



Warrington Collegiate

## **QUALITY ASSURANCE**

### **Disciplinary Procedure**

**Policy Ref: S/4/11**

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#### **1 INTRODUCTION**

The aims of this procedure are:

- to help and encourage employees to achieve and maintain standards of conduct and performance defined by the College.
- to ensure consistent and fair treatment for all in relation to disciplinary action taken in response to allegations of deficient conduct or performance.

#### **2 SCOPE**

This procedure applies to all employees (other than senior potholders, as determined by the Instruments and Articles of Government, who are subject to separate proceedings) of Warrington Collegiate. Although this is termed a disciplinary procedure, the procedure will apply to capability and poor performance issues and the term “misconduct” and “offence” in the procedure can be interpreted to include such, where appropriate. Furthermore, where there are difficulties with an employee involving capability, performance, ill health and misconduct, or a combination of them, it may be appropriate for all of the issues to be resolved together under one procedure and the procedures may need to be adapted to accommodate this for the good of the College and the employee.

#### **3 PRINCIPLES**

##### **3i Informal Resolutions**

Cases of minor misconduct or unsatisfactory performance can best be dealt with informally. An open discussion should take place between the line manager and employee, identifying the issue and agreeing an action plan and any support required to achieve the required improvement. The employee should understand:

- a) what needs to be done
- b) how performance or conduct will be reviewed
- c) the timescale in which improvements should take place
- d) the consequences of a failure to improve

### **3.ii Representation**

Where a disciplinary issue is being investigated or a disciplinary hearing taking place, individuals have a right to be represented by their trade union representative or a workplace colleague.

### **3.iii Trade Union Representatives**

Where disciplinary action against a recognised trade union representative may result, the matter will be discussed with the union's Full Time Official before disciplinary action is taken against a trade union representative.

### **3.iv Investigation**

Disciplinary action will not normally take place without a preliminary investigation. When a disciplinary matter arises, the individual's line manager should:

- a) consult the Human Resources Department to ensure a consistent approach and who will
- b) appoint an individual to undertake, as soon as possible, a fact-finding exercise regarding the details of the matter, retaining a record of discussions/statements (whoever does this will be the Investigating Officer (IO)).

Individuals should be advised in writing of the complaints against them together with copies of relevant evidence before any disciplinary hearing takes place and be given the opportunity to state their case before any decisions are reached. In exceptional circumstances some evidence might not be copied to the individual but, in those circumstances, the individual will be given sufficient information about the allegations against him/her, to respond to them.

An employee may agree to a written warning being imposed by his/her line manager, without any need for further investigation or a formal hearing. This should not be undertaken without consultation with a member of the Human Resources Department and the action, including the employee's agreement should be confirmed in writing.

### **3.v Suspension**

Suspension of an individual may be necessary to enable an investigation to be undertaken. Suspension is usually required in cases which may lead to serious disciplinary action being taken.

Any suspension shall be subject to the following provisions:

The decision to suspend and the reasons for suspension must be confirmed in writing to the employee immediately.

An employee who is suspended from duty shall throughout the period of suspension continue to be entitled to his/her full pay.

An employee who has been under suspension for three weeks or more may appeal in writing to the Principal against the suspension. Notice of such an appeal shall be given in writing by the employee to the Principal and the appeal shall be heard as soon as practicable by the Principal. If an employee appeals s/he shall remain suspended until the outcome of the appeal is known. The employee will be given at least five working days' notice of the date, time, place and informed of his/her right to be accompanied by a trade union representative or workplace colleague. The appeal will not go ahead in the event that the disciplinary hearing takes place before the suspension appeal takes place. The Principal may confirm or lift the suspension. The decision will be confirmed in writing to the employee within five working days. The Principal shall not be excluded from considering the substantive allegations by virtue of this involvement in such appeal.

### **3.vi Disciplinary Hearings**

In the event the Investigating Officer (IO) feels there is a case to answer, a disciplinary hearing will be convened. The hearing will be convened by or on behalf of the Human Resources Director to whom all correspondence should be directed. The Human Resources Director or representative will also attend the hearing to advise the Chair on matters of policy and procedure.

The IO will present the management case at the hearing. The member of staff will be able to present their case and will also have the right of representation by a workplace colleague or recognised trade union representative.

The person hearing or chairing the disciplinary hearing ("Chair") will normally be the line manager of the individual concerned.

An exchange of statements of case in advance of the disciplinary hearing should be made.

Five working days' notice will be given before the disciplinary hearing occurs, except in exceptional circumstances.

