

POLICY STATEMENT	
TITLE	Staff Disciplinary Policy
INTRODUCTION/OVERVIEW	It is the College's aim to encourage improvement in individual conduct and performance and avoid recourse to formal procedures wherever matters can be resolved informally. This policy sets out the action that will be taken when College rules are breached. A separate procedure will be used to address issues of capability and competence. This policy does not form part of any employee's contract of employment and may be amended at any time.
POLICY STATEMENT	This policy applies to all members of staff other than "holders of senior posts" as defined in the Instrument and Articles of Government. The procedures will be applied in accordance with the Instrument and Articles of Government and in accordance with the Advisory, Conciliation and Arbitration Services Code of Practice, 'Disciplinary Practice and Procedures in Employment'. To ensure consistent and fair treatment for all in relation to disciplinary action taken in response to allegations of unacceptable conduct.
QUALITY STATEMENTS	<ul style="list-style-type: none"> • The procedure is designed to establish the facts quickly and to deal consistently with disciplinary issues. No disciplinary action will be taken until the matter has been fully investigated. • At every stage the employee will be advised of the nature of the complaint, be given the opportunity to state their case, and of their right to be represented or accompanied by a workplace colleague or union representative. • The College will not dismiss for a first breach of discipline except in the case of serious or gross misconduct, where the penalty for gross misconduct will normally be dismissal without notice and without pay in lieu of notice. • The College prohibits the use of electronic recordings of any meetings. • The employee will have the right to appeal against disciplinary action taken against them. • The procedure may be implemented at any stage if the alleged misconduct warrants such action. • In the interest of ensuring that disciplinary matters are resolved as speedily as possible, time limits in this procedure are given for appropriate stages. These are for guidance. If it is not practicable to adhere to these time limits, they may be amended, ideally by mutual agreement. Due regard will be given to the personal circumstances of all parties involved in the procedure. • In respect of possible disciplinary action against a trade union officer disciplinary standards will apply to their conduct as employees, but no disciplinary action will be taken until the circumstances of the case have been discussed with a full-time official.
LINKED POLICIES/PROCEDURES	<ul style="list-style-type: none"> • Capability Policy & Procedure • Fraud and Irregularity Policy • Guidelines for Handling Staff Disciplinary Issues • Code of Conduct • Sickness Absence Policy • Grievance policy • Safeguarding Children and Vulnerable Adults Policy • Guidelines for handling complaints against members of staff
MONITORING PROCEDURES	HR Annual Report, Case Work meetings with Principal
DATE FOR REVIEW and next DIA	<ul style="list-style-type: none"> • May 2013
RESPONSIBILITY Overall Implementation:	Principal Director of Human Resources

ENDORSED BY SMT AND APPROVED BY CORPORATION: (Principal to sign)		(Signature)
	Principal	(Position)
		(Date)

1. STAGES OF THE PROCEDURE

- 1.1 Normally, the procedure will be followed in the order of the stages set out in Section 4 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.
- 1.2 No formal disciplinary penalty will be imposed without a disciplinary meeting. An employee will have the right to appeal against any disciplinary penalty imposed.

2. INFORMAL PROCEDURE

- 2.1 Before taking formal disciplinary action, every effort will be made by the line manager to resolve the matter by informal discussions with the employee, if appropriate.
- 2.2 Minor lapses from acceptable standards of conduct will usually be dealt with by the employee's immediate line manager giving informal verbal warnings or reprimands, which will **not** be recorded on the Human Resources Department's file relating to the employee.
- 2.3 If, despite informal discussions (or if informal discussions are not appropriate) the employee's conduct does not meet acceptable standards, the following formal procedure should be used.

3. INVESTIGATIONS

- 3.1 No 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. The investigation will usually be carried out by a member of the College management team from another school or department.
- 3.2 The College will inform the employee as soon as possible that an investigation is to be conducted and once the investigation has been concluded. The employee will be given the opportunity to be accompanied by a workplace colleague or trade union representative at the investigation meeting.
- 3.3 The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents.

