

# Disciplinary Procedure

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## 1. Scope and purpose

- 1.1 This procedure applies to all employees, with separate clauses as necessary for “designated senior post holders” as defined in the college’s Articles of Government and the Clerk to the Corporation.
- 1.2 The term ‘manager’ applies to the employee’s individual staff manager, or the Principal/Corporation (as appropriate) in the case of Senior Post-Holders.
- 1.3 The procedures will be applied in accordance with the Articles of Government of the Corporation and in accordance with the Advisory, Conciliation and Arbitration Services (ACAS) ‘Code of Practice on Disciplinary and Grievance Procedures’. The Procedure is designed to ensure consistent and fair treatment for all employees in relation to disciplinary action taken in response to misconduct.
- 1.4 The College expects exceptional standards of behaviour, conduct and attendance from all its employees. The purpose of this procedure is to help and encourage employees to achieve and monitor acceptable standards of conduct at work. The College’s contract of employment for each employee, Code of Conduct for Employees and other staff related policies and procedures provide a framework of the standards expected of all staff.
- 1.5 This procedure applies to issues of alleged misconduct. A separate procedure will be used to address issues relating to grievance, absence or professional capability and competence.

## 2. General principles

- 2.1 An employee has the right to be accompanied by a representative of a trade union (if a member of that union) or fellow worker at formal disciplinary meetings. (Please refer to the Notes Section 1 for guidance on the role of the companion). The college should remind the employee of the right to be accompanied prior to a disciplinary meeting.
- 2.2 In the interest of ensuring that disciplinary matters are resolved as speedily as possible, time limits are given for appropriate stages in this procedure. These are for guidance. If it is not practicable to adhere to these time limits, they may be amended.
- 2.3 It is recognised that disciplinary action against a trade union representative could be seen as an attack on the union’s functions. Although normal disciplinary standards will apply to their conduct as employees, the College will seek the employee’s agreement at an early stage to discuss the circumstances of the case with an official employed by the trade union.

- 2.4 The employee will be advised of the nature of the alleged misconduct and will be given the opportunity to state their case during the investigation stage before any decisions are made regarding formal action.
- 2.5 Normally, the formal disciplinary procedure will be followed in the order of the stages set out in Section 6 below. However, offences of a serious nature may be brought into the procedure at any stage, if any earlier stage would not be severe enough or appropriate to deal with it. For example, there may be occasions when misconduct is considered not to be so serious as to justify dismissal, but serious enough to warrant only one written warning which will be both the first and final written warning. At every stage of the procedure, the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.
- 2.5 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty may be summary dismissal without notice or payment in lieu of notice. A non-exhaustive lists of potential reasons for gross misconduct can be found in the notes at the end of this document.
- 2.6 An employee will have the right to appeal against any formal disciplinary action.
- 2.7 If appropriate, the College may suspend an individual at any stage during the procedure in accordance with section 3 below.
- 2.8 Where appropriate, alternative means of resolving concerns should be considered, e.g. training, counselling or the use of other the informal procedure, before moving to the formal procedure.
- 2.9 No formal disciplinary sanction will be imposed without a disciplinary meeting.
- 2.10 All parties involved in these procedures must ensure that they maintain the confidentiality of the process within and outside the College. Disclosure of information by any of the parties involved might occur where this is required under law or where there is a circumstance involving duty of care which requires disclosure, e.g. where a manager has concerns for the well-being of the employee or others. In situations where disclosure may be required, the decision to disclose will be made by the Principal or nominated deputy.
- 2.11 The employee concerned, and anyone accompanying them (including witnesses) at any meeting, must not make electronic recordings of any meetings or meetings conducted under this policy, unless in exceptional circumstances and with prior agreement from the chair of the meeting. Any electronic recordings found to be made without permission may lead to further disciplinary action and may be considered as gross misconduct.

