



Disciplinary and Dismissal Procedure

Governors Rules

These rules are made under Articles 7 and 8 of the Articles of Government.

1. Terms of Reference
 - 1.1. Under Article 8 the procedure for the dismissal of all staff, whether for reason of misconduct or otherwise, shall be specified in rules made by the Governors.
 - 1.2 The disciplinary procedure to be followed after suspension of a member of staff under Article 7.1 shall be specified in rules made by the Governors.
 - 1.3 Under Article 13.3.5 of the Instrument of Government the Governors shall not delegate the dismissal of the Principal or the Holders of Senior Posts.
 - 1.4 There are principles set out in Section 4 of the Rules which apply to all disciplinary procedures.

2. Disciplinary Procedure for the Holders of Senior Posts

- 2.1 If the Principal considers that there is reason to investigate whether the holder of a senior post has committed an act of misconduct or gross misconduct he/she will refer the matter to the Chairman of Governors, or, in the absence of the Chairman, the Vice-Chairman of the Governors. The Chairman, or, as the case may be the Vice-Chairman, shall determine whether to appoint an independent investigating officer after consulting with a reference group comprising three other Governors. Where the Principal is involved, the Chairman, or, as the case may be the Vice-Chairman, shall determine whether to appoint an independent investigating officer after consulting with a reference group comprising three other governors.
- 2.2 The independent investigating officer will normally be appointed from an appropriate professional body or service specialising in conducting independent investigations.
- 2.3 The independent investigating officer will carry out investigations and interviews as required and prepare a preliminary report for the reference group, identifying what allegations, if any, should be considered by a disciplinary panel.

- 2.4 The reference group will consider the report and determine whether the recommendations about disciplinary proceedings should be accepted. Only in exceptional circumstances may the reference group reject the recommendations of the independent investigating officer. In any event, the reference group cannot require a matter to go forward to a disciplinary meeting if the independent investigating officer has recommended that it should not.
- 2.5 A disciplinary panel, normally comprising three Governors, including the Chair of the panel, other than those forming part of the reference group will be convened to consider the matter.
- 2.6 The Chair of the disciplinary panel will set out the allegations against the senior post holder concerned in writing and the senior post holder will be invited to attend a disciplinary meeting to discuss the allegations. The possible outcomes of the meeting including that of dismissal will also be set out in writing. The meeting must take place without unreasonable delay, at a reasonable time and place; the senior post holder concerned must have reasonable opportunity prior to the meeting to consider the allegations. The senior post holder has the right to be accompanied by a fellow employee or union representative if he/she so wishes. The meeting can be postponed for up to five working days if the accompanying person is unable to attend the meeting.
- 2.7 The independent investigating officer will present the case against the senior post holder concerned and the evidence gathered. The senior post holder should be allowed to set out his/her case and answer any allegations that have been made. The senior post holder should also be allowed to ask questions, present evidence, call witnesses and be given an opportunity to raise points about any information provided by witnesses. The accompanying person should be allowed to address the meeting in order to: state the senior post holder's case; respond on the senior post holder's behalf to any view expressed at the meeting. The accompanying person may confer with the senior post holder but may not answer questions on the senior post holder's behalf.
- 2.8 Following the meeting the disciplinary panel will decide whether disciplinary action is justified or not. Disciplinary action may include a written warning, a final written warning or dismissal. The findings made and the reasons for the outcome will be detailed in writing. The Chair of the panel will convey the outcome to the senior post holder in writing and he/she will be informed of his/her right to appeal against any decision.
- 2.9 If the senior post holder wishes to appeal against any decision he/she should advise the Chair of the disciplinary panel in writing no later than five working days after the outcome of the disciplinary meeting is communicated.
- 2.10 An appeals panel, normally comprising three Governors, including the Chair of the panel, other than those forming part of the original reference group and the disciplinary panel will be convened to consider the appeal. All records and

notes of the original disciplinary meeting should be made available to the appeals panel.

