



STAFF DISCIPLINARY PROCEDURE

**KICKSTART ACADEMY HAVE FORMALLY ADOPTED
THE TELFORD COLLEGE POLICY**

Any issues that arise should be discussed with the Director of Human Resources

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1 Scope and purpose

- 1.1 This procedure applies to all employees other than “designated senior post holders” as defined in the College’s Articles of Government. At this College this is the Principal and the Clerk to the Corporation to whom the College’s disciplinary procedure for senior postholders will apply.
- 1.2 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, ‘Disciplinary and Grievance Procedures’, dated April 2009.
- 1.3 The purpose of the procedure is to help and encourage employees to achieve and monitor acceptable standards of conduct at work.
- 1.4 It is also designed to ensure consistent and fair treatment for all in relation to disciplinary action taken in response to misconduct.
- 1.5 This procedure applies to issues of alleged misconduct. A separate procedure will be used to address issues of professional capability and competence.

2 General principles

- 2.1 Managers must familiarise themselves with the disciplinary procedure.
- 2.2 An employee has the right to be accompanied by a representative of a trade union or fellow worker at formal disciplinary hearing and the College will remind the employee of the right to be accompanied prior to a disciplinary hearing.
- 2.3 In the interest of ensuring that disciplinary matters are resolved as speedily as possible, time limits are given for appropriate stages in this procedure. 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.
- 2.4 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.
- 2.5 Where appropriate, managers should consider alternative means of resolving problems, for example with training, counselling or use of other more suitable College procedures, before implementing disciplinary action.

- 2.6 Informal action will be considered, where appropriate, to resolve problems before moving to the formal disciplinary procedure.
- 2.7 For formal action, the employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case at a disciplinary meeting, following an investigation, before any decision is made.
- 2.8 Employees will be provided with any written copies of evidence and relevant witness statements in advance of a formal disciplinary hearing.
- 2.9 Normally, the formal disciplinary procedure will be followed in the order of the stages set out in Section 7 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.
- 2.10 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.
- 2.11 An employee will have the right to appeal against any formal disciplinary action.

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.
- 3.2 The purpose of the investigation meeting is purely fact finding. The College will invite the employee to a meeting and advise the employee of the allegation against him/her. The employee will be given reasonable notice of the date and time of the meeting so they can prepare. At this point the College need not provide the employee with any written evidence that exists about the allegation such as witness statements.
- 3.3 The Colleges may offer the employee the opportunity to be accompanied by a work colleague or trade union representative at an investigation meeting although there is no statutory right to be accompanied at this point.
- 3.4 Depending on the circumstances of the allegations, it may not always be necessary to conduct an investigation meeting with the employee.
- 3.5 If appropriate, the College may suspend the employee, in accordance with Section 4 below, whilst the investigation is carried out.
- 3.6 Normally a member of the Senior Management Team will conduct the investigation. This person must not chair any subsequent disciplinary hearing.
- 3.7 If a decision is taken not to proceed any further with the matter then the employee will be informed of this and all written matter relating to the investigation will be destroyed

4 Suspension pending a disciplinary meeting

- 4.1 There may be circumstances during an investigation where suspension from duty pending the holding of a 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 an employee's or the College's property; or where there are reasonable grounds for concern that evidence has been/or may be tampered with, destroyed or witnesses pressurised.
- 4.2 The decision to suspend can only be made by a member of the Executive Management team (EMT).
- 4.3 Suspension should only be imposed after careful consideration and it should be made clear to the employee that it is not considered a disciplinary sanction.
- 4.4 If the member of the EMT decides to suspend an employee from duty, he/she 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.
- 4.5 A period of suspension pending a disciplinary meeting should be kept as brief as possible and will be kept under regular review.
- 4.6 An employee who is suspended from duty shall normally, throughout the period of suspension, continue to be entitled to his/her full pay.
- 4.7 In an exceptional case whereby an employee is suspended without pay, then he/she shall have a right to appeal against that suspension, and the appeal shall be heard and action taken in a timely manner. Suspension without pay may only be used where this is expressly provided for in the contract.

5 Informal procedure

- 5.1 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.
- 5.2 The College recognises that cases of minor misconduct are often best dealt with informally. Therefore, minor lapses from acceptable standards of conduct will usually be dealt with by the employee's manager giving informal oral warnings or reprimands, which will not be recorded on the Personnel Department's records relating to the employee.
- 5.3 If, despite informal discussions (or if informal discussions are not appropriate), the employee's conduct does not meet acceptable standards, the formal procedure, described below, should be used.

6 Formal procedure for disciplinary hearings

- 6.1 If, upon completion of an investigation, there are reasonable grounds to believe that an employee has committed an act of misconduct, the College will invite the employee to attend a disciplinary meeting. The employee will be advised in writing of the nature of the alleged misconduct, the possible consequences of the

meeting and provided with 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 and the employee's right to be accompanied.

- 6.2 If the employee wishes to call relevant witnesses to the meeting to support their case, 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.
- 6.3 Before the meeting takes place, the employee should inform the College who they have chosen as a companion.
- 6.4 At any disciplinary hearing, the employee will be given an opportunity to state his or her case and will have the right to be accompanied by the trade union representative or fellow worker of his or her choice, subject to a reasonable request being made. 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 by up to ten working days to enable the chosen companion to attend. The location and timing of any alternative meeting should be convenient to both the employer and the employee, but must not unduly delay the process.
- 6.5 Representatives of the College, the employee and the employee's companion should make every effort to attend the meeting. If the employee fails to attend the rearranged disciplinary hearing which the College has instructed him or her to attend, the meeting will take place, and a decision will be made, in his or her absence. In other circumstances where it seems likely that for a lengthy period, the employee will be unable to attend a disciplinary hearing, the College reserves the right to go ahead with that hearing, 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 disciplinary meeting may be chaired by a member of the SMT/EMT. Where dismissal is a possible outcome, the meeting will be chaired by a member of the EMT to whom the authority to dismiss has been delegated by the Principal.
- 6.7 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.
- 6.8 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.

