



## **DISCIPLINARY & DISMISSAL PROCEDURE**

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# **DISCIPLINARY & DISMISSAL PROCEDURE**

This Policy and procedure applies to all employees of the School only. It does not form part of the terms and conditions of any employee's employment with the School and is not intended to have contractual effect. However, it reflects the School's current practices and employees are strongly encouraged to familiarise themselves with its content.

The School reserves the right to vary or amend its disciplinary policy and procedure as it considers the particular circumstances of the case reasonably require and reserves the right not to follow the Disciplinary Policy and Procedure in respect of employees with less than two year's continuous service.

In any organisation it is necessary to have a minimum number of rules in the interests of both the employer and the employee.

Rules set standards of performance and behaviour whilst the procedures are designed to help promote fairness and consistency in the treatment of individuals. It is the aim of the rules and procedures to emphasise and encourage improvement in the conduct of individuals where they are failing to meet the required standard. However, it is recognised that where improvement is not possible dismissal may result.

Every reasonable effort will be made to ensure that any action taken under this procedure will be fair and all employees will be given the opportunity to state his or her case and appeal against any decision he or she considers to be unjust.

The following principles will be adhered to when following the disciplinary process:

- You are made fully aware of the standards of performance, action and behaviour required;
- Disciplinary action, where necessary, will be taken without unreasonable delay and in a fair, uniform and consistent manner;
- An employee will only be subject to disciplinary action once there has been a reasonable investigation of the facts;
- The employee will have an opportunity to present his or her side of the case at a formal disciplinary hearing convened under this policy and procedure;
- All employees will have the right to be accompanied by a fellow employee or an accredited trade union official at any disciplinary or appeal hearing. Please note that an investigatory interview prior to a disciplinary hearing is not a formal stage in the disciplinary process;
- During any disciplinary hearing the employee will have a full and fair opportunity to state his or her case and answer any allegations that have been made;

- During any hearing, the employee will also be allowed to ask questions, present evidence, and be given an opportunity to raise points about any information provided by witnesses or relevant documentation;
- Requests to call witnesses or cross examine witnesses will be considered and accommodated where reasonable, practicable and proportionate in the circumstances of the case and where this does not conflict with any overriding duty the School may owe to another employee;
- Normally, no employee will be dismissed for a first breach of discipline except for the case of gross misconduct;
- If an employee is subject to the disciplinary process, he or she will receive both an explanation of the penalty imposed and will be entitled to appeal against the penalty in accordance with the appeals process set out in this policy and procedure.

## **DISCIPLINARY PROCEDURE**

In all but a few straightforward cases the School will first investigate all the allegations of potential disciplinary offences to establish the facts before deciding whether to involve the formal Disciplinary Procedure.

It may be necessary for the School to suspend an employee whilst an investigation is taking place. Any suspension will be no longer than is reasonably necessary and will be on full pay. Suspension does not in itself constitute disciplinary action or imply any decision or judgment as to guilt.

If the School decides to involve the formal disciplinary procedure it will adhere to the following procedure:

1. The School will write to you inviting you to attend a disciplinary hearing.
2. In the invitation letter the School will set out the issues or allegations that are to be considered, the basis for them, indicate how seriously these are being viewed, the potential consequences and detail any intention to call witnesses.
3. The School will attach any relevant documentation including any relevant witness statements to the invitation letter.
4. The letter will also detail your statutory right to be accompanied by either a work colleague or a trade union representative and confirm how this right can be exercised.
5. The School will give you reasonable notice of the requirement to attend the disciplinary hearing in order to allow you a reasonable period of time to prepare your case.
6. Disciplinary hearings where dismissal is not contemplated as a potential disciplinary sanction should the allegation(s) be proved will usually be conducted and determined by a member of the Senior Leadership Group or the Principal, or in the case of disciplinary proceedings involving the Principal, the Chair of Governors or other Appointed Person. Disciplinary hearings where dismissal may be contemplated as a potential disciplinary sanction should the allegation(s) be proved will usually be conducted and determined by the Principal or a panel of three governors.

Any disciplinary hearing will be conducted in a manner to ensure that:

1. The employee will be given a full and fair opportunity to answer any allegations against them and to present his or her case and any relevant evidence he or she wishes to be considered and on which he or she would like to rely.
2. The hearing will be minuted by a note taker and the employee will be supplied with a copy of the minutes as soon as is reasonably practicable after the hearing.
3. No decisions will be reached during the hearing itself. The School will need to consider all the evidence together with the representations the employee has made, and in some cases may need to carry out further investigations before a decision can be reached.
4. Once a decision has been reached, the School will write to the employee to confirm the outcome of the hearing.
5. Where the decision has been to take formal disciplinary against an employee, he or she will be informed of the nature of the disciplinary sanction, the reasons behind the decision and any other conditions that he or she may be required to satisfy as a result of the disciplinary process.
6. Where a disciplinary sanction has been imposed, he or she will also be informed of his or her right to appeal and the process to be followed should the employee wish to exercise this right in relation to the disciplinary decision reached.

### **SEVERITY OF DISCIPLINARY ACTION**

The severity of disciplinary action (if any) will be determined by the severity of the offence and any prior "live" disciplinary sanctions in the employee's history. Due consideration will be given to any bona fide mitigating circumstances raised during the disciplinary process. The following is provided as guidance only.