- 2.11 The Chair of the appeals panel will invite the senior post holder to attend a meeting to discuss his/her appeal. The meeting must take place without unreasonable delay, at a reasonable time and place. The senior post holder has the right to be accompanied by a fellow employee or union representative if he/she so wishes and the accompanying person will have the same rights to address the appeals panel as at the disciplinary meeting. The meeting can be postponed for up to five working days if the accompanying person is unable to attend the meeting.
- 2.12 Following the meeting the appeals panel will decide whether the disciplinary action will be waived, reduced or confirmed. The Chair of the panel will convey the outcome and the reasons for it to the senior post holder in writing. He/she will also be advised that this is the final stage of the appeals procedure.

3. Disciplinary Procedure for staff other than the Holders of Senior Posts.

- 3.1 The disciplinary procedure for staff other than the holders of senior posts will be undertaken through the Human Resources Department with the exception of minor concerns about conduct which a line manager may raise with a member of staff without the involvement of the Human Resources Department. The Human Resources Department is responsible for all associated correspondence and documentation.
- 3.2 If a member of staff faces the possibility of dismissal, as a result of misconduct or gross misconduct being reported or suspected, then a preliminary investigation into the allegations will normally take place before any written charge of misconduct or gross misconduct is presented in writing to the member of staff. The Principal, or, in the absence of the Principal, a Vice-Principal, will normally decide who will undertake the preliminary investigation. In all other cases of misconduct a preliminary investigation will not always be necessary before a disciplinary meeting is held.
- 3.3 If a disciplinary meeting is to be held the allegations against the member of staff will be set out in writing and the member of staff concerned will be invited to attend a disciplinary meeting to discuss the allegations. The basis for such action will be provided before any disciplinary meeting takes place. The possible outcomes of the meeting including that of dismissal will also be set out in writing.
- 3.4 The disciplinary meeting must take place without unreasonable delay, at a reasonable time and place and the member of staff concerned must have reasonable opportunity prior to the meeting to consider the allegations. The member of staff has the right to be accompanied by a fellow employee or union representative if he/she so wishes. The meeting can be postponed for up to five working days if the accompanying person is unable to attend the disciplinary meeting.

- 3.5 At the disciplinary meeting the member of staff should be allowed to set out his/her case and answer any allegations that have been made. The member of staff should also be allowed to ask questions, present evidence, call witnesses and be given an opportunity to raise points about any information provided by witnesses. The accompanying person should be allowed to address the meeting in order to: state the member of staff's case; sum up the member of staff's case; respond on the member of staff's behalf to any view expressed at the meeting. The accompanying person may confer with the member of staff but may not answer questions on the member of staff's behalf.
- 3.6 Following the disciplinary meeting a decision will be made as to whether disciplinary action is justified or not. Disciplinary action may include a written warning, a final written warning or dismissal. The findings made and the reasons for the outcome will be detailed in writing. The outcome will be conveyed to the member of staff in writing and he/she will be informed of his/her right to appeal against any decision.
- 3.7 If the member of staff wishes to appeal against any decision he/she should advise the Human Resources Department in writing no later than five working days after the outcome of the disciplinary meeting is communicated.
- 3.8 The Chair of the appeals panel will be appointed by the Principal, or, in the absence of the Principal, a Vice-Principal. All records and notes of the original disciplinary meeting should be made available to the appeals panel.
- 3.9 The member of staff will be invited to a meeting to discuss his/her appeal. The meeting must take place without unreasonable delay, at a reasonable time and place. The member of staff has the right to be accompanied by a fellow employee or union representative if he/she so wishes and the accompanying person will have the same rights to address the appeals panel as at the disciplinary meeting. The meeting can be postponed for up to five working days if the accompanying person is unable to attend the meeting.
- 3.10 Following the meeting the appeals panel will decide whether the disciplinary action will be waived, reduced or confirmed. The outcome and the reasons for it will be conveyed to the member of staff in writing. The member of staff will also be advised that this is the final stage of the appeals procedure.

4. Principles common to both disciplinary procedures

- 4.1 Written records will be made during the disciplinary process to include: the allegations against the person; the person's defence; findings made and actions taken; the reasons for the actions taken; whether an appeal was lodged; the outcome of the appeal; any grievances raised during the process and subsequent developments.
- 4.2 All written records will be treated as confidential and kept in accordance with the requirements of the Data Protection Act 1998.

