

Disciplinary Policy (Staff)

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Approving Body: ELT	ELT contact: Executive of Finance
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*This procedure may need to be reviewed before the review date stated, to reflect changes in government and other agencies' advice, guidance and legislation

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1. Introduction

City College Plymouth (the 'College') is a leading provider of vocational, professional and technical training in the South West, that strives to provide a learning environment and organisational culture that impacts positively on the health, wellbeing and sustainability of our community, to enable all our students and staff to achieve their full potential.

The term 'College Community' includes all staff, governors, students, parents/carers, volunteers and visitors.

Our vision:

- To be the learning destination of choice.

Our core values:

- Respect
- Ownership
- Integrity.

2. Policy Statement

The College provides a service to many different types of clients, including students, government departments and commercial organisations. It is important that all staff maintain a high level of behaviour in order to safeguard the quality of that service and the reputation of the College.

The purpose of this policy is to help and encourage employees to achieve and set acceptable standards of conduct at work. It is also designed to ensure consistent and fair treatment for all in relation to disciplinary action taken in response to misconduct.

If an employee's attitude or behaviour is seen to be inappropriate, it is reasonable for the line manager to discuss their concerns to understand the whole situation and to work with the employee to improve. The College is committed to the avoidance of formal disciplinary procedures wherever possible by addressing problems as soon as they arise. Some minor misconduct issues, maybe resolved informally, as often a discussion outlining expectations and talking through available support will be enough to resolve the situation.

This policy applies to all employees including "designated senior post holders" as defined in the College's Articles of Government or the Clerk to the Corporation to whom the College's disciplinary procedure for senior post holders will apply.

The policy 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' to promote fairness and consistency.

3. Definitions

See Appendix 1 for Definitions of terms and phrases contained throughout this Policy.

4. General Terms

Managers are required to familiarise themselves with the disciplinary policy and ensure that their employees know and understand what's required of them.

Where appropriate, managers should seek to resolve disciplinary issues informally, a quiet word is often all that is required to resolve an issue. However, where an issue cannot be resolved informally, then it may need to be pursued formally.

The manager should monitor and review the situation and potentially failure to improve or a repetition of the offence may lead to formal action being taken.

In the interest of ensuring that disciplinary matters are resolved as speedily as possible, time limits are given for appropriate stages in this procedure. 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.

Normal disciplinary standards will apply to trade union representatives. The College will however, following good industrial practice, seek the employee's agreement at an early stage to discuss the circumstances of the case with an official employed by the trade union.

5. The Disciplinary Process

Fig 1.

6. Investigations

The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations, before deciding whether to proceed with a disciplinary hearing.

The amount of investigating required will depend upon the nature of the allegations and will vary from case to case. This may involve interviewing and taking statements from employee's involved and any witnesses and/or reviewing relevant documents and correspondence.

In most cases it will require the holding of an investigatory meeting with the colleague before proceeding to any disciplinary hearing. In others, the investigatory stage will be the collation of evidence by the investigating officer.

Any investigation undertaken is solely for the purpose of fact finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

An investigating officer ("IO") needs to be appointed and the choice of IO will be at the discretion of the College. The IO will usually be the most senior post holder in that faculty/department - normally one of the Executive Leadership Team and or a delegated third party.

The IO will be assigned to conduct the investigation. The Terms of Reference (allegations) will be provided by the senior post holder with support from HR as needed. This will provide clarity to the IO on what is to be investigated.

Employees should, where possible, fully cooperate with the investigation, this will include informing the IO of any names of any relevant witnesses, disclosing any relevant document and attending investigation interviews if required. These interviews will be chaired by the IO with HR support where necessary and notes will be taken, which may be used in the investigation report.

The IO will produce a short report upon completion of the investigation, outlining the conclusion of investigation/next steps. The report will normally be sent to the most senior post holder in that faculty/department who will decide whether a disciplinary hearing is appropriate.

Where an investigation concludes that no further action needs to be taken, this will be confirmed in writing to the appropriate employee(s).

