

## **Disciplinary Procedure and Policy**

### **Purpose**

The aim of this procedure is to help to maintain the required standards of conduct, behaviour, work performance and attendance and to ensure that any disciplinary action is applied consistently and fairly.

### **Scope**

The procedure applies to all members of Support Staff at the College, except those who are within their probationary period, or who have not been employed by the College continuously for two years.

The procedure does not form any part of any contract of employment.

### **Underlying Principles**

- Disciplinary matters will be dealt with quickly and equitably;
- No disciplinary action will be undertaken until any necessary investigations into the matter have been carried out;
- At each stage, the member of staff will be advised fully of the nature of the complaint or allegation;
- The member of staff has the right to be accompanied by a staff colleague or trade union official at any formal disciplinary meeting which may result in the taking of disciplinary action or its confirmation including any appeal. If a member of staff nominates a staff colleague or trade union official to accompany them at a formal disciplinary meeting, it is the responsibility of the member of staff to ensure copies of all correspondence are passed to staff colleague or trade union official who is to accompany them. The right to be accompanied does not include any meetings taking place during the investigation process;
- Staff will only be dismissed for a first breach of discipline in cases of gross misconduct;
- Staff have the right to appeal against any formal disciplinary action;
- The procedure may be initiated at any stage as appropriate to the circumstances of the complaint or allegation;
- It is a serious disciplinary offence to encourage any member of staff to make a misleading statement or to withhold evidence in the course of any disciplinary case.

### **Informal Resolution - Addressing disciplinary issues prior to the use of the Formal Procedure**

Where there are concerns about a member of staff, they will be advised as to the nature of the perceived disciplinary issue and a date and time of a meeting to discuss how the concerns and issues should be addressed.

The purpose of this meeting is to ensure that the member of staff is:

- aware of the concerns;
- knows what is required to meet expected standards;
- made aware of the timescale over which an improvement is required and;
- made aware of the possible consequences of not achieving the required standard.

Appropriate additional action at this stage may include the provision of:

- support and training;
- advice and guidance;

- monitoring and feedback on a pre-determined schedule and/or;
- informal advice or guidance as appropriate - this is an explanation as to why aspects of their conduct, behaviour, work performance or attendance was unacceptable.

This explanation may include an instruction for improvement and advice that further repetition may result in formal disciplinary action. The terms of the discussion, the outcomes and any additional actions will be confirmed in writing to the member of staff.

## **Formal Procedure**

### **Investigation**

Formal disciplinary action will not be undertaken without a formal investigation into the matter being conducted. The Bursar will decide whether the matter should proceed to a formal investigation. This formal investigation will be carried out by the Director of HR and/or the Head of Department (or another investigating manager appointed by the Bursar).

The member of staff will be informed of the decision to proceed to a formal investigation and the nature of the issues to be investigated. In some cases it may be necessary to hold an investigatory meeting with the member of staff. This interview will not be a disciplinary hearing, but will be for the purpose of investigating further the basis on which the decision to initiate an investigation has been made.

The Bursar may move a member of staff from their normal place of work during the period of the investigation in order to facilitate a more objective investigation.

Any witnesses to incidents involved in the investigation and anyone making an allegation against the staff member concerned may be interviewed.

When the investigation is concluded, the investigator (s) will decide in the light of the evidence on whether:

- to take no further action;
- the matter should be dealt with outside the formal disciplinary procedure;
- the matter should be referred to a formal disciplinary hearing.

Once a conclusion has been reached, those carrying out the formal investigation will present their written report to the Bursar and confirm the conclusion of their report to the member of staff being investigated.

### **Suspension**

A member of staff may be suspended by the Bursar or, in their absence the Director of HR, on standard pay during an investigation into a disciplinary issue:

- in circumstances where the presence of the member of staff in the workplace during the period of the investigation might prejudice the investigation;
- where there are difficulties in the relationship between the member of staff and other people (e.g. colleagues, pupil's etc.) with whom they would normally expect to come into contact in the workplace, which would be exacerbated by continuing to work in close proximity;
- where the safety of staff and the College's duty of care to its staff and/or pupils may be compromised by the presence of the staff member at work;
- where the alleged conduct is perceived to have prejudiced adversely the interests and reputation of the College;
- where the alleged conduct is perceived to have undermined trust and confidence;

- where the alleged conduct is perceived to amount to an act of gross misconduct.

It is important to note that:

- a suspension from duty is not a pre-judgement of guilt and is not a disciplinary penalty;
- a suspension can only be imposed (and lifted) by the Bursar or in their absence the Director of HR
- the reasons for the suspension must be stated clearly to the member of staff in writing;
- the period of suspension will be as brief as possible and will be kept under weekly review.

