

CATEGORY:	Human Resources
TYPE:	Procedure
TITLE:	Discipline of Staff (other than Senior Postholders)
PERSON RESPONSIBLE:	Vice Principal – Communications, Staff and Student Services
PURPOSE:	To set out the procedures to be followed when dealing with alleged misconduct, including gross misconduct, on the part of employees. Guidance on the standards of conduct expected of employees is set out in the Code of Conduct.

Introduction

- 1.1 Allegations of misconduct by an employee of the Group will be considered under the formal or informal sections of this procedure according to the seriousness of the incident.
- 1.2 Issues relating to an employee's capability to undertake his/her duties (e.g. for reasons connected with health or performance or qualifications), or where dismissal is in prospect for other reasons, will be considered under the Capability and Dismissal Procedures.
- 1.3 Alleged minor misconduct should be dealt with informally in the first instance. The line manager should discuss his/her concerns with the individual concerned and provide them with an opportunity to respond to the issues raised. The manager should provide clear guidance on what is unacceptable about the employee's conduct, and what the expected standards are.
- 1.4 Gross misconduct is that which results in the complete breakdown of professional trust between the employee and the Group. Examples of Gross Misconduct are given in the body of the document in section 2.6.
- 1.5 When an employee who has previously been the subject of disciplinary action at one level commits a further breach of a similar nature, the normal response will be to progress to the next more serious level of action.
- 1.6 Verbal warnings will normally be given by the relevant member of the Core Planning Team or Line Manager. Written warnings may only be given by a member of the Senior Management Team (SMT).

- 1.7 Decisions to dismiss an employee by reason of gross misconduct under this procedure will be taken by the Principal. In his/her absence the Principal may delegate authority to dismiss to another member of the SMT.
- 1.8 For the purposes of defining timescales under this procedure, a working day is defined as any day, excluding a Saturday or Sunday, on which the Group is open to members of staff. This shall include vacation periods and Group Priority days but exclude public holidays and days on which the Group is closed in the interests of efficiency.
- 2.0 Formal Disciplinary Procedure
- 2.1 It is important that disciplinary decisions and action, where considered necessary, are undertaken in a fair and consistent manner. This procedure is designed to achieve this objective. It is however, essential that before any interview or meeting is convened to consider disciplinary action there is an investigation of the facts to establish whether such an interview or meeting is necessary, and the employee shall be informed of these investigations. During the course of any investigation all parties should be reminded that the details discussed should be kept confidential at all times.
- 2.2 The person undertaking the investigation will normally be the employee's line manager although following consultation with the relevant member of the Senior Management Team, an alternative manager may be asked to undertake the investigation. Line Manager or Investigations Manager to complete Investigation Report Template, the Vice Principal – Communications, Staff and Student Services will decide on where and for how long the documentation is to be kept on record.
- 2.3 Where a disciplinary investigation centres upon an allegation of fraud it will be undertaken in accordance with the procedures set out in the Fraud, Corruption & Bribery Response Procedure
- 2.4 Where the employee is asked to attend an initial investigatory meeting s/he shall be entitled to be accompanied by a work colleague or trade union representative. This meeting will inform the employee concerned about the allegation and the reason for the investigation.
- 2.5 The investigating manager will normally present the findings of his/her investigation into the allegations if a disciplinary hearing is subsequently arranged.
- 2.6 Gross misconduct is misconduct of a nature that results in the complete breakdown of professional trust between the employee and the Group's Corporation. Such misconduct may include the following.
- Theft, negligence or malicious damage to College property or the property of colleagues, students or visitors to the College.
 - A refusal to observe the reasonable request of a line manager or a member of the Senior Management Team.

- Serious negligence or deliberate failure to perform duties to an acceptable standard.
- Fraud, bribery or corruption.
- Misappropriation of College funds.
- Violent, threatening or bullying behaviour towards any College employee, student or visitor.
- Falsification of College records or reporting mechanisms.
- Deliberate abuse or misuse of any College procedure or system, including IT systems, e-mail and the Internet.
- Drunkenness or being under the influence of non-prescribed drugs on College premises.
- Any act or omission which results in a serious breach of the Group's Health and Safety Policy.
- Any act or omission which results in, or threatens, a serious breach of the Equality and Diversity and Promotion of Fundamental British Values Scheme.
- Any act or omission which results in, or threatens, a serious breach of the Group's Safeguarding Policy.
- Any act or omission which results in, or threatens, a serious breach of the Group's Code of Conduct.
- Any act or omission, including those committed outside of work, which seriously threatens or brings in to disrepute the reputation and/or best interests of the Group.

The list is neither exclusive nor exhaustive as there may be other offences of similar gravity which could constitute gross misconduct.

