the College's operation or reputation, you may be issued with a final written warning in the first instance.
2. You may receive a final written warning as the first course of action if, in an alleged gross misconduct disciplinary matter, upon investigation, there is shown to be some level of mitigation resulting in it being treated as an offence just short of dismissal.

RULES COVERING GROSS MISCONDUCT

(These are examples only, and not an exhaustive list.)

You will be liable to summary dismissal if you are found to have acted in any of the following ways:

- a. grossly indecent or immoral behaviour, deliberate acts of unlawful discrimination, or serious acts of harassment;
- b. dangerous behaviour, fighting, or physical assault;
- c. incapacity at work or poor performance caused by intoxicants or drugs;
- d. possession, supply or use of drugs (for this purpose, the term 'drugs' is used to describe both illegal drugs and other psychoactive (mind-altering) substances which may or may not be illegal.
- e. deliberate falsification of any records (including timesheets, absence records, etc, in respect of yourself or any fellow employee);
- f. undertaking private work on the premises and/ or in working hours without express permission;
- g. working in competition with the College;
- h. taking part in activities which result in adverse publicity to the College, or which cause the College to lose faith in your integrity;
- i. theft or unauthorised possession of money or property, whether belonging to the College, another employee, or a third party;

- j. destruction/ sabotage of College property, or any property on the premises;
- k. serious breaches of health and safety rules, including those within the employee safety handbook, that endanger the lives of or may cause serious injury to employees or any other person;
- l. interference with, or misuse of, any equipment for use at work that may cause harm;
- m. gross insubordination and/ or continuing refusal to carry out legitimate instructions;
- n. abuse of the personal harassment policy;
- o. reporting for work under the influence of alcohol or drugs; and
- p. personal conduct which affects an individual's ability to undertake their role objectively and effectively.

DISCIPLINARY PROCEDURE

This section of the document does not form part of the contract of employment between an employee and the College. This section contains suggested guidelines relating to the informal management of performance and/ or conduct, and also outlines the stages to be completed in any formal disciplinary process.

These procedures do not apply to dismissals due to redundancy or the non-renewal of fixed-term contracts on their expiry. Suitable alternative procedures will be used for such dismissals.

The College retains discretion in respect of these procedures to take account of a member of staff's length of service, and to vary the procedures accordingly. Where an employee only has a short amount of service (e.g. less than two years), they may not be in receipt of any warnings prior to dismissal. They will, however, retain the right to a hearing and will have the right to appeal.

(a) Informal Procedures – Day to Day Management and Target Setting

The normal day to day arrangements for handling performance and less serious disciplinary issues is seen by the College as falling within the context of effective working relationships between members of staff and their supervisors. In most cases this will involve a supervisor talking privately to a member of staff and explaining the College's expectations in terms of performance, behaviour etc.

Sometimes a more structured approach, offered by an interview which sets targets, might be necessary. This will be particularly so when a pattern of poor performance or inappropriate behaviour is starting to establish itself. This is not, however, the exclusive reason for a target setting interview – for example, it might also be used for individual instances of poor performance or inappropriate behaviour which is considered too serious to be dealt with by a conversation between a supervisor and member of staff.

A Target Setting Interview should:

- (i) be carried out in private as soon as circumstances appear to justify the need for it. A supervisor may ask that colleagues be present at a target setting interview to assist (for example, the Personnel Advisor);
- (ii) be used primarily for the raising of performance, setting of targets, providing encouragement, clarification of expectations (particularly in connection to behaviour), or the identification of training needs to support improvement in performance/behaviour;
- (iii) result in a record of targets, explanations of expectations, etc. This record should not be regarded as formal disciplinary action.

(b) Formal Procedures – Disciplinary Action: Warnings and Dismissal

These procedures should be used either if informal discussions have not been successful, or if the matter is of a more serious nature. They shall normally apply in all cases, unless the member of staff has already been dismissed (e.g. for gross misconduct), in which case the modified procedure should be used (see below).

Step 1 - Investigation

(i) When a matter arises that cannot be resolved using the informal procedures above, a full investigation should be made to establish facts promptly before memories fade. In some cases, this will require the holding of an investigatory meeting with the employee (before deciding whether or not to proceed to a formal disciplinary meeting), and where this is the case it should be made clear to the member of staff involved that it is not a disciplinary meeting and that the meeting by itself will not result in any disciplinary action.

In other cases, the investigatory stage may be the collation of evidence from other sources for use at any disciplinary meeting, and an investigatory meeting with the employee may not be required.

In some cases, it may be appropriate for the College to suspend an employee (on contractual pay) during an investigation, but where this is the case the period of suspension will normally be kept as brief as possible and it should be made clear that suspension is not considered to be disciplinary action.

Step 2 – Statement of grounds for action, and invitation to meeting

- (i) If, having conducted a full investigation, formal disciplinary action is contemplated, the employee must be informed in writing of the alleged misconduct, poor performance, or other characteristics/ circumstances, which have led to the College considering disciplinary action or dismissal against the member of staff.
- (ii) The employee must also be invited to attend a meeting to discuss the matter, and should be informed of the date, time, and place of the meeting. Copies of any relevant documentation should be included. He/she should also be informed of the right to request that they be accompanied at the meeting.

The chosen companion may be a fellow worker, a trade union representative, or an official employed by a trade union.