### 3. Suspension pending a disciplinary meeting

- 3.1 There may be circumstances during an investigation where suspension from duty pending a potential formal disciplinary meeting may be appropriate. Examples of circumstances in which suspension may be appropriate, depending on the facts of the situation, include some gross misconduct cases; situations where there are risks to health & safety or serious safeguarding concerns, or risks to an employee's or the college's property; or where there are reasonable grounds for concern that evidence has been tampered with, destroyed or witnesses pressurised.
- 3.2 The suspension must be agreed by the Principal or a Senior Post holder. However, in instances where it is necessary to suspend a senior post-holder the decision to suspend is ultimately the responsibility of the Corporation, but may be exercised by the Chair or Vice Chair, or by the Principal when the responsibility has been delegated.
- 3.3 Employees will be given the opportunity to have someone present with them at the suspension meeting. However, there is no official right of representation, and a failure to find a suitable representative quickly will not prevent the suspension of an employee.
- 3.4 Suspension should only be imposed after careful consideration and consideration should be given to alternatives to suspension (for example amended duties or working in a different location). It should be made clear to the employee that suspension is a neutral act and it is not considered a disciplinary act.
- 3.5 If the decision is taken to suspend an employee from duty, the College, or Corporation in instances of suspending a senior post-holder, shall:
  - i. confirm the suspension in writing to the employee without unreasonable delay; and
  - ii. inform the employee in writing of the reasons for the suspension, without unreasonable delay.
- 3.6 A period of suspension pending a potential disciplinary meeting should be kept as brief as possible in the circumstances and will be kept under regular review, with an individual manager/member of HR identified as a contact point.
- 3.7 An employee who is suspended from duty shall, throughout the period of suspension, continue to be entitled to his/her full pay unless there is a provision in the contract to the contrary.
- 3.8 Whilst suspended, the employee will not be entitled to access any College premises or complete any College work activities; access to College IT systems and networks will also be suspended.

- 3.9 During the period of suspension the employee will be required to cooperate fully with the Investigation and be available to meet during their normal working hours.
- 3.10 During the period of suspension the employee is to have no contact with any employee or student of the College (other than their union representative, if applicable), or any third parties which they regularly come into contact with as part of their College work, unless agreed by the Investigating Officer/suspending staff member. If the employee is related to a student or an employee of the College, they should declare this to the suspending staff member as it is recognised in these circumstances that contact is likely. However, they are required not to discuss the case. The employee will be responsible for ensuring relatives they live with and who he/she discloses his/her circumstances to do not interfere in the investigation process and maintain confidentiality to prevent allegations of victimisation of any witnesses.
- 3.11 The College recognises that suspension can be a difficult period for an employee and either a member of the HR team, the line manager or another nominated individual will maintain contact with the employee during the suspension at agreed intervals. This person will be separate to the investigation process and will help signpost the individual to sources of personal support (for example, the College's telephone counselling service).
- 3.12 If the employee becomes ill, or wishes to take annual leave during the period of suspension, the normal procedures for reporting and authorising such leave will still be applicable.
- 3.13 In some circumstances, as an alternative to suspension, alternative working arrangements may be considered pending a full investigation, for example, temporary redeployment, additional supervision or the restriction of duties, as is deemed suitable in the circumstances.

## 4. Informal procedure

- 4.1 Cases of minor misconduct or unsatisfactory performance should be dealt with informally by the line manager. This should involve a 1-2-1 private discussion between the line manager and employee to raise any concerns and discuss how to address these going forward. In some cases, additional training, support, coaching or advice may be required.
- 4.2 In instances of senior post-holders, this will be dealt with either by the Principal or, if the Principal is the senior post-holder concerned, by the Chair of the Corporation, or in his or her absence the Vice-Chair of the Corporation.

