

Disciplinary Policy

1. Purpose

This policy is intended to provide guidelines and standards to ensure that all disciplinary matters are dealt with fairly, without undue delay and with the intention of promoting good employment practice.

The contents of this document are intended to be thorough, but cannot cover every potential disciplinary scenario. In addition to this policy, the HR Department can offer support and guidance for any manager or member of staff dealing with a potential disciplinary issue.

This is a Policy document only and not intended to be contractually binding.

2. Scope

This policy applies to disciplinary matters at all levels, and for all employees who have passed their probationary period (where applicable) and are directly employed on a permanent or fixed term basis. The disciplinary procedures for Fellows and College Officers are outlined in Schedules 1 and 3 to the [Ordinances](#) respectively.

In deciding whether the Capability or the Disciplinary Policy will apply, it is important to recognise the difference between:

- A deliberate failure on the part of the employee to perform to the standards of which they are capable (e.g. carelessness, negligence or lack of effort which is under the employee's control), in which case the Disciplinary procedure will be appropriate; and
- A case of incapability, where an employee is lacking in knowledge, skill or ability, or ill-health which is outside of the employee's direct control, and so is unable to carry out their duties to the standard required, in which case the [Capability Policy](#) will apply to support and improve performance.

3. Roles and Responsibilities

It is the responsibility of the immediate line manager to counsel or discipline employees when their work or conduct is not of an acceptable standard.

The HR Department also has a responsibility to provide managers with appropriate advice to ensure that discipline is treated consistently within the College and in line with legislative developments. Managers must therefore consult the HR Department for advice before taking formal action (i.e. beyond the informal verbal warning stage) against an employee, and a member of the HR Department should also advise on and participate in any formal disciplinary hearings that take place.

The employee has the right to be accompanied to a formal disciplinary hearing (see Section 6 below).

The College will keep records detailing the breach of disciplinary rules, the employee's defence or mitigation, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records will be kept confidential and retained in accordance with the Disciplinary Procedure and the Data Protection Act 1998.

4. Behaviour warranting disciplinary action

Problems arising from poor conduct or wilful neglect would be dealt with through disciplinary action, potentially leading to dismissal. Wherever possible, the procedure is designed to *emphasise and encourage improvement in individuals' behaviour rather than punishment*.

Many potential disciplinary issues can be resolved informally, as outlined in Section 6. However, where an issue cannot be resolved informally then it may be pursued formally as outlined in Section 8.

4.1 Examples of behaviour warranting disciplinary action

Examples of issues which could result in the need for disciplinary action are given below. In general these offences would warrant the first level of warning unless they are considered serious or severe in nature, or constitute a repeated offence for which a formal warning has been given. In such circumstances it is appropriate to move forward to a higher level of warning in line with the severity of the problem or stage in the warnings procedure. This list is given only for guidance purposes and is not intended to be exhaustive:

- unsatisfactory timekeeping
- unauthorised or unexplained absence
- persistent or regular absenteeism
- damage to College property
- minor breaches of the College health and safety regulations or rules
- breaches of the College policies and procedures
- bullying, harassment or any other inappropriate behaviour in the workplace as outlined in the Mutual Respect Policy and Code of Behaviour
- refusal to carry out duties or reasonable instructions
- misuse of the College's computer facilities including social media, internet and email
- wilful breach of any other conditions of employment
- The use of abusive or threatening language

Repeated misconduct offences after the issuing of warnings may lead to further warnings and ultimately dismissal with notice. Continuous poor performance will be dealt with under the Performance [Capability Policy](#).

4.2 Examples of behaviour which could lead to dismissal

There may be occasions where an offence, even if it is the first of its kind, is of such a serious nature that the College is justified in not continuing with the employment of the individual.

The following list details those offences, which, if reasonably believed to have occurred without reasonable justification or mitigating circumstances, could result in dismissal. Again, this is given for guidance only, and is not an exhaustive list:

- gross negligence
- conviction of an offence which may be deemed to be such as to render the convicted employee unfit for the performance of his/her duties or for the employment as a member of the College
- conduct of an immoral, scandalous or disgraceful nature incompatible with the duties of the position or employment
- theft or misappropriation of College property or the property of any member of College staff or student

- falsification of reports, accounts, expense claims or self-certification forms
- serious insubordination and failure to carry out a reasonable instruction
- serious breaches of the College's health and safety rules and regulations
- threatening or using physical violence against any member of staff or student
- serious bullying, harassment or any other inappropriate behaviour in the workplace as outlined in the Mutual Respect Policy and Code of Behaviour
- being unfit to perform duties as a result of the consumption of drugs or alcohol
- disclosure, without authority, of confidential information to an outside person or organisation
- offering or accepting bribes or favours
- raising a grievance or making allegations maliciously
- serious misuse of the College's computer facilities including social media, internet and email
- any other act of serious misconduct.