The College reserves the right to deny an employee's request to be accompanied where such a request is unreasonable (e.g. where the presence of the companion might prejudice the disciplinary hearing, or where the companion is from a remote geographical location and someone suitable and willing is available on site).

- (iii) It is important to ensure that the timing of the meeting provides a reasonable opportunity for the member of staff to prepare his/her case and consider his/her response to the information given in the notice of a formal disciplinary meeting.

Step 3 – The meeting

- (i) The meeting must take place before any disciplinary action is taken. (Any period of suspension is not classed as disciplinary action.)
- (ii) The meeting must not occur unless Step 2 has been correctly completed.
- (iii) The employee must take all reasonable steps to attend the meeting. Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause the College reserves the right to make a decision on the basis of the available evidence without the employee being present.

- (iv) Where a disciplinary meeting may potentially result in the dismissal of a member of staff, the meeting should normally be heard by a panel comprising two or more heads of department.

Where a disciplinary meeting may potentially result in disciplinary action short of dismissal (i.e. up to and including a final written warning) the meeting will normally be heard by one line manager and one other staff member will be present to take minutes as a record of the meeting.

- (v) The meeting must be conducted in a manner that enables both employer and employee to explain their cases. Where an employee wishes to call relevant witnesses they should give advance notice that they intend to do this.
- (vi) Where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

Step 4 – Decide on appropriate action

- (i) After the meeting, the College will decide whether or not disciplinary or any other action is justified, and will inform the employee of its decision in writing. The member of staff should also be informed in writing of their right to appeal against the decision if they are not satisfied with it.
- (ii) Disciplinary action up to and including the issuing of final written warnings may be undertaken by heads of department.

The decision to dismiss should normally only be taken by a panel of two or more heads of department.

- (iii) If disciplinary action is considered appropriate, this should normally occur according to the following guidelines:

First written warning (misconduct): this should contain the reasons for the warning being issued, confirm the decision of the investigatory meeting, and outline what improvements are required and by when. This will normally remain 'active' for six months, and will normally then be disregarded for disciplinary purposes provided that the required standards of performance and/ or conduct have been maintained.

Improvement note (unsatisfactory performance): this should identify the performance problem and outline what improvements are required and by when. Where an 'improvement note' is issued, it will be equivalent to a first written warning. This will normally remain 'active' for six months, and will normally then be disregarded for disciplinary purposes provided that the required standards of performance have been maintained.

Final written warning: if - after a first written warning or 'improvement note' - there is still insufficient improvement after the specified time (or if further misconduct has occurred), or if the first misconduct or unsatisfactory performance is sufficiently serious but short of gross misconduct, a final written warning may be issued. This should again provide guidelines for improvement, but should state that if there is still no improvement within the specified time then dismissal, demotion or transfer may take place. This will normally remain 'active' for 12 months, and will normally then be disregarded for disciplinary purposes provided that the required standards of performance and/ or conduct have been maintained.

Dismissal: If there is no further improvement, the member of staff may be dismissed (or as an alternative to dismissal may be demoted or transferred) with the appropriate period of notice.

Gross Misconduct: Gross misconduct is generally seen as misconduct serious enough to overturn the contract between the employer and the employee, thus justifying summary dismissal. Where an employee is suspected of gross misconduct, it is still important that – as far as is

reasonably practicable - a fair disciplinary process is followed before any disciplinary action is taken (as for any other disciplinary offence).

In some cases, it may be appropriate for the College to suspend an employee (on contractual pay) whilst the alleged offence is investigated, but where this is the case the period of suspension will normally be kept as brief as possible and it should be made clear that suspension is not considered to be disciplinary action.

Where, on completion of an investigation and full disciplinary process, an employee is found guilty of gross misconduct, the result will normally be summary dismissal without notice or pay in lieu of notice.

Step 5 – Appeal

- (i) If the employee wishes to appeal, s/he must inform the Home Bursar in writing (normally within 5 working days) and should state in writing the grounds for their appeal.
- (ii) If the employee informs the College of their wish to appeal, the College will invite them to attend a further meeting. At the start of the meeting, the Chair will agree with all parties the way in which matters will be dealt with, and the meeting should be conducted in such a manner as to allow all parties to explain their case.
- (iii) The individual may be accompanied at this meeting if they so wish.
- (iv) In the case of appeal meetings which are not the first meeting, the College should (as far as is reasonably practical) be represented by a more senior manager than attended the first meeting (unless the most senior manager attended the first meeting).
- (v) The employee must take all reasonable steps to attend the meeting.
- (vi) The appeal meeting need not take place before the dismissal or disciplinary action takes effect.
- (vii) After the appeal meeting, the College must inform the member of staff of its final decision in writing.

Modified Procedures

In the case of potential gross misconduct, the nature of the case may mean that it is not always practical to follow the above procedures. The College therefore reserves the right to suspend a member of staff on full pay whilst investigating the matter, and subsequently may summarily dismiss the member of staff (i.e. without notice or payment in lieu of notice). Where this is the case, the following procedures will apply:

Step 1 – Statement of grounds for action

- (i) The College must set out in writing the following details:
 - the member of staff's alleged misconduct which has led to the dismissal;
 - what the basis was for thinking at the time of the dismissal that the member of staff was guilty of the alleged misconduct;
 - the member of staff's right to appeal against dismissal.
- (ii) The College must send a copy of this statement to the member of staff.

Step 2 – Appeal

The same process should be followed as outlined in Step 5 of the standard procedures (see above).

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