- 4.3 A one-to-one confidential discussion between the employee and the relevant person 2 will consider:
- The nature of the concerns
  - The employee's views and / or any mitigating circumstances that may be affecting their conduct
  - The expected standards of conduct and improvements required
  - Any support required
  - Timescales for improvement and review dates
  - The potential consequences of not achieving the required improvements in conduct.
- 4.4 A brief confidential note should be kept to confirm the discussions and any agreed steps on behalf of the employee and/or the line manager. This will normally be confirmed in writing via email to ensure both parties are clear on the outcome and any required action. These notes should not be kept on the HR personnel file of the employee and are for reference purposes only for the benefit of both the employee and the line manager.
- 4.5 It is important for both parties to understand that informal action is not formal disciplinary action and employees are not entitled to representation at this stage, although the employee may seek advice from their trade union representative, if applicable.
- 4.6 Following a satisfactory outcome the matter will be considered resolved. However, where an issue has been discussed with an employee informally, the formal procedure should be invoked, if:
- The issue has not been resolved and the problem persists; or
  - The required improvements in conduct are not achieved; or
  - Further information becomes available during discussions which make the matter sufficiently serious.

## 5. Investigations

- 5.1 No formal disciplinary action will be taken against an employee until the college has fully investigated the circumstances of the matter complained of, having regard to the employee's response to allegations.
- 5.2 The college will inform the employee of the allegation(s) as soon as practicable and that an investigation is to be conducted and once the investigation has been concluded.
- 5.3 The Investigating Officer (IO) will be appointed by the HR Manager and will normally be an individual paid on the management scale. A Human Resources representative

will assist in ensuring that matters are handled fairly, reasonably and in compliance with current legislation and College procedure.

- 5.4 In the cases of senior post-holders the IO should be an appropriate individual. This could be the Principal (where the Principal is not the senior post-holder in question), a governor or an independent external investigator.
- 5.5 The length of the investigation will depend on the nature and number of allegations being investigated. However, the investigation should be concluded as soon as reasonably possible whilst allowing sufficient time to interview all relevant parties/witness and evaluate all available evidence.
- 5.6 As part of the investigation the employee will be invited to attend an investigatory interview. The employee may be accompanied by a work colleague or trade union representative at the meeting.
- 5.7 The purpose of the investigatory interview is to gain the employee's response to the allegations and their version of events, and for the employee to identify any witnesses they feel relevant to the case. The investigatory interview is not a disciplinary meeting and the IO does not have the authority to either issue or recommend any form of formal warning.
- 5.8 Notes will be taken during the investigatory interview by the supporting member of HR and they will be sent to the employee to review and sign. If the employee wishes to make any amendments, they can do so either by discussion with the IO/member of HR or by forwarding their comments which will be appended to the notes. The employee will be given a deadline by which they must return the signed notes and any comments. Where the employee does not do so within the required time the investigation will proceed based on the unsigned notes.
- 5.9 The investigation may also include meeting with appropriate persons who may have witnessed the alleged misconduct or may be able to provide contextual information. Any statements included as evidence will be signed and dated where possible.
- 5.10 There may be exceptional circumstances where the identity of the witnesses (including the individual who first raised the allegation) will not be revealed as part of the investigation report, i.e. where that individual may be put at risk.
- 5.11 The employee will be advised in writing should any additional allegations arise during an investigation.
- 5.12 The IO, with the assistance of the HR representative, will prepare a report summarising the nature of the allegation or complaint, the process of the investigation

and the findings and determine whether there is a case to answer and if the matter should therefore be dealt with formally.

- 5.13 The outcomes of an investigation may therefore include:
- There is no case to answer
  - The matter is dealt with informally
  - There is a disciplinary case to answer and a disciplinary meeting is to be arranged.