### **FIRST WRITTEN WARNINGS**

This will generally be applied as the first step of corrective action following unsatisfactory performance or conduct offences.

A first written warning imposed as an outcome to the disciplinary process will be placed on the employee's personnel file for a specified period of time which will be notified to the employee in the disciplinary outcome letter.

The School will also specify in the case of performance issues, reasonable and clear targets for improvement that the employee is required to attain within a reasonable review period.

### **FINAL WRITTEN WARNINGS AND DISMISSALS**

For more serious first offences, such as serious misconduct, the School may impose a final written warning.

Alternatively, where an employee persists with an offence in relation to which they have a current and active first written warning or where an employee fails to achieve the required improvements within the review period specified in a previous disciplinary outcome, the School may impose a final written warning having followed the disciplinary procedure in respect of any persisting or additional offences.

Continued failure to improve or repeat offences during an active period of a current final written warning may result in dismissal with notice or payment in lieu of notice.

Where an allegation of gross misconduct is upheld the School will normally dismiss summarily i.e. without notice or payment in lieu of notice. Employees should refer to the non-exhaustive list of examples of conduct that the School would normally regard as constituting gross misconduct.

### **ALTERNATIVE DISCIPLINARY SANCTIONS**

The School may also consider and impose, having followed the Disciplinary Procedure in each case, additional or alternative sanctions including, but not limited to, demotion, disciplinary transfer, and loss of seniority/pay or suspension without pay, as an alternative to dismissal.

### **GROSS MISCONDUCT**

An employee may be liable to summary dismissal without notice or pay in lieu of notice

if he or she is found guilty of gross misconduct.

The following are examples of issues which might constitute gross misconduct. These are illustrative only and do not constitute an exhaustive list.

- A serious or wilful breach of the School rules, regulations and policies;
- Failure to meet expected standards of work or behaviour amounting to serious neglect of duty;
- Gross negligence or dangerous behaviour, which causes or might cause unacceptable loss, damage or injury;
- Grossly indecent or immoral behaviour;
- Threatening or violent behaviour, fighting or physical assault;
- Deliberate falsification of any records (e.g. Sickness Self-Certification Form and time-sheets) in respect of the employee or any fellow employee;
- Undertaking private work on the premises and/or during working hours and wilful disregard of duties or of instructions;
- Deliberate and serious breach of confidence relating to the School's or its students' affairs;
- Theft or misappropriation of money or property whether belonging to the School, another employee or a third party;
- Unauthorised consumption of alcohol on the premises, or reporting for work under the influence of alcohol or controlled drugs;
- Any taking or possession of controlled drugs or stimulants, which have not been prescribed by a registered medical practitioner;
- Destruction/sabotage of School property or any other property on the premises;
- Serious Health and Safety breaches;
- Gross insubordination and/or refusal to obey legitimate instructions given by any members of the Senior Leadership Group;
- Any breach of a legal statute, which has a direct effect on the employee's ability to undertake stated duties and/or on the desired characteristics of his or her position;
- Allowing or assisting any unauthorised person to gain entry to the

- premises;
- Repeated absences from duty without authorisation;
  - Any breach of trust or unauthorised disclosure of information relating to the School's affairs to third parties.
  - Driving on School business without an appropriate licence and/or the appropriate insurance;
  - Discrimination or harassment or other breach of the School's Equal Opportunities and Diversity Policy;
  - Failure to inform the Senior Leadership Group of any criminal charges/convictions or police cautions that are relevant to the employee's employment;
  - Serious breaches of the School's Safeguarding and Child Protection Policies and Procedure;
  - Serious breaches of the School's Electronic Communications Policy;
  - In respect of teaching staff, serious breach of the standards of professional conduct as set out in the Teacher's Standards May 2012.

## **BEHAVIOUR OUTSIDE WORKING HOURS**

The School demands employees of the highest integrity and expects all employees to maintain high standards outside working hours. Any outside activities, which could reasonably be regarded as detrimental to the reputation of the School, may lead to dismissal.

As a condition of employment, employees are required to notify the School immediately of any criminal charges, cautions or conviction, plea of guilty or not guilty in respect of a criminal offence.

## **DISCIPLINARY APPEAL PROCEDURE**

The Disciplinary Rules and Procedures, incorporate an employee's right to lodge an appeal in respect of any disciplinary action taken against them.

If an employee wishes to exercise this right of appeal, he or she should write in the first instance to the Principal who will liaise with the Board of Governors to convene an appeal hearing with three nominated Governors, within 10 working days of the decision he or she is complaining against, setting out the grounds and basis for the appeal.

Disciplinary appeals will usually be conducted and determined by a panel of three members of the Governing Body.

The employee has the right to be accompanied by a work colleague or an accredited trade union official at any disciplinary appeal meeting and will be given a full opportunity to state his or her case and put forward his or her version of events.

The appeal hearing will be minuted by a note taker and the employee will be supplied with a copy of the minutes as soon as is reasonably practicable after the hearing.

No decisions will be reached during the hearing itself. The School will need to consider all the evidence together with the representations the employee has

made, and in some cases may need to carry out further investigations before a decision can be reached.

The employee will be notified of the result of the appeal in writing without unreasonable delay. The appeal decision is the final stage of the School's disciplinary appeal procedure.