These offences are not exclusive or exhaustive and offences of a similar nature will be dealt with under this procedure. Proven allegations of gross misconduct may result in immediate dismissal without notice or pay in lieu of notice.

5. Investigation procedure

- When a potential disciplinary issue arises, it is normally the responsibility of the line manager to advise the employee of the outline nature of the issue, and conduct an investigation to establish the facts without delay.
- Where the problem is a minor one of misconduct and has been directly observed by the manager and is likely to result in no more than a verbal warning, the investigation may be limited to a discussion with the employee as appropriate to the circumstances (see Section 4 above).
- However, in cases where the problem does not seem to be clearly apparent, or where the matter is considered potentially more serious, a more thorough investigation should be carried out.
- If it is felt appropriate by the relevant Senior Officer or Head of HR, this duty may be allocated to an alternative manager, a more senior manager or undertaken personally by the relevant Senior Officer.

- Where an offence of potential gross misconduct is suspected, it may be necessary to suspend an employee pending the hearing, in line with the suspension procedure as outlined in Section 13 of this policy. This could be to enable a clear investigation, without hindrance to take place and to assist the employee to prepare his/her case for the formal hearing.
- The investigating manager must meet with the person against whom an allegation has been made and relevant key witnesses, to ascertain the facts.
- The investigation should be held at the earliest opportunity to ensure that recollection is accurate, and every effort should be made to keep those involved separate from each other prior to the interviews and statements taking place, in order to maintain the fairest recollection from each individual of the facts as they seem to be.
- Staff who provide witness statements will be asked for permission for their statements to be given to the employee under investigation if found that there is a case to be answered. In certain circumstances (for example to protect a witness), we might withhold some information, such as the individual's name or personal details. If permission is not given, then a summary of the statement will be provided, with names removed.
- Having considered all the statements, the investigating manager may recommend on the basis of this evidence, and with advice from the HR Department, whether there is a case to answer that may warrant disciplinary action.
- Where it is clear that there is not a case for disciplinary action, the investigating officer should confirm that this is the case, and a confirmation letter should be placed on the employee's file.
- Where there is a problem identified that warrants action being taken, appropriate measures should be put in place in line with Section 6 (informal process) or Section 8 (formal process) below.
- At all times the manager should seek to be fair and reasonable, whilst ensuring that issues are dealt with in a manner to prevent their recurrence or escalation. It is important that disciplinary action is understood to be not only a punishment for wrongdoings, but also an opportunity to make the rules and requirements clear to enable such issues to be put right for the future.

6. Informal Actions

Where a manager identifies a minor shortcoming in a person's conduct or an employee commits a minor offence for the first time that is clearly wrong and for which there is no justification, the manager may decide that providing informal work support is appropriate, or it might be necessary to issue the employee with a verbal warning.

6.1 Work support

- Where a minor shortcoming in a person's conduct is identified through investigation or direct observation, this should first be discussed with the employee with a view to agreeing a way forward and time-scale for reaching the required level of conduct or performance.
- This discussion may result in the identification of a training need or changes required to the work to affect the desired result, and these options should be considered where possible.
- This first step is designed to assist the employee to address minor problems, and does not form part of the formal disciplinary procedure.
- Details of work support, including dates, the nature of discussions held and solutions agreed must be documented and a copy placed on the employee's personnel file. An Informal Meeting Record template for this purpose is available as Appendix A.
- Where a problem that has been addressed continues to persist, this may then become the subject of more formal action for continued poor performance (in which case the [Capability Procedure](#) will apply) or misconduct. However, it would be unfair of a manager to issue a warning for the repetition of a minor problem that could potentially be easily rectified, where the employee has not received work support as outlined above.