## 6. Formal procedure for disciplinary meetings

- 6.1 Where the informal process has not led to improved conduct, or where the alleged misconduct is of such seriousness that the manager considers informal action to be inappropriate, formal action will be initiated. An investigation of the facts will be conducted as outlined in Section 5 to determine whether there is a disciplinary case to answer.
- 6.2 If, upon completion of an investigation, there are reasonable grounds to believe that an employee has committed an act of misconduct, the College will inform the employee that they are required to attend a formal disciplinary meeting at which they will be given the opportunity to respond and state their case. The employee will be advised in writing of the nature of the alleged misconduct, the possible consequences of the meeting and any relevant papers (such as written evidence and witness statements) to enable the employee to prepare for the meeting. The College should write to the employee with all the above information at least 5 working days before the meeting. The written notification should also detail the date and venue of the meeting, who will act as Disciplinary Officer (DO) and other persons who will be present at the meeting and the employee's right to be accompanied.
- 6.3 If the employee wishes to call relevant witnesses to the meeting or submit any documentary evidence they wish to have considered, he / she should advise the college of this or provide any such evidence not less than two working days before the date of the meeting, where reasonably practicable, to allow for an exchange of documents between the parties. The employee will be informed prior to the meeting if the college intends to call relevant witnesses. Any witness will only attend for the section of the meeting where he/she is required to give evidence.
- 6.4 Before the meeting takes place, the employee should inform the college whom they have chosen as a companion, should they wish to be accompanied.
- 6.5 In circumstances where it seems likely that for a lengthy period, the employee will be unable to attend a disciplinary meeting, the college reserves the right to go ahead with that meeting, affording the employee the right to either submit written representations and/or be represented by a workplace colleague or trade union representative.

- 6.6 The meeting will be chaired by an appointed DO and will normally be an individual paid on the management scale, unless the potential outcome of the meeting is dismissal. In such circumstances the DO will be a senior post holder. The DO will be assisted by a representative of Human Resources.
- 6.7 In cases of senior post-holders, the disciplinary meeting will be chaired by a disciplinary panel of the Corporation consisting of two or three Governors. Where dismissal is a possible outcome the meeting will be chaired by a special committee of the Corporation consisting of three Governors. Neither the disciplinary panel nor the special committee shall include the investigating officer or the staff or student Governors.
- 6.8 The IO will present the investigation report and a member of HR will be present to take notes of the meeting.
- 6.9 After the meeting, having fully considered the circumstances of the case, the DO or panel will decide if, on the balance of probability, the allegation(s) are proved and if so what level disciplinary sanction is appropriate.
- 6.10 The decision will normally be provided to the employee verbally following adjournment. Written confirmation of the outcome of the meeting, with full reasoning for the decision, will be sent to the employee within a reasonable timeframe. Where disciplinary action is the outcome, the employee will be informed of the nature of the action and the right to appeal under this procedure.

If issued with a warning, an employee will receive written confirmation within a reasonable timeframe. This letter will include:

- The nature of the misconduct;
  - The disciplinary sanction awarded and duration of the warning;
  - A summary of evidence considered;
  - The improvement expected;
  - The consequences of a failure to improve and sustain any improvement for at least the duration of the warning, including the possibility of further disciplinary action up to and including dismissal;
  - Relevant details and timescales relating to the employee's right of appeal.
- 6.11 Where a warning is given, support will be identified to help the employee achieve the standard of conduct required, which may include a development plan, staff development etc.

## 7. Formal Levels of Disciplinary action

- 7.1 Normally the stages described in Section 7 will be cumulative; however, the College reserves the right to commence the procedure at any stage it deems appropriate if the employee's alleged misconduct warrants this. The right will also apply in

circumstances where an employee commits a further act of alleged misconduct that is sufficiently serious, whilst a formal warning is in place.

There are three stages of the formal disciplinary procedure, which are outlined and explained below:

## 7.2 **Stage 1 – First Written Warning**

This stage should be applied where:

- instances of misconduct have occurred which are too serious to be addressed informally
- where minor misconduct has been repeated in spite of informal warnings
- where the employee's misconduct, although not considered serious enough to justify a Final Written Warning, is sufficiently serious to warrant a First Written Warning.