Only in exceptional circumstances, may a hearing be postponed. Only one postponement will be permitted on the ground that the employee in question, his/her representative or a crucial witness is unavailable. A second date will, in that case, be notified which will be within five working days of the original date, if possible.

If the employee fails, without good reason, to attend the hearing, the hearing may take place and a decision made in the employee's absence. Failure to attend a hearing without good reason may be treated as misconduct in itself.

The procedures to be followed are to enable the Chair to ensure a fair hearing.

The purpose of the disciplinary hearing is to review the evidence and to enable the employee to respond to any allegations that have been made against him/her. A companion may make representations to the Chair and ask questions, but should not answer questions on behalf of the employee.

## **4 SANCTIONS**

All sanctions and the reasons for them shall be notified to the individual in writing, usually within 5 days of the end of the hearing, notwithstanding that they may have been verbally informed. Disciplinary sanctions may be imposed together with other measures to improve discipline, capability or poor performance, as appropriate.

Levels of disciplinary sanctions are:

### **4.i Written Warning**

A Written Warning may be given in cases where an employee commits an offence of misconduct.

A written warning will be confirmed in writing and will be disregarded in any subsequent disciplinary hearing after a 12-month period, unless a further disciplinary offence occurs within that period.

### **4.ii Final Written Warning**

A final written warning may be given in cases where an individual fails to comply with a first written warning or despite being given a written warning commits further offences of misconduct. A final written warning may also be given in cases of serious disciplinary misconduct which cannot be tolerated on a further occasion or may be given as a sanction short of dismissal and may be combined with other sanctions such as;

downgrading, re deployment, transfer, withholding of increment(s) or pay award(s).

A final written warning will be confirmed in writing and remain on an individual's personnel record for an 18 month period unless a further offence occurs within that period.

#### **4.iii Dismissal**

Dismissal may be undertaken by a Director or a member of the Executive Leadership Team where an individual has failed to comply with a final written warning or having received a final written warning, commits a further offence.

Where it is felt inadvisable for an individual to attend work during their notice period, they will be required to absent themselves from work but will continue to be employed by the College until the expiry of the notice period.

In cases of gross misconduct or gross negligence, (examples of such offences are detailed in Appendix A), summary dismissal may take place without prior disciplinary interventions. Such a dismissal will be without notice or payment in lieu of notice.

A decision to dismiss will be confirmed in writing.

## **5 APPEALS**

### **5. i Appeals against disciplinary sanctions**

Appeals can be made against any formal disciplinary action and should be registered in writing to the Human Resources Director, to be received within 5 working days of the sanction being given. The letter confirming the sanction imposed will explain the right of appeal.

Appeals will be heard by the line manager of the manager who imposed the disciplinary sanction, where possible, within 10 days of receipt of the appeal letter. If they were involved in the disciplinary procedure previously, the College may consider it appropriate for a neutral senior manager to hear the appeal.

The decision of the appeal will be confirmed in writing and will be final and binding.

### **5.ii Appeals against Dismissal**

Where an appeal against dismissal is made by an employee who is already in receipt of a final written warning and the employee fails to comply with the conditions for that warning the appeal will be heard by the Principal or Assistant Principal.

In all other cases appeals against dismissal will be heard by a panel comprising two members of the Executive Leadership Team (normally the Principal and one other).

The College will seek to ensure that appeals against dismissal normally, will take place within 15 days of receipt of the appeal request.

At the appeal the disciplinary penalty imposed will be reviewed. The decision of the Appeal Panel will be notified in writing. The decision will be final & binding.

## APPENDIX A

### DISCIPLINARY RULES

The following are examples of offences, which may be regarded by the College as warranting disciplinary action. This list is not to be regarded as exclusive or exhaustive.

Gross misconduct/negligence – such offences may warrant dismissal without previous warnings and may be summary (without notice):

- i) theft, fraud and deliberate falsification of records; including but not limited to college registers, reports, accounts, expense claims or self-certification forms;
- ii) physical violence, dangerous or intimidatory conduct;
- iii) damage deliberately sustained to College property;
- iv) serious fraudulent misuse of an organisation's property or name;
- v) serious incapability brought on by alcohol or drug abuse;
- vi) serious negligence which causes unacceptable loss, damage or injury;
- vii) insubordination;
- viii) serious infringement of health and safety rules;
- ix) serious breach of confidence;
- x) sexual misconduct at work;
- xi) deliberately accessing internet sites containing pornographic, offensive or obscene material;
- xii) offensive behaviour;
- xiii) unlawful discrimination against staff or students;
- xiv) sexual, racial or other harassment of another employee or student;
- xv) failure to comply with CRB, qualifications and/or reference requirements on recruitment or during employment;
- xvi) failure, adequately to comply with the obligation to safeguard children and vulnerable adults;
- xvii) a criminal offence, which may (whether it is committed during or outside the employee's hours of work for the College) 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;
- xviii) refusal to carry out duties or reasonable instructions or to comply with College rules;
- xix) causing damage or injury through serious negligence.