- 3.4 If appropriate, the College may suspend the employee, in accordance with Section 12 below, whilst the investigation is carried out. (See guidance notes to investigations in the Guidelines for Handling Staff Disciplinary Issues)

4. FORMAL PROCEDURE

- 4.1 If the College decides to hold a disciplinary meeting relating to the matter complained of, the employee will be advised in writing of the nature of the alleged misconduct, the possible consequences of the meeting and any relevant papers. The written notification should also detail the date and venue of the meeting and the employee's right to be accompanied. Documentation to be used at the meeting should be exchanged by the employer and the employee at least 2 working days before such meeting. At least 10 working days notice will be given of the meeting, or shorter, by agreement.
- 4.2 If the employee wishes to call relevant witnesses to the meeting, he / she should advise the College of this in advance of the meeting. The employee will be informed prior to the meeting if the College intends to call relevant witnesses.
- 4.3 Before the meeting takes place, the employee should inform the College whom they have chosen as a companion (see note 2).
- 4.4 At any disciplinary meeting, the employee will be given an opportunity to state his or her case and will have the right to be accompanied and represented by the trade union representative or workplace colleague of his or her choice.
- 4.5 Representatives of the College, the employee and the employee's companion should make every effort to attend the meeting. If the employee fails persistently, without good reason, to attend a disciplinary meeting, which the College has instructed him or her to attend, the College will be entitled to proceed with the meeting and to reach a decision in the absence of the employee. In other 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 submit written representations and/or be represented by a workplace colleague or trade union representative.
- 4.6 However if the chosen companion of the employee is unavailable on the date of the initial meeting, the employee may delay the date of that meeting once up to 5 working days to enable the chosen representative to attend. The location and timing of any alternative meeting should be convenient to both the employer and the employee, but should not unduly delay the process.
- 4.7 The manager who conducted the investigation shall not be a member of the panel at the disciplinary meeting, but may attend in order to present the findings of the investigation and any supporting material.
- 4.8 The outcome of the disciplinary meeting will be confirmed in writing to the employee. 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.
- 4.9 Normally the stages described in Section 5 below will be cumulative; however, the College reserves the right to implement the procedure at stage 2 or 3 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.

5. STAGE 1 – VERBAL WARNING

- 5.1 If it is established through the disciplinary meeting that the employee's conduct does not meet acceptable standards, the employee will normally be given a formal VERBAL WARNING, by his or her immediate line manager/supervisor. The employee will be advised of the reason for the warning, that it is the first stage of the formal disciplinary procedure, which he or she has a right to appeal against it in accordance with Section 10 below.
- 5.2 This formal verbal warning will give details of the employee's misconduct, the improvement required and the time limit within which such improvement must be achieved. The warning will clarify that, if the employee commits a further offence of misconduct during the period specified in the warning, action under Stage 2 will be considered. However, the employee will also be advised that if any further act of misconduct is sufficiently serious, the College reserves the right to go to a further stage in the procedure.
- 5.3 A letter confirming the verbal warning will be placed on the Human Resources Department's file relating to the employee and remain active for 6 months, subject to the employee's conduct having been satisfactory throughout that period. If circumstances arise which mean that the period to review conduct will not be practicable, then the active period may be extended. After the active period, the record of the warning will be removed from the personal file, with the exception to cases relating to child protection or vulnerable adults, where details must be held until the employee's retirement age or 10 years whichever is longer. Other details will be held in a central file accessible only to the Director of HR and the Principal, but all information will be disregarded in the conduct of any future disciplinary proceedings.

6. STAGE 2 – WRITTEN WARNING

- 6.1 A WRITTEN WARNING will be given to the employee if:
- the employee commits a serious act of misconduct ;
 - the employee fails to comply with a formal verbal warning given under Stage 1;
 - or despite having been given, under Stage 1, a formal verbal warning as the result of misconduct, the employee commits a further offence of misconduct
- 6.2 This written warning will give details of the complaint against the employee, the improvement required and the time limit within which such improvement must be achieved. The warning will state that, if the employee commits a further offence of misconduct during the period specified in the warning, action under Stage 3 will be considered. The written warning will also advise the employee of the right of appeal in accordance with Section 10 below.
- 6.3 A copy of the written warning will be placed on the Human Resources Department's file relating to the employee and will remain active for 12 months, subject to the employee's conduct having been satisfactory throughout that period. If circumstances arise which mean that the period to review conduct will not be practicable, then the active period may be extended. After the active period, the record of the warning will be removed from the personal file, with the exception to cases relating to child protection or vulnerable adults, where details must be held until the employee's retirement age or 10 years whichever is longer. Other details will be held in a central file accessible only to the Director of HR and the Principal, but all information will be disregarded in the conduct of any future disciplinary proceedings.

