

The Staff Disciplinary Procedure

February 2016

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Version Control History

Version Number	Date of Change	Summary of Revisions Made
3	February 2016	Addition of the Malpractice and Maladministration Policy to the appendices and the linked policies. Updated owner title to Vice Principal HR and communications.
3.1	July 2016	Footer updated to reflect new template model.
3.2	December 2018	Change of role to Quality Manager and other job titles

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The Staff Disciplinary Procedure

1 Purpose

Disciplinary rules and procedures are necessary for promoting fairness and order in the treatment of employees, and in the conduct of industrial relations. They assist an organisation to function efficiently. Rules set standards of conduct at work; a disciplinary procedure helps to ensure that standards are adhered to and also provides a fair method of dealing with alleged failures to observe these. This document outlines the courses of action which will be taken in tackling disciplinary problems. It provides a method of dealing with any short-comings in conduct and can help encourage an employee, whose conduct is unsatisfactory, to improve.

2 Scope

The terms of the procedures apply to all members of staff.

3 Definitions

- 3.1 Staff Companion – Another employee of Perth College UHI, chosen, if desired, by the individual to provide support during investigatory interviews and to address hearings but not to respond to questions on behalf of the individual.
- 3.2 Trade Union Representative – An elected representative of EIS-FELA or Unison, or other trade union organisation, chosen, if desired, by the individual to provide support during investigatory interviews and to address hearings but not to respond to questions on behalf of the individual.
- 3.3 Misconduct – is wilful and deliberate and examples of matters which may constitute misconduct or gross misconduct are given in appendices to this document.

4 Responsibilities

- 4.1 The Chief Operating Officer shall be responsible for ensuring the proper application of the terms of this procedure. This shall include the provision of relevant training and guidance to those investigating disciplinary allegations and to those conducting disciplinary hearings.
- 4.2 The Investigating Officer, ie the manager or member of staff conducting the investigation, shall be responsible for ensuring an adequate and timely investigation into the matter. The Investigating Officer shall not have any function at any future disciplinary hearing other than presenting the facts of the investigation to that hearing.
- 4.3 The member of staff, who is the subject of an investigation, has a responsibility to co-operate during the investigation and to comply with the terms of this procedure.

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- 4.4 The Human Resources Department shall be responsible for the administration and co-ordination of disciplinary hearings and appeal hearings. The Human Resources Department shall also provide advice and support as appropriate during investigations and hearings.
- 4.5 Quality approval check of this procedure is the responsibility of the Quality Manager who will arrange for the procedure to be published on the web.

5 Procedure

5.1 Key Points

- 5.1.1 Managers may seek advice on staff disciplinary matters from the Human Resources Department.
- 5.1.2 Prior to any disciplinary action being taken against an employee, under the Formal Procedure, the case will be investigated thoroughly, which may involve a series of investigatory interviews and the acquisition of statements from witnesses.
- 5.1.3 Investigatory interviews will not form part of the Formal Hearing Procedure. However, an employee who is the subject of an investigation and who is requested to attend an investigatory interview may, if he/she wishes, be accompanied by a trade union representative or staff companion.
- 5.1.4 Investigations will be conducted by persons, appointed by the Principal or his/her nominee.
- 5.1.5 No disciplinary action beyond an oral warning will be taken against a trade union representative until the circumstances of the case have been discussed with a senior trade union representative or full-time official from the relevant union.

5.2 Counselling

Some minor breaches of discipline will be dealt with informally, and will not form part of the Formal Procedure. In this situation, an employee will be advised of his/her shortcomings in conduct, and given assistance as well as encouragement to make the required improvements.

5.3 Formal Procedure

- 5.3.1 A list of offences which could lead to disciplinary action being taken, under the Formal Procedure, is attached. (See Appendix A).
- 5.3.2 In the event of an offence which is construed to be serious or gross misconduct, an employee may be sent home by the employee's line manager or other manager. In addition, the employee may be suspended by the College Principal or his/her nominee, on full pay, while the alleged offence is being investigated. (See the attached list of offences which will normally be regarded as gross misconduct - Appendix B).
- 5.3.3 Where, following investigation, formal disciplinary action is being considered, the employee will be required to attend a disciplinary hearing. The employee will be advised, in writing and at least 5 working days before the hearing, of:
- a The date, time and location of the hearing.
 - b The allegation(s) against the employee, and copies of all signed witness statements and any other documentary evidence to which reference may be made at the hearing.
 - c The employee's right to be accompanied to the hearing and/or represented by a trade union representative or staff companion.
 - d The opportunity, at the hearing, for the employee to state his/her case, seek clarification over any relevant uncertainties, and invite witnesses or present witness statements on the employee's behalf.
- 5.3.4 The Hearing Panel will consist of at least 2 members appointed by the Principal or his/her nominee, one of whom shall be the chairperson.
- 5.3.5 Within the formal procedure, there is no requirement to work through the different levels of sanction, as the level of sanction administered will be dependent upon the nature and seriousness of the misconduct.
- 5.3.6 The Chairperson of the Hearing Panel will be satisfied that the case has been fully investigated and the Panel is in possession of all the relevant facts before a decision concerning disciplinary action is made.
- 5.3.7 A disciplinary hearing may be adjourned and reconvened at a later date should the Hearing Panel conclude that further investigations should be made.
- 5.3.8 An employee will have the right of appeal against any disciplinary penalty imposed.