6.2 Informal verbal warning

- Where a person commits a minor offence for the first time that is clearly wrong and for which there is no justification, the manager may decide that work support is not appropriate and instead issue the employee with a verbal warning.
- To issue a verbal warning the manager should meet privately with the employee and outline his/her concerns, and consider any points put forward in explanation by the employee.
- If the manager is satisfied that the action was wrong and that no reasonable justification has been given to explain the offence, then they may issue an immediate verbal warning. Where appropriate and possible, targets should be set for the expected level of improvement, and time-scales given within which this should be achieved. The Informal Meeting Record, attached as Appendix A, can be used for this purpose.
- The employee should be advised that continued failure or a repeated offence of a similar nature may lead to more formal disciplinary action, and possibly ultimately dismissal.
- Although 'verbal' this should be recorded in writing to the employee, with a copy sent to HR for inclusion on the personnel file as a written record of the verbal warning you have provided your employee with, which you may need to refer to at a later date. This can be in the format of an email or a letter, clearly outlining the date and reason(s) for the warning, remedial action and support as well as a follow-up date.

- Provided that there is no repeat of the offence and standards have been raised as required, such a warning shall expire for disciplinary purposes after a period of 6 months

7. Right to be accompanied at the meeting

When the investigating manager recommend on the basis of evidence, and with advice from the HR Department, that there is indeed a case to answer that may warrant disciplinary action, and employee will be invited to a formal disciplinary hearing. Employees have a statutory right to be accompanied at a disciplinary meeting. The chosen companion may be a fellow worker, a trade union representative, or an official employed by a trade union. The chosen companion has no legal right to answer questions on the employee's behalf but has the legal right to address the hearing and should be allowed to ask questions. They should also be permitted reasonable time to confer privately with the employee either in the hearing room or outside. The employee is not entitled to be accompanied by anyone acting in a legal capacity.

The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the College from explaining their case.

It would not normally be reasonable for an employee to insist on being accompanied by a companion whose presence would prejudice the hearing. Reasonable time must be allowed for the employee's chosen Companion to be present at the meeting. Meetings may be postponed for up to 5 working days to accommodate the attendance of the employee's chosen Companion, after which time the employee must select an alternative person to accompany them at the meeting.

8. Procedure for conducting disciplinary hearings

8.1 Authority to conduct a disciplinary hearing

- Where an investigation into an allegation or concern shows a case to answer that is potentially more serious than issuing an informal verbal warning, the procedure for a full hearing must be followed.
- Where the immediate manager has been the investigating officer, further action of a disciplinary nature may be conducted by an alternative manager who will be selected following consultation with the HR Department.
- In the event that the issue is so serious that it could warrant dismissal, the case should be presented to the relevant Senior Officer, who is then responsible for deciding who will conduct the disciplinary hearing.

- In circumstances where the Senior Officer is also the investigating officer, consideration should be given to referring the case to be heard by another Senior Officer or Senior Manager, depending on the seriousness and circumstances of the case.

8.2 Setting up and holding the Disciplinary hearing:

- The purposes of the disciplinary hearing is to consider all the facts, and give the employee the opportunity to answer the case against them and provide any justification to be taken into account in deciding further action to be taken.
- The meeting should be held without unreasonable delay whilst allowing the employee reasonable time to prepare their case.
- The employee must receive written notification of the hearing. They have the right to be given full details of the offence or allegations being made, and the nature of the evidence against them, including copies of any supporting documentation.
- The employee should also be made aware that the hearing may result in disciplinary action being taken.
- Employees must be informed in writing of their right to be accompanied by a work colleague, employee or trade union representative (see Section 7 above) and notice should be at least two working days in advance of the hearing to allow for the employee to prepare their case and for representation to be arranged.
- Although not a statutory entitlement, the employee should be given a reasonable opportunity to call relevant witnesses. The intended appearance of any such witnesses must be notified to the manager hearing the case at least one day prior to the hearing. Evidence must relate to the actual allegation in question, and should not act merely as a character reference unrelated to the case. It is the employee's responsibility to arrange witness statements and attendance prior to the hearing.
- When arrangements are delayed due to a colleague or employee/trade union representative being unavailable, especially in more serious cases, the manager should consider the reasons for this and decide whether reasonableness can be shown in reconvening their hearing to allow additional time for this to be arranged. However, it is the responsibility of the employee to arrange representation, and failure to make reasonable efforts to do so will not be accepted as a reason for delaying the hearing.
- Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause the hearing manager should make a decision based on the evidence available.