7. STAGE 3 – FINAL WRITTEN WARNING

- 7.1 A FINAL WRITTEN WARNING will normally be given to the employee if:
- the employee fails to comply with a first written warning given under Stage 2;
 - despite having been given, under Stage 2, a first written warning as the result of misconduct, the employee commits a further offence of misconduct,
 - or the employee's misconduct, although not considered to be serious enough to justify summary dismissal, is sufficiently serious to warrant only one written warning (in effect both the first and a final written warning).
- 7.2 The final written warning will give details of the employee's misconduct, together with the standards to be maintained within an agreed time limit. The warning will state that, if the employee commits a further offence of misconduct, during the time limit specified in the warning, his or her employment may be terminated. The final written warning will also advise the employee of the right of appeal in accordance with Section 10 below.
- 7.3 A copy of the final written warning will be placed on the Human Resources Department's file relating to the employee and will remain active for 12 months subject to the employee's conduct having been satisfactory throughout that period. If circumstances arise which mean that the period to review conduct will not be practicable, then the active period may be extended. After the active period, the record of the warning will be removed from the personal file, with the exception to cases relating to child protection or vulnerable adults, where details must be held until the employee's retirement age or 10 years whichever is longer. Other details will be held in a central file accessible only to the Director of HR and the Principal, but all information will be disregarded in the conduct of any future disciplinary proceedings.

8. STAGE 4 - DISMISSAL

- 8.1 In circumstances where there is a possibility of the sanction resulting in dismissal, the meeting shall be chaired by the Principal.

The Principal may give notice of dismissal to the employee if:

- the employee fails to comply with a final written warning given under Stage 3;
- or
- further misconduct where there is an, active final written under Stage 3 on file
- or
- the employee commits an act of gross misconduct, regardless of whether there are active warnings on file.
- 8.2 Prior to being given such notice of dismissal, the Principal shall send to the employee a written statement setting out the alleged conduct, characteristics or other circumstances which led to that employee being considered for dismissal, and the employee shall be afforded a reasonable opportunity to respond to it. The employee will be invited to a meeting with the Principal, and no disciplinary action, except paid suspension, shall be taken against the employee until that meeting has taken place. The employee shall have the right to make representation, (including oral representations) to the Principal, for which purpose he or she may be accompanied and represented by a trade union representative or workplace colleague.
- 8.3 After taking any representations into account, the Principal shall take such action as he/she considers appropriate, which may include dismissal or some other action. The decision shall be

communicated to the employee concerned without unreasonable delay. The communication will be in writing, and if the decision is to dismiss, it will specify the reasons for dismissal and the date on which the employment will terminate. The communication will also notify the employee of his/her right of appeal against the decision in accordance with Section 11 below.

9. GROSS MISCONDUCT

9.1 An employee who is accused of serious or gross misconduct may be suspended from work, in accordance with the provisions of section 12 below, whilst the College investigates the alleged offence. The Principal may summarily dismiss the employee if, on completion of an investigation and a disciplinary meeting carried out in accordance with sections 8.2 and 8.3 above, it is established that the employee has been guilty of gross misconduct.

9.2 In the event of summary dismissal, in the circumstances detailed in section 9.1, the Principal shall, without unreasonable delay, provide the dismissed employee with a written statement of the alleged gross misconduct which has led to the dismissal and the reasons why the Principal considers the employee was guilty of such misconduct and notifying that employee of the right to appeal to the Corporation against the dismissal. Such dismissal will be without notice or payment in lieu of notice.

9.3 The following offences are examples of offences that are normally regarded as grounds for summary dismissal, unless exceptional mitigating circumstances are accepted.

- 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 property.
- Deliberate falsification of College registers, reports, accounts, expense claims or self-certification forms.
- Deliberate refusal to carry out duties or reasonable instructions or to comply with College rules.
- Unauthorised access or unacceptable usage of the internet and computer records – (see policy and guidelines for internet and intranet use.)
- Bribery or corruption – in receipt of money, goods, favours or excessive hospitality from whatever source in respect of services rendered or sought to be rendered to the College.
- Serious acts of insubordination.
- Serious negligence/incompetence, which causes unacceptable loss, damage or injury.
- Serious incapability as a result of being intoxicated by reason of alcohol or illegal drugs.
- Violent, dangerous or intimidatory conduct.
- Violation of the College's rules and procedures concerning health and safety at work.
- Harassment of another employee, student or third party of any kind, including harassment connected to any area of diversity.
- Serious acts of bullying of another employee or a student.
- A criminal offence, which may (whether it is committed during or outside the employee's hours of work for the College) bring the College into disrepute, 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.
- Bringing the College into disrepute
- Serious breach of confidence