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5.3.9 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct. (See attached list Appendix B).

5.3.10 If a formal grievance is raised by an employee who is subject to the Staff Disciplinary Procedure, the manager who is conducting the procedure will consider the implications of the grievance (with advice from the Human Resources Department) and will take the appropriate steps.

It should be noted that a formal grievance will not necessarily take priority over the disciplinary process and may be set aside until the disciplinary process has concluded.

5.3.11 Issues relating to an employee's performance and capability in their role will normally be dealt with under the Capability Procedure, but where after due consideration of the facts it appears that the performance issue relates to the employees conduct, it may be appropriate for that matter to be dealt with under the Staff Disciplinary Procedure.

5.4 **Recorded Oral Warning**

If conduct does not meet acceptable standards, an employee may be given a formal oral warning. The employee will be advised of: the fact that he/she is being given an oral warning; the reasons for the warning and that more serious disciplinary action will be considered if a further offence occurs or if there is no satisfactory improvement in conduct; any relevant time limits for improvement and review; and the right of appeal. A brief note of the oral warning will be retained in the employee's personal file, but will be removed from this file and disregarded for disciplinary purposes after 6 months, subject to satisfactory conduct.

5.5 **Written Warning**

If the offence is deemed to be more serious or, if despite one or more previous oral warnings, a further offence occurs or the employee fails to achieve the required improvements in conduct, this may merit a written warning. The written warning, which will normally be forwarded to the employee within 5 working days of the hearing, will: give the reasons for the warning; refer to any previous warnings which have been taken into account; state that more serious disciplinary action will be considered if a further offence occurs, or if there is no satisfactory improvement in conduct, specifying any relevant time limits for improvement and review; and advise of the right of appeal. A copy of the written warning will be retained in the employee's personal file, but will be removed from this file and disregarded for disciplinary purposes after 12 months, subject to satisfactory conduct.

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5.6 Final Written Warning

If the offence is sufficiently serious to warrant more than a written warning, but not serious enough to justify dismissal, or, if despite one or more previous written warnings, a further offence occurs or the employee fails to achieve the required improvements in conduct, the employee may be given a final written warning. This, which will be forwarded to the employee normally within 5 working days of the hearing, will be headed clearly, "Final Written Warning", and will: state the reasons for the warning; refer to any previous warnings that have been taken into account; and state that if a further offence occurs, or if there is no satisfactory improvement in conduct, this will result in dismissal. It will also indicate any relevant time periods for improvement and review and advise of the right of appeal. A copy of the final written warning will be retained on the employee's personal file, but will be removed from this file and disregarded for disciplinary purposes, after 18 months, subject to satisfactory conduct.

5.7 Extension to Timescales

The time limits, referred to above, for a warning being valid; ie considered for disciplinary purposes, may be extended in exceptional circumstances. This applies to all categories of warning.

5.8 Alternatives to Dismissal

In appropriate circumstances, as an alternative to dismissal, and which could be in addition to a final written warning, the employee may be transferred and/or demoted and/or have his/her salary point barred, preventing incremental progression.

5.9 Dismissal

5.9.1 If the offence is viewed to be gross misconduct, the employee may be summarily dismissed; ie his/her employment may be terminated without notice, or payment in lieu of notice. In this event, the employee will be informed, in writing, of the summary dismissal as soon as possible after the decision to dismiss has been taken. The notice of dismissal will state clearly: the reason for the dismissal; the effective date of termination; the fact that notice or payment in lieu of notice will not be given; and the right of appeal.

5.9.2 Also, if despite a final written warning, a further offence occurs, or the employee fails to achieve the required improvements in conduct, the employee will normally be dismissed with notice or given payment in lieu of notice. The notice of termination, in this case, will normally be forwarded to the employee within 5 working days of the hearing and will state: the reason for the dismissal; the notice period or the fact that payment will be issued in lieu of notice; the effective date of termination; and the right of appeal.