In circumstances where it is necessary to protect the College's interests, and where the Bursar is not available to suspend a member of staff, the Director of HR may instruct the member of staff to leave the place of work, and stay away until further notice. This will be reported to the Bursar as soon as possible so that they can determine whether the member of staff should be formally suspended.

In the event member of staff lives in school accommodation on the College site the Bursar may put restrictions on the member of staff as to their movements on the school site during the period of the investigation in order to facilitate a more objective investigation.

### **The Disciplinary Hearing**

If the disciplinary investigation concludes that the matter should be taken to a disciplinary hearing, the Bursar will advise the member of staff in writing that there will be a hearing under the terms of this procedure. The purpose of the disciplinary hearing is to give the member of staff the opportunity to respond to the findings of the investigation.

The letter of notification will also include:

- the date, time and venue of the disciplinary hearing;
- the names and job titles of the person (s) hearing the case;
- the nature of the allegations;
- documents and other relevant evidence that will be before the person(s) hearing the case;
- reference to the right to be accompanied by a staff colleague or a trade union representative.

The person (s) hearing the case will take one of the following courses of action:

- dismiss the case and take **no further action**;
- give an **oral warning**, if there has been a minor breach in conduct or behaviour;
- give a **first written warning**, if there has been an unsatisfactory response to an oral warning under this procedure, or if there has been a first but serious breach of discipline;
- give a **final written warning** if there has been an unsatisfactory response to previous warnings, or if there has been a first and very serious breach of discipline;
- impose a **disciplinary penalty** - disciplinary transfer, disciplinary suspension without pay, withholding of incremental progression, or demotion or
- **dismissal**.

Disciplinary action will normally progress from an oral warning to a written warning and thence to the imposition of more severe penalties. There will however be circumstances where this progression would not be appropriate e.g. the person(s) may decide to issue a written warning without having been through an oral warning, and on some occasions, a first and very serious breach of discipline may warrant dismissal.

## **Written Confirmation of the Decision of a Disciplinary Hearing**

The member of staff will be informed, in writing, of the decision within five working days of the hearing. The letter will cover:

- the allegations;
- any penalty that has been proposed and the reasons for the penalty;
- any remedial action required of the member of staff and the consequences of any recurrence of misconduct, behaviour, work performance and attendance including any dates for review;
- the procedure for exercising the staff members right of appeal and
- a confirmation that the warning will be disregarded for further disciplinary purposes after 6 months (for an oral warning), 12 months (for a first written warning) or 24 months (for a final written warning), unless there are exceptional circumstances which justify longer or shorter periods and which are explained in the letter of confirmation.

## **Appeals**

Staff have a right of appeal against a decision made under the formal Disciplinary Procedure. The right of appeal must be exercised within seven days of receipt of the date of the letter of confirmation of disciplinary action, should be to the Bursar in writing stating grounds.

In the event an appeal is against a decision by the Bursar the appeal letter should be sent to the Second Master's PA.

The Bursar or Second Master will hear any appeal within twenty days of the appeal being lodged, unless otherwise agreed in writing between the parties. In all cases of appeal the member of staff may appear in person accompanied by a staff colleague or a trade union official.

Decisions made on appeal shall be final and the member of staff will be informed in writing within seven days after the appeal hearing.

## **Examples of gross misconduct**

The following examples of behaviour at work may be regarded as gross misconduct, and, may lead to dismissal without notice and without pay in lieu of notice:

- taking any detrimental action against a member of staff for exercising any rights under this or any other College procedure;
- dishonesty, theft, fraud, deliberate falsification of records or misuse of College property, including malicious damage to College property;
- theft from or violence to other members of the College or members of the public including malicious damage to their property;
- obscene or indecent behaviour or sexual misconduct or the circulation of offensive material;
- serious aggressive or offensive behaviour;
- any form of discrimination which is unlawful and/or conflicts with the College's policies and procedures;
- serious breach of security or of financial procedures;
- serious breach of trust and confidence;
- incapability whilst on duty brought on by alcohol or illegal drugs;
- being in the possession of illegal drugs in the workplace;

- severe breach of health, safety and hygiene rules or acting in a manner dangerous to others;
- behaviour bringing the College into serious disrepute (subject, always, to any relevant contractual conditions relating to academic freedom and the provisions of the whistleblowing procedure);
- professional incompetence or gross negligence;
- failure to adhere to the requirements of the Bribery Act 2010.

Note: Forms of serious misconduct outside the workplace may lead to disciplinary action where it is considered there is an effect upon the employment relationship.

The above list is not exhaustive.