A First Warning will normally remain 'live' on the employee's HR file for a period of 12 months although a longer period may be imposed if warranted by the circumstances of the case. After such time, and subject to no further misconduct during this period, the warning will be disregarded for disciplinary purposes.

## 7.3 **Stage 2 – Final Written Warning**

This stage should be applied where:

- A Written Warning has already been issued and another instance of misconduct has occurred while it is current
- an employee has failed to demonstrate satisfactory improvement following the issuing of a First Written Warning
- the employee's misconduct, although not considered to be serious enough to justify dismissal, is sufficiently serious to warrant only one written warning (in effect both the first and final warning).

A Final Warning will normally remain 'live' on the employee's HR file for a period of 24 months although a longer period may be imposed if warranted by the circumstances of the case. After such time, and subject to no further misconduct during this period, the warning will be disregarded for disciplinary purposes.

## 7.4 **Stage 3 – Dismissal**

Dismissal will normally occur if:

- There is no improvement in the conduct within the specified period which has been the subject of a Final Written Warning
- Another instance of misconduct has occurred during the currency of a previous warning and a Final Written Warning has already been issued

- An allegation of gross misconduct is found to be proven (see notes at the end of this policy for examples of gross misconduct)
- A College medical advisor recommends that the member of staff is no longer capable of undertaking his/her duties and is not fit for redeployment.

Where a staff member is dismissed they will receive a written statement to include:

- Reasons for dismissal
- The date on which the employment contract will end
- The appropriate period of notice or payment in lieu, if applicable
- Any outstanding payments to be made
- The right of appeal.

Dismissal for gross misconduct will be summary dismissal without notice or with payment in lieu of notice depending on the reason for the dismissal.

## 7.5 **Sanctions – General**

Normally, the procedure will be followed in the order of the stages set out above. However, the procedure can commence at any stage depending upon the seriousness of the misconduct.

The fact that an employee may be informed that a matter is being dealt with informally, or at one particular stage of the formal procedure, does not preclude the college from imposing a more serious sanction in the event that such action is considered to be appropriate once the case has been fully investigated and considered at a disciplinary meeting. Where there is a risk of dismissal, the employee will always be informed of this and given an opportunity to make representations before a decision is made.

## 7.6 **Alternatives to Dismissal**

Actions short of dismissal, as an alternative to dismissal, may be considered in exceptional circumstances and at the absolute discretion of the College. Alternatives to dismissal may include extending the period of the existing Final Written Warning, demotion to a lower graded role or loss of seniority. The alternatives are not exhaustive and the College reserves the right to take any action it considers reasonable and appropriate in the circumstances.

## 7.7 **Abuse of the Disciplinary Procedure**

There may be circumstances where an employee's conduct is satisfactory throughout the period a written warning is in force, only to lapse very soon thereafter. If there is evidence of a pattern of misconduct, or other evidence of abuse of the Disciplinary Procedure where previous warnings are no longer live, the employee's previous

disciplinary record may be considered in deciding how long any new warning should last.

- 7.8 A decision to issue a new sanction under the disciplinary procedure should be taken and justified based on the evidence relating to the current matter and not based on an expired warning. While a decision to dismiss should not be based on an expired warning, the fact that there is an expired warning in existence may explain in some exceptional circumstances why a decision is taken to not substitute a lesser sanction.

## 8. Warnings - general

- 8.1 In exceptional circumstances, the DO or Corporation in the case of senior post holders may decide to impose a warning for a longer period than those mentioned above. Where a warning is to remain in force for longer than the periods mentioned above, the employee will be informed of the reasons for this decision.
- 8.2 Where a warning is in force and an employee has an extended absence from work for any reason or for a mix of reasons (e.g. maternity leave, sickness absence, annual leave) the warning will be subject to a 'clock stop' taking effect after the first two weeks of continuous absence. Upon the employee's return to work the warning will remain in force and will only expire when the employee has been at work for the full duration of the warning (save any absences under two weeks' duration).
- 8.3 Where a warning is in force and the employee is found to have repeated the same misconduct, or misconduct of a similar nature (e.g. two instances of dishonesty or two instances of insubordination) this will normally result in the new matter being dealt with under a higher stage of the procedure.