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5.9.3 Where dismissal is the appropriate action, the decision may be taken by the Principal in person or another person nominated by the Principal who must be at least one line management level above the person to be dismissed.

5.9.4 Where the person of whom dismissal is contemplated is the Principal, or another member of the senior management team, the decision may be taken by a Sub-Committee of the Board of Management consisting of no less than 3 members of the Board.

5.10 Appeals

5.10.1 An employee who wishes to appeal against a disciplinary decision should within 10 working days of receipt of the letter confirming that decision (or in the case of an oral warning within 10 working days of the warning) write to the College Principal or his/her nominee stating the grounds for appeal. For those persons referred to at 5.9.4, an appeal letter, stating the grounds for appeal, should be sent to the Clerk to Board.

5.10.2 Appeals against disciplinary penalties, other than dismissal, will be heard by a panel of at least 2 persons nominated by the Principal or his/her nominee.

5.10.3 Appeals against dismissal will be heard by the Principal or an Appeals Sub-Committee of the Board of Management.

6 Linked Policies/Related Documents

Staff Complaints and Grievance Procedures

Capability Procedure

ACAS Code of Practice on disciplinary and grievance procedures

Malpractice and Maladministration Policy

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Appendix A

Offences Which Could Lead To Disciplinary Action Being Taken Under the Formal Procedure

Note: This list is not exhaustive.

- 1 Unauthorised absence from work.
- 2 Persistent poor time keeping.
- 3 Persistent unrelated short-term sickness absences believed to be attributable to a conduct problem and not a genuine illness.
- 4 Refusal to obey reasonable management instructions or carry out contractual obligations.
- 5 Careless damage to College property.
- 6 Unauthorised use of College property.
- 7 Carelessness or negligence in carrying out the duties of the post.
- 8 Being incapable of carrying out the duties of the post due to reasons that include the intake of alcohol or the unprescribed use of drugs.
- 9 Abusive or threatening behaviour or offensive language towards any person whilst engaged or purporting to be engaged on College business.
- 10 Minor breaches of the health and safety rules attributable to the employee.
- 11 Minor breaches of the computer network rules attributable to the employee.
- 12 Minor unauthorised disclosures of personal information, confidential College information, or any other minor breach of the College's policies.
- 13 Minor breaches of the Malpractice and Maladministration Policy.
- 14 Failure to observe College policies and procedures.

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Appendix B

Offences Which Will Normally Be Regarded As Gross Misconduct, and Which May Warrant Summary Dismissal

Note: This list is not exhaustive and will include any other serious breach of the College's policies and procedures; acts of misconduct that may come within the general definition of gross misconduct; or any other matter that fundamentally undermines the contract of employment.

- 1 Theft of College property or theft of property not belonging to the College whilst engaged or purporting to be engaged on College business.
- 2 Dishonest or fraudulent acts, eg, deliberate falsification of time sheets, expenses claims forms or other work records.
- 3 Deliberate disclosure of confidential information.
- 4 Fighting at work.
- 5 Physical or indecent assault on any person whilst engaged or purporting to be engaged on College business.
- 6 Grossly indecent behaviour; serious discriminatory behaviour on the grounds of a protected characteristic; serious abusive, bullying or threatening behaviour towards any person whilst engaged or purporting to be engaged on College business.
- 7 Deliberate damage to or misuse of College property, or deliberate action that is detrimental to the College's business interests.
- 8 Deliberate damage to or misuse of property not belonging to the College whilst engaged or purporting to be engaged on College business.
- 9 Deliberate breaches of health and safety rules.
10. Deliberate breaches of the Malpractice and Maladministration Policy
- 11 Criminal conviction/civil liability or other unacceptable conduct which renders the employee unsuitable to carry out the duties of the post, whether or not the conduct occurred whilst engaged on College business.
- 12 Gross carelessness or negligence in carrying out the duties of the post.
- 13 Deliberate provision of false or misleading information or deliberate non-disclosure of information either during the recruitment process or in subsequent employment, which affects the contract of employment.
- 14 Acceptance of any gratuity, bonus, discount or reward from any person, or any other form of bribery, either in the course of, or in connection with, carrying out the duties of the post.

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- 15 Deliberate breaches of the computer network rules.
- 16 Conduct that brings the College's reputation into disrepute.
- 17 Serious acts of insubordination.
- 18 Serious incapability through alcohol or being under the influence of illegal or unprescribed drugs.

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