7 Disciplinary action

- 7.1 Normally the stages described in Section 7 will be cumulative; however, the College reserves the right to implement the procedure at any stage. 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.

Stage 1: Verbal Warning

- 7.2 If it is established through the disciplinary hearing that the employee's conduct does not meet acceptable standards, the employee will normally be given a formal verbal warning by a member of the SMT/EMT
- 7.3 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. The employee will be advised of the right of appeal in accordance with Section 9 below.
- 7.4 A brief note of the verbal warning will be placed on the Personnel Department's file relating to the employee. The warning will be spent, and will be disregarded for disciplinary purposes after 6 months, subject to the employee's conduct having been satisfactory throughout that period.

Stage 2 - First Written Warning

- 7.5 A first written warning will be given to the employee if:
 - (i) the employee fails to comply with a formal verbal warning given under Stage 1; or
 - (ii) despite having been given under Stage 1 a verbal warning as a result of misconduct, the employee commits a further offence of misconduct; or
 - (iii) the employee commits a serious act of misconduct
- 7.6 This first written 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 3 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. The employee will be advised of the right of appeal in accordance with Section 9 below.
- 7.7 A copy of the written warning will be placed on the Personnel Department's file relating to the employee. Subject to the employee's conduct and behaviour having been satisfactory throughout that period the warning will be spent, and will be removed from the Personnel Department's file, after 12 months.

Stage 3 Final written warning

- 7.8 A final written warning will normally be given to the employee if:
- i. the employee fails to comply with a written warning given under Stage 2;
 - ii. despite having been given, under Stage 2, a written warning as the result of misconduct, the employee commits a further offence of misconduct; or
 - iii. the employee's misconduct, although not considered to be serious enough to justify summary dismissal, is sufficiently serious to warrant a final written warning.
- 7.9 The final written warning will give details of the employee's misconduct, the improvement required and the time limit within such improvement must be achieved. 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 9 below.
- 7.10 A copy of the final written warning will be placed on the Personnel Department's file relating to the employee. The warning will be spent, and will be disregarded for disciplinary purposes after 18 months (although, in exceptional cases, the period may be longer), subject to the employee's conduct having been satisfactory throughout that period. Spent warnings will be removed from an employee's Personnel file.

Stage 4: Dismissal

- 7.11 The Principal or a member of the EMT to whom the authority to dismiss has been delegated by the Principal may, following a disciplinary hearing, give notice of dismissal to the employee if:
- i. the employee fails to comply with a final written warning given under Stage 3;
 - ii. or despite having been given, under Stage 3, a final written warning as the result of either misconduct the employee commits a further offence of misconduct
- 7.12 The decision to dismiss will be communicated in writing to the employee and will specify the reasons for dismissal and the date on which the employment will terminate. The communication must also notify the employee of his/her right of appeal against the decision in accordance with Section 9 below.

Gross misconduct

- 8.1 The Principal or member of the EMT may summarily dismiss the employee without notice or pay in lieu of notice if, on completion of an investigation and a disciplinary hearing, it is established that the employee has been guilty of gross misconduct.
- 8.2 In the event of summary dismissal the Principal or EMT member 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 they consider that the employee was guilty of such misconduct and notifying that employee of the right to appeal against the dismissal.
- 8.3 The following offences are examples of offences which are normally regarded as grounds for summary dismissal:

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.

Bribery or corruption.

Bringing the College into disrepute

Deliberate refusal to carry out duties or reasonable instructions or to comply with College rules.

Serious acts of insubordination.

Serious negligence/incompetence which causes unacceptable loss, damage or injury.

Serious incapability and/or misconduct as a result of being intoxicated by reason of alcohol or illegal drugs.

Violent, dangerous or intimidatory conduct.

Bullying.

Violation of the College's rules and procedures concerning health and safety at work

Violation of the College's rules & procedures concerning safeguarding

Unlawful discrimination or harassment.

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.

Deliberately accessing internet sites containing pornographic, offensive or obscene material.

Serious breach of trust & confidence

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

9 Appeal process

- 9.1 An employee who wishes to appeal against a disciplinary decision must do so within 10 working days of the date of the decision. To do so, the employee should inform the Director of Personnel (or Clerk to the Corporation in cases to be heard by the Appeals Panel of the Corporation) in writing, stating the grounds for appeal.

Appeal against Stages 1,2 and 3

- 9.2 Where the appeal is against a verbal, written or final written warning, it will be heard by a member of the EMT who has not been involved in the disciplinary process.

Appeal against Stage 4 - Dismissal and Dismissal for Gross Misconduct

- 9.3 Where the appeal is against dismissal it will be heard as set out below:

- i. In cases of the decision to dismiss being made by a member of the EMT the Principal will hear the appeal;
- ii. In cases where the Principal has made the decision to dismiss the appeal will be heard by an Appeals Panel of the Corporation;

General

- 9.4 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 five days notice of the meeting date to allow him or her to prepare for the meeting.
- 9.5 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 work place colleague
- 9.6 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 by up to ten working days to enable the chosen companion 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.
- 9.7 At the appeal, the disciplinary penalty imposed will be reviewed, but it cannot be increased. 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 or member of the EMT who took the decision) in writing without unreasonable delay following the appeal meeting. The appeal decision is final.
- 9.8 The Appeals Panel of the Corporation may also hear any appeal against dismissal for whatever reason when the Principal requests that they do so.