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

10. APPEALS AGAINST DISCIPLINARY PENALTIES OTHER THAN DISMISSAL

- 10.1 An employee who wishes to appeal against a formal verbal warning, a written warning or a final written warning, or a disciplinary suspension should inform Human Resources within 7 working days of the date of the decision which forms the subject of the appeal. The appeal will be heard by:
- the Head of School/Department Manager in the case of a disciplinary penalty imposed by the employee's immediate superior/supervisor;
 - the SMT member for that area, in the case of a disciplinary penalty imposed by the employee's immediate superior/supervisor or Head of School/Department;
 - the Principal, if the Head of School/Department Manager or SMT member was directly involved in the procedure when the disciplinary penalty complained of was imposed;
 - a Disciplinary Panel of the Governing Body, if the Principal was directly involved in the procedure when the disciplinary penalty complained of was imposed.
- 10.2 The appeal meeting will be conducted as soon as reasonably practicable, after the notice of appeal has been received. The employee will be given at least five days notice of the meeting date to allow him or her to prepare. At the meeting the employee will be given an opportunity to state his or her case and will be entitled to be accompanied and represented by the trade union representative or work place colleague.
- 10.3 However, if the employee's representative is unavailable on the date of the initial appeal, the employee may delay the date of the appeal once up to 5 working days to enable the chosen representative to attend. The location and timing of any alternative meeting should be convenient to both the employer and the employee, but should not unduly delay the process.
- 10.4 At the appeal, the disciplinary penalty imposed will be reviewed, but it cannot be increased. The decision of the chair person of the appeal panel will be notified to the employee in writing within 5 working days of the appeal meeting and will be **final** and binding.

11 APPEALS AGAINST DISMISSAL OR NOTICE OF DISMISSAL

- 11.1 An appeal meeting may be a complete re-hearing or it may be an independent review of the fairness of the original decision in light of the procedure that was followed and consider any additional evidence, which the member of staff may feel was not adequately taken into account previously.
- 11.2 If an employee wishes to request an appeal it is necessary to make the request in writing, within 10 working days of the date of the decision which forms the subject of the appeal. This letter must clearly set out the grounds on which the decision is being appealed and must be sent to the Director of Human Resources and the Principal.
- 11.3 The appeal will be heard by a committee established by the Corporation consisting of three members of the Corporation, excluding the Principal, the staff members and the student member. The Principal must not hear the appeal if s/he has been involved in the detail of the investigation or the decision to dismiss.
- 11.4 The appeal meeting will take place as soon as reasonably practicable after the notice of appeal has been received. The employee will be given at least five working days' notice of the date, time and place fixed for the appeal meeting (unless an earlier date has been mutually agreed). At the appeal meeting, the employee will be given an opportunity to state his or her case and will be

entitled to be accompanied and represented by the trade union representative or workplace colleague of his or her choice.

- 11.5 The decision of the Corporation's committee appointed to hear the appeal will be notified or confirmed to the employee in writing within five working days of the appeal meeting and will be **final** and binding.
- 11.6 In the case of an appeal against notice of dismissal, the dismissal shall not take effect before the appeal has been determined

12 SUSPENSION PENDING DISCIPLINARY MEETING

- 12.1 There may be circumstances during an investigation where suspension from duty pending holding a formal disciplinary meeting may be appropriate., for example in cases involving serious or gross misconduct, where relationships have broken down or there are risks to students or responsibilities to other parties, consideration should be given to a brief period of suspension with full pay whilst unhindered investigation is conducted.
- 12.2 Such a suspension should only be imposed after careful consideration, without prejudice, and it should be made clear to the employee that it is not considered a disciplinary act.
- 12.3 If the Principal decides to suspend an employee from duty, he/she, or his/her nominated deputy shall:
- Confirm the suspension and inform the employee of the reasons for the suspension in writing within three working days and invite the employee to a meeting to discuss the suspension, if they so wish.
 - Provide the employee with as clear an idea as possible about how long they will be on suspension. Where a precise date is not known at the time of suspension, or writing confirming the suspension, the individual will be kept informed on how matters are proceeding.
 - Advise the employee that access to the Corporation's premises is restricted during the suspension period, unless prior permission of the Principal has been given. This will be confirmed in the suspension letter.
 - Advise the employee that he/she is obliged to be available at 'all reasonable times'.
 - Advise the employee that any holiday commitments will generally be honoured when they were arranged and approved by management **prior** to suspension, but that, where such arrangements can be postponed, there is onus on the employee to co-operate with the Corporation's investigations.
- 12.4 An employee who is suspended from duty shall, throughout the period of suspension, continue to be entitled to his/her full pay and other employment benefits, unless there is a provision in the contract to the contrary.
- 12.5 An employee who has been under suspension for three weeks or more, may appeal in writing to the Corporation against the suspension. Notice of such appeal shall be given in writing by the employee to the Clerk to the Corporation and the appeal shall be heard as soon as practicable by a committee consisting of three members of the Corporation, excluding the Principal, the staff members and the student member.
- 12.6 A suspension against which an appeal by an employee is made shall continue to operate pending the determination of the appeal.