## 9. Gross misconduct

- 9.1 The college may summarily dismiss an employee without notice or pay in lieu of notice if, on completion of an investigation and a disciplinary meeting, it is established that the employee has been guilty of gross misconduct.
- 9.2 In the event of summary dismissal the college shall, without unreasonable delay, provide the dismissed employee with a written statement of the alleged misconduct which has led to the dismissal and the reasons why the college considers that the employee was guilty of such misconduct and notifying that employee of the right to appeal against the dismissal.
- 9.3 Any steps which the college can take under sections 9.1 – 9.2 can also be taken by a senior manager to whom the responsibility has been delegated by the Principal, and the provisions of sections 9.1 – 9.2 shall be read accordingly. In the case of a senior post holder, these steps will be taken by the Corporation or a special committee of the Corporation to whom the responsibility has been delegated by the Corporation.

## 10. Appeal

10.1 All employees have the right to appeal against any formal disciplinary penalty imposed. An employee who wishes to appeal against a disciplinary decision must do so within 5 working days of the date of the decision. To do so, the employee should inform the nominated person in writing, stating the grounds for appeal, which must be one or more of the following:

- The procedure; the policy and procedure have not been applied correctly
- The decision; the evidence did not support the conclusion reached
- The penalty; this was too severe given the circumstances of the case
- New evidence; which has genuinely come to light since the first meeting and which may have a bearing on the outcome.

In the case of senior post holders wishing to appeal against a disciplinary sanction they should inform the Clerk to the Corporation in writing, stating the grounds for appeal, which must be one of the above.

10.2 The original disciplinary sanction imposed as a result of the original meeting will remain in force until such time as it may be modified as a result of the appeal. A disciplinary sanction cannot be increased as a result of an appeal.

10.3 Where the appeal is against a written warning, it will be heard by a senior manager who has not been involved in the disciplinary process in question so far. Wherever possible, the manager meeting the appeal will be senior to the manager who chaired the original disciplinary meeting.

10.4 Where the appeal is against dismissal (including summary dismissal), it will be heard by either:

- i. a different senior manager; or
- ii. a committee of the Corporation, where the decision to dismiss was made by the Principal. The committee shall not include the Principal, staff members or student members.

10.5 In the case of senior post holders, the appeal will be heard by an appeal committee of the Corporation. In so far as is reasonably practicable, the committee will not include any member of the Corporation who has been involved in the disciplinary process in question so far. The committee shall not include the Principal, staff members or student members of the Corporation.

10.6 The appeal meeting will be held as soon as reasonably practicable after the notice to appeal has been received. The employee will be given at least 5 days' notice of the meeting date to allow him or her to prepare for the meeting.

- 10.7 At the appeal meeting, the employee will be given the opportunity to state his or her case and has the right to be accompanied by a representative of a trade union or fellow worker (please see Notes Section for further guidance).
- 10.8 If the chosen companion of the employee is unavailable on the date of the initial disciplinary meeting, or the employee has good reason to be unable to attend on the date, the employee may delay the date of the meeting once by up to 5 working days. If an employee fails, without good reason, to attend a disciplinary meeting on a second occasion which the College has instructed him/her to attend, the meeting will take place, and a decision made in his or her absence.
- 10.9 The appeal decision will be notified to the employee (and, where it is a decision of a committee of the Corporation, also notified to the Principal and Corporation) in writing without unreasonable delay following the appeal meeting. The appeal decision is final.
- 10.10 Where an appeal against disciplinary action is upheld in full, reference to the disciplinary sanction shall be expunged from the employee's record and the employee so notified. If the appeal is not upheld but the Appeal Panel considered the sanction to be inappropriate it may reduce the sanction or deem that it be operative for a shorter period. Where an appeal against dismissal is upheld, the employee shall be paid in full for the period from the date of dismissal and continuity of service will be maintained. Where an appeal against dismissal fails, the effective date of termination of employment will be the date on which the employee was originally dismissed.