7. Suspension

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:

gross misconduct cases

- situations where there are risks to an employee's or the College's reputation iii. where there are reasonable grounds for concern that evidence has been tampered with, destroyed or witnesses may be or feel pressurised;
- the continued presence of the individual concerned would prejudice the completion of the investigation;
- a serious offence is alleged;
- It is judged to be in the best interest of the employee.

The decision to suspend can only be made by HR, the Principal or a senior post holder to whom the responsibility has been designated.

Suspension should only be imposed after careful consideration and it should be made clear to the employee that it is not considered a disciplinary act or by no means an implication of guilt.

If HR, the Principal or designated senior post holder decides to suspend an employee from duty, they must:

- Confirm the suspension in writing to the employee without unreasonable delay;
- Inform the employee in writing of the reasons for the suspension, without unreasonable delay.

Any period of suspension pending a disciplinary meeting will be kept as brief and possible and will be reviewed regularly.

Throughout their period of suspension, the employee will continue to be entitled to their full pay.

Employees will be supported with access to Occupational Health and the Employee Assistance Programme.

8. Formal Procedure for Disciplinary Meetings

If, following investigation, it continues to be alleged that the employee has committed an act of misconduct, the College will invite the employee to attend a disciplinary meeting.

HR or the senior post holder will allocate a suitable chair of the disciplinary hearing, who may be accompanied by an advisor. A notetaker will also be present.

Written notice will be given to the employee at least 5 working days prior to the disciplinary hearing. The College will inform the employee in writing of the allegations made against them, the basis for these allegations and the likely range of consequences. Additional information will include the date, time and place of the hearing, along with those who will be present and any other relevant documentation that will be referred to in the Disciplinary Hearing.

If the employee wishes to call relevant witnesses to the meeting, they should advise the College of this in advance of the meeting. The employee will be informed before the meeting if

the College intends to call relevant witnesses and such a witness may be called at the College's discretion.

The IO will not be a member of the Disciplinary Panel, however they may be asked to present the findings of the investigation and any supporting material.

If, without good reason, the employee fails on two occasions to attend the disciplinary meeting which the college has instructed the employee to attend, the meeting will be held and a decision will be made in the employee's absence. Occasionally, where it is deemed likely that, for a lengthy period, the employee is unable to attend the disciplinary meeting the College reserves the right to go ahead with that meeting. The employee will have the right to either submit written representations and/or be represented. The College will also where possible seek guidance from Occupational Health to support the employee.

The outcome following a disciplinary meeting will be confirmed in writing to the employee usually within 5 working days of the meeting. Included in this letter, should there be any disciplinary action, the employee will be informed of the nature of the action and the right to appeal against any disciplinary decision.

9. Disciplinary Action

Stage 1 - First written warning

A first written warning can be given to the employee in the following circumstances:

- 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.

This written warning will give details of:

- the employee's misconduct;
- the improvement required;
- 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 first written warning will also advise the employee of the right of appeal.

A copy of the written warning will be placed on the employee's file. The warning will be spent and disregarded for disciplinary purposes after 12 months, subject to the employee's conduct having been satisfactory throughout that period.

Stage 2 - Final written warning

A final written warning can be given to the employee in the following circumstances:

- If the employee fails to comply with a first written warning or
- Despite having been given a first written warning as the result of misconduct, the employee commits a further offence of misconduct or; (iii) the employee's misconduct, although not a dismissable offence, is sufficiently serious to warrant a final written warning.

The final written warning will give details of:

- the employee's misconduct
- the improvement required

- 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 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.

A copy of the final written warning will be placed on the Human Resources 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 should be removed from an employee's personal file.

Any warnings issued will be confirmed in writing following the decision and will include the following:

- The reason for the warning;
- The level of the warning and how long it will remain 'live';
- If applicable, the improvement in performance/conduct required and the timescale allowed for this;
- The consequences of further breaches within a specified time period;
- The right of appeal and associated timescales.

Stage 3: Dismissal

The disciplinary chair, following a disciplinary meeting, may give notice of dismissal to the employee if:

- the employee fails to comply with a final written warning given under Stage 3; or
- despite having been given, under Stage 3, a final written warning as the result of misconduct, the employee commits a further offence of misconduct, or
- the employee has committed an act of gross misconduct, having taken mitigation, service and the employee's record into account.