- At the hearing, the manager should give a clear account of the evidence against the employee and the employee must be given the opportunity to state their case and explain any mitigating circumstances.
- If any of the witness statements gathered by the manager are in contention and if necessary, the hearing may be adjourned for a specified agreed period to gather further information.
- After the disciplinary meeting the hearing manager, with HR in advisory capacity, will decide whether or not disciplinary measures or any other action is justified (as outlined in Section 9) and inform the employee accordingly. The decision will be confirmed in writing by HR.
- After consideration of the information available through the investigation and hearing it may be decided that there is insufficient evidence to support the allegations or mitigating circumstances are of significant influence as to warrant no further action. The employee will be advised in writing that no further action will be taken.

9 Outcome - Formal action: stages in the warning procedure

The following paragraphs set out the formal stages and warnings that should be followed in response to a disciplinary offence. However, it should be recognised that in certain circumstances, where an offence is of a more serious nature, it may be reasonable to omit one or more of these stages, subject to the proviso that an employee should never be dismissed for a first offence unless it is a clear case of gross misconduct as outlined in Section 4 of this policy. Where a warning is given above the level of an informal verbal warning without a full disciplinary hearing, it will not be valid.

9.1 First written warning

If a first written warning results following an investigation and disciplinary hearing, a copy will be placed on the employee's file.

The employee should be advised that, provided there has been no repeat of the misconduct, the warning will remain live on file for a minimum of 6 months. In exceptional circumstances this could be up to a maximum of 12 months. The right of appeal exists as outlined in Section 10 of this policy.

9.2 Final written warning

If misconduct is repeated following a first written warning that is current on the file, or if a first offence is justifiably considered to be serious enough to warrant action just short of dismissal, then the procedure for a full investigation and formal hearing must be followed and a final written warning may be issued, and a copy must be placed on the employee's file.

The employee should be advised that, provided there has been no repeat of the misconduct, the warning will be live on file for a maximum of 12 months.

The right of appeal exists as outlined in Section 10 of this policy.

9.3 Dismissal with Notice

Dismissal should only be carried out after a full investigation and formal hearing and with the delegated authority of a Senior Officer, and a member of the HR team present.

Dismissal with notice should only occur as a result of failure to comply with the terms imposed by the issue of a final written warning (repeated misconduct) or if a first offence is justifiably considered to be serious enough to warrant dismissal. Discretion may be used to issue a final written warning as an alternative to dismissal at this stage.

If it is decided to terminate employment, the employee should be informed that they are dismissed from duty on the day that the decision is reached. The employee must be paid in lieu of notice and for any outstanding accrued leave entitlements.

Written notice, giving the reasons for the dismissal, a summary of the facts leading up to the termination, the date of termination, and length of notice that applies to the employee must be given, and a copy must be kept on the employee's file.

The right of appeal exists as outlined in Section 10 of this policy.

9.4 Dismissal without notice for Gross Misconduct

Dismissal without notice, following investigation and a formal hearing as outlined, should only apply where the College reasonably believes there is a case of gross misconduct, such as those offences listed in Section 4.

Whilst acts of gross misconduct warrant dismissal without notice, discretion may be exercised by the Bursar to make a payment in lieu of notice. Dismissal will be carried out by a Senior Officer or with the delegated authority of a Senior Officer.

If a decision is taken to terminate employment, the employee should be informed that they are effectively dismissed from duty on the day that the decision is reached. The employee is not entitled to any notice pay, but should be paid in lieu of outstanding accrued leave entitlements.

Written notice, giving the reasons for the dismissal, a summary of the facts leading up to the termination, the date of termination, and length of notice that applies to the employee must be given, and a copy must be kept on the employee's file.

The right of appeal exists as outlined in Section 10 of this policy.

9.5 Other possible outcomes

Occasionally, and as an alternative to warnings and dismissals, the organisation may consider the following:

- Transfer to alternative work and/or function
- Demotion

10 Right to Appeal

- Any employee, who is the subject of formal disciplinary action, is to be given the right to appeal against that action.
- The purpose of providing an appeal mechanism is to ensure consistency and fairness for employees in such situations where they believe that their case has not been fully considered, or that they have been dealt with unfairly, or in a way that does not meet policy requirements. It is intended as a means of considering whether, on the basis of all the evidence available, the action taken was both appropriate and fair.
- Where an employee wishes to appeal against the disciplinary decision, a letter of appeal must be submitted and addressed to the Head of HR, within 10 working days of the receipt of a formal warning or dismissal letter and clearly stating the reasons for appeal.
- The contents of the appeal letter will be considered as an outline of the relevant basis of the appeal. The appeal should in all cases be written from the individual concerned.
- The HR department will arrange for the appropriate person to consider this. In normal cases, this will be the *immediate* manager of the person who has issued the warning or dismissal. Where a Senior Officer has issued a warning, it will be the responsibility of the Bursar or their nominated deputy to consider the appeal. If the Bursar was involved in the hearing prior to the Appeals procedure, the Principal (or delegated as appropriate) will take on this role.