- 12.7 Where an appeal against suspension is made by an employee to the Corporation, the employee shall be given at least five working days' notice of the date, time and place fixed for the meeting, unless an earlier date has been mutually agreed.
- 12.8 At the meeting of an appeal against suspension, the employee may be accompanied and represented by the recognised trade union representative or workplace colleague of his or her choice.
- 12.9 Following the meeting of an appeal against suspension, the Corporation's committee appointed to hear the appeal may either confirm the suspension or lift the suspension. The decision of the Corporation, and the reasons for the same, shall be confirmed by the Clerk to the Corporation in writing to the employee within five working days of the meeting of the appeal.

NOTES RELATING TO THE DISCIPLINARY PROCEDURE

1. Role of Human Resources

Section 1.1

The role of Human Resources during the disciplinary process is to assist managers in promoting the highest possible standards of management action when handling disciplinary matters. To achieve this objective Human Resources should be consulted for advice and direct support on specific disciplinary issues, or for general advice on the provisions of this policy and procedure. As the initial handling of a disciplinary matter can influence the eventual outcome, it is recommended that HR advice is sought at the earliest opportunity.

It should be noted that the view of Human Resources must be sought in all cases where disciplinary action is contemplated which could result in the dismissal of an employee. This consultation should take place as early as possible in the disciplinary process and certainly before any disciplinary meeting is held and a decision is reached.

2. Representation

Section 4.4

Employees have the statutory right to be accompanied by a colleague or trade union official, where they are required or invited by the employer to attend a formal disciplinary meeting and when they make a reasonable request to be so accompanied.

The trade union representative can be a full-time officer employed by a trade union, or a lay trade union officer, so long as (in the latter case) they have been reasonably certified in writing by their union as having experience of, or as having received training in, acting as an employee's companion at disciplinary meetings.

A fellow worker or trade union representative who is to accompany the employee at the disciplinary meeting should be permitted to take a reasonable amount of paid time off to fulfil this. 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.

The companion will be permitted 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.. The companion does not, however, have the right to answer questions on behalf of the employee, address the meeting if the employee does not wish it or prevent the employer from explaining their case.

3. Formal Procedure

Sections 4-8

Any member of the College management team who is involved with either presenting a case at a disciplinary meeting, or acting as chairperson will have undertaken the appropriate training.

Formal Stage 1

The disciplinary meeting will usually be heard by the direct line manager, who has undertaken the appropriate training. A member of staff from Human Resources should also be in attendance.

Formal Stages 2 – 3

The disciplinary meeting will usually be heard by a member of the College Management team, who has undertaken the appropriate training. To ensure an unbiased approach the manager hearing the disciplinary will be from another department/school. The line manager of the employee will present the case at the meeting. The Investigating Officer who carried out the investigation may be called upon as witness at the meeting. A member of staff from Human Resources should also be in attendance.

Formal Stage 4 - Dismissal

The dismissal provisions in Stage 4 reflect those in Article 3 2 (e) of the Articles of Government. Only the Principal of the College is authorised to dismiss a member of staff. It should be noted that, where the dismissal is not summary dismissal by reason of gross misconduct, the employee may appeal against the notice of dismissal. If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful the employee will be reinstated with no loss of continuity or pay.

4. Appeals

Section 10

Appeals against disciplinary penalties other than dismissal, should be heard by someone who was not involved in the procedural stages, which resulted in those penalties being imposed. For example, if an immediate superior or a Head of School gave a formal warning, it might be appropriate for a member of SMT to hear the appeal against such warning.

5. Suspension

Section 12

This section sets out rules for the suspension of staff, pursuant to Article 16 of the statutory Articles.