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 cease. The communication must also notify the employee of his/her right of appeal.

Gross Misconduct Dismissal

The disciplinary chair may summarily dismiss the employee without notice or pay in lieu of notice if, on completion of an investigation and a disciplinary meeting, it is established that the employee has been guilty of gross misconduct, having taken mitigation, service and the employee's record into account.

In the event of summary dismissal the disciplinary chair shall, without unreasonable delay, provide the dismissed employee with:

A written statement of the alleged misconduct which has led to the dismissal,

The reasons why the disciplinary chair considers that the employee should be dismissed for gross misconduct.

Notification of the employee's right on how to appeal against the dismissal.

10. APPEALS

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 Executive of Finance in writing, stating the grounds for appeal.

Where the appeal is against a written warning, it will be heard by a senior person or appointed party who has not been involved in the disciplinary process in question so far. Wherever possible, the person hearing the appeal will be senior or at the same level as the manager who chaired the original disciplinary meeting.

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 3 days' notice of the meeting date to allow him or her to prepare for the meeting.

At the appeal meeting, the employee will be given the opportunity to state their case and has the right to be accompanied.

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 five 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.

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 College, also notified to the Principal) in writing without unreasonable delay following the appeal meeting. The appeal decision is final.

11. Right to be Accompanied

At all stages of the disciplinary process employees can be accompanied by an employed trade union representative or a workplace colleague. The employee is responsible for the attendance of their representative.

The role of an accompanying companion is to address the hearing in order to do any or all of the following:

- put the worker's case;
- sum up that case;
- respond on the worker's behalf to any view expressed at the hearing; (d) confer with the worker during the hearing.

The accompanying companion must not however:

- answer questions on behalf of the worker;
- address the hearing if the worker indicates at it that he does not wish his companion to do so; or
- prevents the employer from explaining his case or prevents any other person at the hearing from making his/her contribution to it.

12. Electronic Recordings

The College does not allow the recording of any meetings which form part of this process. It may be considered an act of up to gross misconduct for an employee to covertly record such meetings.

13. Disclosure and Barring Service

The DBS has been created to help prevent unsuitable people from working with children and vulnerable adults.

The College has a duty to refer to the DBS any information about individuals who it considers may pose a risk, ensuring that potential threats to vulnerable groups can be identified and dealt with by the appropriate authorities.

14. Monitoring, Review and Evaluation

This policy will be reviewed every three years, taking into account feedback from:

- Disciplinary Authorities
- Invoking Officers
- Trade Union Representatives

APPENDIX 1.

Definitions

Term	Definition
Minor Misconduct	Some form of misconduct or behaviour that is unacceptable to the College, generally minor in nature but can include areas such as absenteeism, lateness, inappropriate use of language, 'banter,' failure to undertake duties in a competent manner, minor cases of insubordination.

Serious Misconduct	Serious misconduct are more severe incidents which often involve serious, deliberate wrongdoing or inappropriate behaviour or conduct.
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	Re-occurrences of several minor misconduct continues may constitute serious misconduct. Further examples include behaviour that endangers the health and safety of the employee or others; violence in the workplace; bullying and harassment; theft or fraud and/or serious breaches of employment agreement clauses.
Gross Misconduct	Is an act or series of acts by an employee, which results in a serious breach of contractual terms, including a breach of the implied term of trust and confidence between employees and their employer, justifying dismissal. Examples include theft, fraud, physical violence, dishonesty, discrimination and harassment, serious misuse of the College name and property.
Investigating Officer	A person appointed to conduct the investigation and to ascertain the facts relating to a situation by undertaking an investigation in a fair and thorough manner.
Investigations Terms of Reference	The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations, before deciding whether to proceed with a disciplinary hearing. The Terms of Reference (TOR) for an investigation provides a specification for exactly what the investigating officer needs to do and how the investigation should be conducted.

The above examples are not exhaustive and are there to serve only as a guide