- 4.3 The person subject to disciplinary proceedings will be entitled to copies of meeting records and formal minutes that have been taken. In some circumstances (for example to protect a witness) some records may be withheld.
- 4.4 Governors or staff with responsibility for conducting disciplinary procedures shall be free to appoint any appropriately qualified professional to assist them in the disciplinary process. In respect of the Disciplinary Procedure for staff other than the holders of senior posts appropriately qualified professionals can only be appointed with the prior approval of the Principal, or, in the absence of the Principal, the appropriate Vice-Principal. In addition, a member of the Human Resources Department will normally attend the disciplinary meeting and appeal meeting.
- 4.5 Governors or staff with responsibility for conducting disciplinary procedures will have due regard to the requirements of the ACAS Code of Practice on Disciplinary and Grievance Procedures. Copies of the ACAS Code of Practice are available from the Human Resources Department.

5. Disciplinary action

- 5.1 In some cases, minor concerns about conduct may be raised informally by a line manager with a view to solving the problem without recourse to the formal disciplinary procedure.
- 5.2 Below are listed the actions that may normally be taken in the event of such alleged misconduct. They do not necessarily follow in a sequence and in some circumstances it may be appropriate to omit or duplicate one or more of these stages. Disciplinary action will be decided on after a disciplinary meeting.
- 5.3 **First Written Warning** – In cases of minor offences a first written warning will be given, setting out the nature of the offence, specifying what improvement is required and advising the person that close attention will be paid to his/her conduct in the future. At this stage the person will be advised that any further breach of discipline may lead to a final written warning and/or other disciplinary action as defined below. A copy of the written warning will be kept on his/her personnel file for a period of 12 months, after which it will be disregarded for disciplinary purposes unless a longer period has been specified.
- 5.4 **Final Written Warning** – In the case of further offences or a first instance of serious misconduct the person will be given a final written warning setting out the nature of the offence and containing a statement that any recurrence may lead to dismissal or other disciplinary action. A copy of the written warning will be kept on his/her personnel file for 12 months, after which it will be disregarded for disciplinary purposes unless a longer period has been specified.

5.5 **Dismissal** – If the offence falls within the category of gross misconduct or if previous disciplinary action has not produced the required improvement or if a further breach of discipline has occurred then the person will be asked to attend a formal meeting under the standard procedure, the outcome of which may be dismissal. If the alleged offence is found to have occurred then the person may be dismissed with or without notice, at the discretion of the College. The person will be provided with written reasons for the dismissal and the effective date of the dismissal.

5.6 **Alternative Action to Dismissal** – As an alternative to dismissal the person may, in appropriate circumstances be transferred to another position which may be a position of less responsibility with a corresponding reduction in pay and benefits or suspension of pay.

6. Misconduct and gross misconduct

6.1 Breaches of discipline fall under the general headings of either misconduct or gross misconduct. In practice, it may at times be difficult to determine into which category an alleged offence falls. The following are examples of misconduct and gross misconduct.

6.2 **Misconduct** – These are examples of misconduct which will normally be dealt with under the standard procedure:

- Lateness or poor time keeping.
- Unsatisfactory attendance record.
- Swearing or the use of abusive language.
- Causing damage to the College property.
- Breach of the College's rules and procedures.

This list is not exhaustive or exclusive and offences of a similar nature will be dealt with in a similar way.

6.3 **Gross misconduct** – Gross misconduct may result in immediate dismissal without notice and without pay in lieu of notice. If dismissal is not appropriate, alternative disciplinary action may be taken, for example, demotion with consequential reduction in salary/benefits, transfer, suspension of pay, or forfeiture of salary review. The following are examples of gross misconduct.

- Violence or threat of violence towards another employee or a member of the public.
- Continued absenteeism from work without authorisation.
- Causing deliberate damage to College property.
- Theft: fraud, dishonesty; falsification of records, accounts, expenses claims or self certification forms.
- Breach of confidentiality rules.
- Serious insubordination.
- Serious breach of College rules and procedures.
- Use of unauthorised software on College equipment or authorised software on unauthorised equipment.

- Without prior authorisation, access, removal or misuse of any data, software or hardware in any form whatsoever.
- Any act of discrimination, harassment or bullying.
- Intoxication from drink or drugs, or dealing in drugs.
- Abuse of trust or of a position of authority.
- Unsuitability to carry out work due to a criminal offence outside the employment of the College.

This list is not exhaustive or exclusive and offences of a similar nature will be dealt with in a similar way.