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

Misconduct – such offences may result in disciplinary action being taken and serious or repeated breaches of the following could amount to gross misconduct:

- i) disobeying reasonable instructions or non-co-operation with Management activities or requests;
- ii) abuse of authority;
- iii) unauthorised absence from duty and/or poor timekeeping;
- iv) negligence and/or inadequate unsatisfactory performance eg two lesson observations at Grade 4/ two performance management reviews graded below expectations in one academic year; or failure to achieve an acceptable standard of study or to pass examinations essential for the fulfilment of the job;
- v) engaging in employment outside normal working hours which adversely affects their work with the College;
- vi) falsification or inaccurate statements in official documentation;
- vii) being under the influence of drink or drugs;
- viii) failure to adhere to College Policies and Procedures, including Departmental protocols;
- ix) being an accessory to a disciplinary offence;
- x) failure to comply with the Code of Conduct and Values.

## **GUIDANCE FOR DISCIPLINARY CHAIRS:**

### **PROCEDURE FOR DISCIPLINARY HEARINGS:**

- 1 The Chair of the hearing is responsible for ensuring that the procedure is observed and will ensure fairness to each side.
- 2 Both the Investigating Officer and the employee and representative (if so determined) will be called into the hearing.
- 3 The Investigating Officer will make a statement outlining the grounds for disciplinary action. He/she shall have the opportunity to call witnesses or produce documents supporting the allegations.
- 4 The employee and/or representative will be given the opportunity to question the Investigating Officer as well as any witnesses who may give evidence.
- 5 The employee and/or representative will then be invited to respond to the case as presented. The employee may also produce witnesses, written statements or other documents to support his/her case.
- 6 The Investigating Officer will be given the opportunity to question the employee and/or representative as well as any witnesses who may give evidence.
- 7 During the hearing, adjournments may be requested, for good cause, by either party or by the Chair conducting the hearing and will not be refused unreasonably.
- 8 The Investigating Officer will make a closing statement.
- 9 The employee or his/her representative will be given the opportunity to make a closing statement.
- 10 Both parties will withdraw to allow the Chair conducting the hearing to review and consider the evidence.
- 11 If the Chair considers it necessary, the hearing can be adjourned to a later time or date to collect and/or consider additional evidence and/or give the decision.
- 12 The Chair will then recommence the hearing and give their decision. The decision will be confirmed in writing to the employee and a copy sent to the representative.
- 13 The employee will be advised of their right to appeal against the decision and informed who that appeal should be lodged with and in what time scale.

14 A member of the Human Resources Department will be present at the Disciplinary Hearing.

## **PROCEDURE TO FOLLOW AT APPEAL HEARINGS:**

- 1 The Chair of the Appeal will re-examine documents and evidence from the original hearing which are necessary to address the points of the appeal.
- 2 The Chair is responsible for ensuring that the procedure is observed and will ensure fairness to all sides.
- 3 The appellant and his/her representative (if so determined) together with the Investigating Officer and the chair of the original disciplinary panel will be called to the hearing.
- 4 The appellant and/or his/her representative will make a statement outlining the grounds for the appeal, making any appropriate references to the papers originally considered by the disciplinary hearing.
- 5 The Chair of the appeal hearing and the Chair of the original hearing will be given the opportunity to question the appellant and/or his/her representative.
- 6 The Chair of the original disciplinary hearing will make a statement outlining the reasons for the decision, making any appropriate references to the papers originally considered by the disciplinary hearing.
- 7 The Chair of the appeal hearing and the appellant and/or his/her representative will be given the opportunity to question the Chair of the original hearing.
- 8 The appellant or his/her representative will be asked to make a closing statement with no new factors to be introduced.
- 9 The Chair of the original hearing will be asked to make a closing statement with no new factors to be introduced.
- 10 Both parties will withdraw to allow the appeals Chair to review and consider the evidence.
- 11 The appeals Chair will then recall both parties to inform them of the decision. If it is not possible to make a decision immediately, the parties will be informed of this and a decision will be made and communicated to the appellant within two working days of the hearing. The decision will be final and binding within the College.
- 12 The Appeals Panel will be serviced by a member of Human Resources Department.