3.0 Verbal Warnings

- 3.1 These will normally be given by the employee's Head of Faculty/Departmental Head or Line Manager. The employee should be advised of the circumstances surrounding the alleged misconduct and be given the opportunity to respond to the allegation. Where the employee's response is considered unsatisfactory, this should be made clear and s/he should be advised of the standard of behaviour expected in future and of the possible consequences of him/her failing to do so. The employee is entitled to be accompanied by a work colleague or trade union representative.
- 3.2 A note of the interview will be placed on the employee's file and will be removed in the event of no further incidents after six months.
- 3.3 There is a right of appeal to the relevant member of the Senior Management Team against the warning. To exercise this right the employee must write to relevant SMT member, within five working days of the meeting at which the verbal warning was issued, stating the full grounds for the appeal.

4.0 Written Warnings/Final Written Warnings

- 4.1 Where an investigation suggests potential misconduct on the part of employee which is more serious than that which merits a verbal warning, or where there is a repetition of minor misconduct within a six month period, consideration will be given to a written or final written warning.
- 4.2 In such circumstances the employee will be invited to attend a disciplinary hearing by the relevant member of the Senior Management Team other than the Principal. The employee will be given at least five working days written notice of the hearing, such notice to include:
 - 4.2.1 the name of the person who will conduct the hearing;
 - 4.2.2 the time and place of the hearing;
 - 4.2.3 confirmation that the meeting is convened under the Group's Disciplinary Procedure;
 - 4.2.4 a description of the alleged misconduct;
 - 4.2.5 advise that the employee may be accompanied to the hearing by a work colleague or trade union representative and (subject to disclosing this in writing at least three days before the hearing) ask any other member of staff to be present as a witnesses in support of his/her response; and
 - 4.2.6 copies of any documents to be presented as evidence and details of any witnesses who will be present.
- 4.3 The person conducting the hearing may make arrangements for any of the following to be present, subject to including details in the written notice to the employee:
 - 4.3.1 another employee of the Group, or an external consultant with specialist knowledge to act at his/her adviser;
 - 4.3.2 another employee of the Group, or an external consultant to make a formal presentation of the allegations against the employee; or
 - 4.3.3 any other person or persons to act as a witness to the allegation.
- 4.4 Where an employee wishes to call another member of staff to attend a hearing on his/her behalf the onus for arranging for their attendance shall rest with the employee.
- 4.5 Students or other persons who are not employees of the Group will only be asked to attend a hearing as a witness in exceptional circumstances at the discretion of the manager conducting the hearing. Where an employee believes it is important for a student to be asked to attend a disciplinary hearing as a

witness they should be provided with an opportunity to state the reasons why they feel such attendance is important.

- 4.6 Witnesses will be present, one at a time, only to give information relating to the alleged misconduct and to answer questions upon it. All present at the hearing will have the opportunity to question witnesses.
- 4.7 When the person conducting the hearing has heard all the evidence submitted, he/she will consider what action is necessary. All others present will withdraw whilst he/she does so, except any specialist adviser present. After due consideration he/she will convey to the employee his/her decision and any disciplinary action he/she proposes to take. The decision may be conveyed to the employee in person after the hearing but, in any case, will be confirmed in writing within three working days, together with information on any appeal rights.

The letter should include:

- 4.7.1 the name of the person who took the decision;
- 4.7.2 the names of all those present at the interview, including witnesses;
- 4.7.3 a description of the nature of the complaint(s);
- 4.7.4 the conclusion reached on the complaint(s);
- 4.7.5 the action taken, including any decision not to take any action, and if a warning is given the type of warning;
- 4.7.6 the length of time that the warning will remain active on the personal file;
- 4.7.7 an indication of the type of action which is likely to result if there is further misconduct (e.g. in the case of a final warning, the potential for dismissal); and
- 4.7.8 a description of appeal rights.
- 4.8 The employee will have a right of appeal to the Principal against a written or final written warning.
- 4.9 Appeals will be considered on the grounds of:
- a failure to observe the requirements of this procedure,
 - the availability of new evidence, or
 - a failure to give appropriate consideration to evidence which was available at the original meeting.

An appeal is not an opportunity to re-hear the original case and will not be permitted on such grounds.