- Employees have a right to be accompanied at appeal hearings (See Section 6).
- The employee will be given the opportunity to state their case and will be permitted to raise questions or challenge issues put forward, to enable the fullest consideration of the relevant points.
- Following the hearing, the outcome of the appeal should be notified to the employee and the manager concerned within 10 working days or another period as mutually agreed, outlining the reasons for the decision reached.
- The outcome of the Appeal will be final and binding. The employee will be notified of the decision in writing following the hearing.

11 Special cases

If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action, consideration will be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with the college, work colleagues and customers. This might lead to an investigation and disciplinary meeting.

12 Right to search

The College reserves the right to search all employees on leaving the College premises and any vehicle in which they may be travelling, as well as any parcels or property they may have. The search will be conducted in the presence of a third party. The College also reserves the right to search any locked desk, cupboard etc on the College premises.

13 Suspension procedure

- In some cases, it may be inappropriate for an employee to continue working during an investigation into their conduct or performance, until the time that a disciplinary hearing has been concluded. Examples are where the result may be summary dismissal, or where the allegations raise doubts as to an employee's conduct or capability in dealing with customers, confidential or commercially sensitive information.
- Suspension may also be considered if the employee's continued presence may affect the objectivity of the investigation.
- Where suspension is appropriate, it will normally be carried out by the direct manager, or investigating officer, supported by the Head of HR.

- The employee will be informed of the allegation or complaint raised against them in as much detail as is deemed appropriate based on the stage of investigation at that point. They will be reassured that at the point of suspension such allegations are not considered to have been proven or otherwise and advised that the suspension itself does not constitute disciplinary action, and that full pay will be honoured during the period.
- Following suspension, the details and terms of this must be confirmed in writing without delay. The employee should be advised that during the period of suspension they should be available to attend any appointment requested by the line Manager relating to the investigation or the actual disciplinary hearing, and should not undertake any form of work, either for the College or another employer, during the hours that they would normally be at work.
- If the employee fails to cooperate at any stage of the investigation process, including failure to attend meetings without prior notification and/or reasonable explanation, it might be treated as absence without authorisation under the absence reporting procedure.
- Employees on suspension must be advised that they can only enter College premises or contact other employees about the investigation with prior approval from the line manager for reasons relating to their case.
- The College reserves the right to withhold occupational sick pay should an employee unreasonably delay any proceedings during suspension due to sickness absence.

14 Sickness absence pending a disciplinary hearing

An employee taking sickness absence following notification of a disciplinary hearing will not normally be eligible for occupational sick pay until the hearing (and any appeal) has been concluded. Any exceptions to this must be agreed by the Head of HR.

15 Raising a grievance whilst going through a disciplinary

- Should an employee raise a complaint whilst the subject of action under the Disciplinary Policy and the complaint relates directly or indirectly to the matter under investigation, then action under the Disciplinary procedure will be adjourned whilst an urgent enquiry into the complaint is carried out.
- If the grievance or complaint is rejected or found to have no bearing on the matter being investigated under the Disciplinary Procedure, then the disciplinary proceedings will continue from the point at which they were adjourned.

- Where an unrelated grievance is raised during a disciplinary process, the disciplinary process may, if appropriate, 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. There may also be cases where, if we believe it to be fair in the individual case, we will decide to deal with the disciplinary matter first.
- Complaints that an employee may have about any disciplinary action taken against them should be dealt with as an appeal under the disciplinary procedure.

Date	Summary of Changes	Date of next review
June 2021	<p>To introduce an informal verbal warning, and the additional of the Informal Meeting Record.</p> <p>To clarify the investigation process, and stages in the formal process.</p>	June 2023
August 2023	General review and to update reference to the Mutual Respect Policy.	July 2025