## 11. Movement between procedures

- 11.1 If after commencing this procedure the IO, in conjunction with the HR Manager, considers that the case in question should have been dealt with under an alternative procedure the case may be run concurrently, e.g. performance capability, sickness capability and disciplinary.

## Notes relating to the disciplinary procedure

Employees have the statutory right to be accompanied by a fellow worker or trade union representative (if a member of that union), where they are required by the employer to attend a formal disciplinary meeting and when they make a reasonable request to be so accompanied. To exercise the statutory right to be accompanied, an employee must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for an employee to insist on being accompanied by a companion whose presence would prejudice the meeting, nor would it be reasonable for an employee to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available on site. The companion should be allowed to address the meeting to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting. The companion does not, however, have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the employer from explaining their case.

### Levels of Management

Within this procedure the levels of Management able to take disciplinary action, and with responsibility for appeals, is as follows for staff other than senior post holders:

<b>Sanction:</b>	<b>Disciplinary meeting:</b>	<b>Appeal to:</b>
Stage 1 First Written Warning	Member of management team	SMT member
Stage 2 Final Written Warning	Member of management team	SMT member
Stage 3 Dismissal	SMT member / Principal	SMT member / Principal

For senior post holders the panels and committees that can hear relevant stages of the formal disciplinary procedure is as follows:

<b>Sanction:</b>	<b>Disciplinary meeting:</b>	<b>Appeal:</b>
Formal disciplinary sanction short of dismissal	Disciplinary panel consisting of two or three Corporation members	Appeal committee
Dismissal	Special committee, consisting of three Corporation members	Appeal committee, ideally chaired by the Chair of the Corporation

None of the panels or committees referred to above shall include the staff and student members of the Corporation. Similarly, the investigating officer should not be a member of the disciplinary panel, special committee or appeal committee.

## Suggested format of the disciplinary meeting/appeal meeting

- During the meeting, adjournments may be requested by either party or by the manager conducting the meeting and will not be refused unreasonably. Where such a request is denied, an explanation will be given.
- Each party shall inform the other party prior the meeting if they wish to call witnesses.
- The panel members conducting the meeting will ask whether any new evidence has been made available that could not be circulated prior to the meeting and will make a judgement as to whether an adjournment is necessary to allow consideration of such evidence.
- The chair of the panel conducting the meeting will introduce all those present, including each person's role in the meeting, and will explain the purpose of the meeting.

### **1. Introduction by Chair**

The disciplinary will be chaired by a manager able to take disciplinary action who will be assisted by a Human Resources representative. The chair will:

- Introduce those present;
- Explain the purpose of the meeting;
- Explain how the meeting will be conducted.

### **2. Management Case**

The IO will present the Management Case and call any relevant and pre-notified witnesses to give evidence.

### **3. Questioning of the IO (and their Witnesses)**

The Chair, and their Human Resources representative, will have an opportunity to ask the IO (and their witnesses) any questions. The employee, and their representative through the Chair, will have an opportunity to ask the IO (and their witnesses) any questions.

### **4. Employee case**

The employee, or their representative, will present their case including any mitigating circumstances. Only evidence submitted to the Disciplinary Panel in advance of the meeting will be considered. The employee will call any pre-notified witnesses to give evidence.

## **5. Questioning of the Employee (and their Witnesses)**

The Chair, and their Human Resources representative, will have an opportunity to ask the employee (and their witnesses) any questions.

## **6. Summing up**

The IO will sum up the management case. The employee, or their representative, will sum up the employee case.