7. Dismissal unconnected with conduct for the Holders of Senior Posts

- 7.1 The following procedure will apply in situations where the University contemplates dismissing a senior post holder for reasons unconnected with conduct or performance. Examples of such situations include:
- Redundancy – with the exception of the complete closure of the College or sections of its operation or business and where the numbers of employees being made redundant require collective consultation to take place.
 - Retirement below the normal retirement age.
 - Non-renewal of a fixed-term contract.
 - Some other substantial reason.
- 7.2 The senior post holder will be sent a letter by the Chairman of Governors, or, in the absence of the Chairman, the Vice-Chairman of the Governors, setting out the circumstances which have led the College to contemplate dismissal and the senior post holder will be provided with details of the basis for such action.
- 7.3 A panel, normally comprising three Governors, including the Chair of the panel, will be convened to consider the matter.
- 7.4 The senior post holder will be invited to attend a meeting at a reasonable time and place which he/she must take all reasonable steps to attend. Prior to the meeting the senior post holder will be provided with any documentary evidence to be used at the meeting. The Chair of the panel will convey to the senior post holder in writing whether he/she is to be dismissed and he/she will be informed of his/her right to appeal against the decision.
- 7.5 If the senior post holder wishes to appeal he/she should advise the Chair of the panel in writing no later than five working days after the outcome of the meeting is communicated.
- 7.6 An appeals panel, normally comprising three Governors, including the Chair of the panel, other than those forming part of the original panel will be convened to consider the appeal. All records and notes of the original meeting should be made available to the appeals panel.

- 7.7 The senior post holder will be invited to attend a meeting to discuss his/her appeal which he/she must take all reasonable steps to attend. After the appeal meeting the senior post holder will be informed of the decision in writing. This decision is final.
- 7.8 The senior post holder has the right to be accompanied at the meetings by a fellow employee or union representative if he/she so wishes. The meetings can be postponed for up to five working days if the accompanying person is unable to attend. The accompanying person should be allowed to address the meeting in order to: state the senior post holder's case; sum up the senior post holders' case; respond on the senior post holder's behalf to any view expressed at the meeting. The accompanying person may confer with the senior post holder but may not answer questions on the senior post holder's behalf.

8. Dismissal unconnected with conduct for staff other than the Holders of Senior Posts

- 8.1 The following procedure will apply in situations where the university contemplates dismissing any member of staff for reasons unconnected with conduct or performance. Examples of such situations include:
- Redundancy – with the exception of the complete closure of the College or sections of its operation or business and where the numbers of employees being made redundant require collective consultation to take place.
 - Retirement below the normal retirement age.
 - Non-renewal of a fixed-term contract.
 - Some other substantial reason.
- 8.2 The member of staff will be sent a letter by the Human Resources Department setting out the circumstances which have led the University to contemplate dismissal and the member of staff will be provided with details of the basis for such action.
- 8.3 The member of staff will be invited to attend a meeting at a reasonable time and place with the Head of Department/School, or, an appropriate line manager, and a member of the Human Resources Department, which he/she must take all reasonable steps to attend. Prior to the meeting the member of staff will be provided with any documentary evidence to be used at the meeting. After the meeting the member of staff will be informed in writing whether he/she is to be dismissed and informed of his/her right to appeal against the decision.
- 8.4 If the member of staff wishes to appeal he/she should advise the Human Resources Department in writing no later than five working days after the outcome of the meeting is communicated.

- 8.5 The Chair of the appeals panel will be appointed by the Principal, or, in the absence of the Principal, a Vice-Principal. All records and notes of the original meeting should be made available to the appeals panel.
- 8.6 The member of staff will be invited to attend a meeting to discuss his/her appeal which he/she must take all reasonable steps to attend. After the appeal meeting the member of staff will be informed of the decision in writing. This decision is final.
- 8.7 The member of staff has the right to be accompanied at the meetings by a fellow employee or union representative if he/she so wishes. The meetings can be postponed for up to five working days if the accompanying person is unable to attend. The accompanying person should be allowed to address the meeting in order to: state the member of staff's case; sum up the member of staff's case; respond on the member of staff's behalf to any view expressed at the meeting. The accompanying person may confer with the member of staff but may not answer questions on the member of staff's behalf.

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