- 4.10 To exercise this right of appeal the employee must notify the Principal in writing within five working days of receiving the written confirmation of the warning, stating the full grounds for the appeal.
- 4.11 The Principal will make arrangements to hear the appeal, giving five working days' notice, and will invite the following to be present:
- 4.11.1 the employee, who may be accompanied by a work colleague or trade union representative, to amplify and answer questions on the basis of his/her appeal;
- 4.11.2 the person who gave the warning to explain his/her reasons for doing so and answer questions on them. S/he may be accompanied by a specialist adviser who was present at the original interview;
- 4.12 The Principal may also take into account any additional information which has become available on the particular allegation(s) and may invite any other person to be present to assist in resolving any question of fact which is in dispute.
- 4.13 The Principal may decide to confirm, revoke or amend the original warning or to impose any other alternative penalty available at the time of the original hearing. The decision reached will be final and will be confirmed in writing within three working days.
- 4.14 At the end of the active period of a written warning (one year in the case of a first written warnings and two years or longer in the case of final written warnings) the warning will become inactive/removed from record
- 4.15 The member of staff concerned will be informed when the period of his/her written warning has expired and has ceased to be active.

5.0 Suspension

- 5.1 The power to suspend employees from duty is set out in the Articles of Government. Where suspension from duty is necessary it shall be made clear to the member of staff concerned that it is a neutral act which does not involve any presumption of guilt.
- 5.2 The Principal may suspend from duty, on full pay any member of the staff, for alleged misconduct or other good and urgent cause. Where s/he is absent from College the Principal may delegate the power to suspend a member of staff to other members of the Senior Management Team.
- 5.3 Where it is felt necessary to suspend as employee as a result of an allegation, complaint or information received in relation to the Group's Safeguarding Procedure every effort will be made to ensure that the employee has the opportunity to be accompanied to the suspension meeting by a Group based trade union representative. Where it is not possible to arrange this, the relevant

trade union representative will be contacted as soon as possible after the suspension has taken place and notified of the facts.

- 5.4 Anyone who is suspended from duty shall be entitled to receive from the Principal or delegated member of SMT written confirmation of the suspension, setting out the grounds on which the decision to suspend has been taken.
- 5.5 During suspension the employee will continue to receive his/her full pay (as calculated for holiday pay).
- 5.6 If it is necessary to interview a suspended employee as part of the disciplinary investigation the employee has the right to be accompanied by a work colleague or trade union representative.

6.0 Dismissal

- 6.1 Where an investigation suggests potential gross misconduct on the part of employee, or where there is a repetition of serious misconduct within the lifetime of a final written warning, consideration will be given to the employee's dismissal. The steps to be taken when considering dismissal or an appeal against dismissal are set out in the Dismissal Procedure.

7.0 Special Circumstances

- 7.1 If an employee declines to attend any meeting arranged under this procedure or is unable to attend a meeting due to sickness absence s/he will be referred to the Group's Occupational Health Nurse. If, in the opinion of the Occupational Health Nurse, the employee's absence is principally attributable to workplace issues the disciplinary process may proceed at the discretion of the Vice Principal – Communications, Staff and Student Services or a member of the Senior Management Team as appropriate. If there is no immediate prospect of a return to work, the disciplinary hearing may take place in the employee's absence. In such a scenario the employee should be invited to nominate a trade union representative or other work colleague to attend as an advocate on his/her behalf.

**Process To Be Followed At Formal Meetings Held Under
The Disciplinary Procedure**

1. The manager chairing the hearing will confirm the following details at the outset:
 - the purpose of meeting;
 - the specific Group procedure to be followed;
 - the identity and role of all those present;
 - the specific subject and nature of the issues to be discussed, including confirmation that the employee has received copies of any relevant information/evidence which had been made available in advance; and
 - the employee's right to be accompanied by a trade union representative or other work colleague.
2. The manager* should present the case against the employee and provide copies of any relevant documentation where this has not been circulated in advance. Any witnesses who are to be called should be present one at a time and should leave the meeting once they have given their evidence and answered any questions upon it.
3. The employee, and/or his/her representative may ask questions of the manager or seek clarification on any of the points which have been presented.
4. The employee, and/or his/her representative shall be invited to respond to the management case and to present any evidence in mitigation. Copies of any relevant documentation should be made available to all parties. Any witnesses who are to be called should be present one at a time and should leave the meeting once they have given their evidence and answered any questions upon it.
5. The manager may ask questions of the employee or seek clarification on any of the points which have been presented.
6. The manager and then the employee shall have the opportunity to summarise their respective cases without introducing new evidence.
7. The hearing will be adjourned in order for consideration to be given to the outcome; this may either be communicated verbally to the employee at a re-convened hearing or communicated when written confirmation of the decision is given within 5 working days.

* In the case of a meeting to consider verbal level warnings under the Disciplinary Procedure it is likely that the manager who is presenting the evidence against the employee will also chair the meeting. In the case of a written level hearing the meeting may be chaired by a member of the Senior Management Team, who will determine the outcome, whilst the evidence is presented by a member of the Core Planning Team who has previously dealt with the case.