## **7. Adjournment**

The meeting will adjourn for the Chair to consider the evidence presented and decide if, on the balance of probabilities, the allegation(s) are proven, and if so what level of disciplinary sanction is appropriate. The Chair will confirm the timescale for a decision being made, which normally would be within 5 working days or sooner where possible.

## **8. Outcome**

The parties will reconvene and the employee will be informed of the decision verbally in the presence of their representative. The outcome of the meeting will be confirmed in writing within a reasonable timeframe and the right of appeal confirmed.

## **9. Appeal meeting**

The employee will be given at least five working days' notice of the date, time and place for the appeal meeting (unless an earlier date has been mutually agreed). The employee will be entitled to be accompanied at the meeting by a trade union representative or a work colleague. The grounds of the appeal will form the agenda for the meeting and determine the parties to be present. The suggested format for the Appeal Meeting is as follows:

- (a) The chair of the meeting will introduce those present, including each person's role in the meeting, and will explain the purpose of the meeting (for senior post holders there will be an appeal committee).
- (b) The employee or companion will state the precise nature of the appeal. He/she will then explain his/her case and any special circumstances which may exist.
- (c) Where appropriate, the employee or companion may introduce any witnesses. The chair of the meeting, or appeal committee member, may question any witnesses. Each witness will attend only for his/her own evidence and will withdraw once his/her evidence is given.
- (f) The chair of the meeting, or appeal committee member, may question the employee.
- (g) If necessary, the chair of the meeting may call the chair of the panel who made the original disciplinary decision in order to ask any relevant questions. The employee or companion may question the chair of the panel who made the original disciplinary decision. The chair of the panel who made the original disciplinary decision will then withdraw.

- (j) The employee or companion to summarise the appeal, with no new factors to be introduced.
- k) After the meeting, the Chair or appeal committee will review the case before making a decision. This process should take account of the original disciplinary decision and the employee's representations from the appeal meeting.
- (l) Written confirmation of the decision will be sent to the employee without unreasonable delay and normally within five working days of the Appeal Meeting. The decision will be final and binding and there will be no further internal right of appeal.

## Gross misconduct

The following examples are not exhaustive but indicative of conduct that the College considers may warrant disciplinary action up to and including summary dismissal in the case of gross misconduct:

- Theft or unauthorised possession of any property or facilities belonging to the College or to any employee or student.
- Serious damage deliberately sustained to College, employee or student property.
- Deliberate falsification of College records or documents e.g. registers, student work, reports, accounts, expense claims or self-certification forms.
- Bribery, corruption or actions which contravenes the Colleges Anti-Bribery Policy or Anti-Bribery Act 2011.
- Serious negligence / incompetence which causes unacceptable loss, damage or injury both physical and reputational.
- If suspected to be under the influence of alcohol or drugs during working hours; have consumed illegal drugs; attending work and / or carrying out duties under the influence of alcohol or drugs.
- Violent, dangerous or intimidatory conduct.
- Serious Violation of the College's rules and procedures concerning health and safety at work.
- Sexual, racial or other harassment under the Equality Act 2010, of another employee, student or visitor.
- Serious breach of safeguarding provisions within the College.
- Discriminatory conduct including Victimisation towards any employee, student or any other person the College deals with.
- Making malicious accusations of another employee i.e. accusations not made in good faith.
- A criminal offence (whether it is committed during or outside the employee's hours of work for the College) which has the potential to adversely affect the College's reputation, the employee's suitability for the type of work he or she is employed by the College to perform, or his or her acceptability to other employees or to students.
- Serious insubordination.
- Serious breach of trust or confidence.
- Intentional serious breach of College policy or regulations, or improper conduct in relation to job responsibilities.
- Fraudulent misuse of the College's property or name.
- Committing any act using or divulging any information which is contrary to or damages the interests or objectives of the College or likely to seriously damage the College's reputation or bring the College into disrepute.

**The above examples are not exhaustive or exclusive and offences of a similar nature will be dealt with under this procedure.**