

LONGLEY PARK SIXTH FORM COLLEGE

DISCIPLINARY PROCEDURE FOR SENIOR POST HOLDERS

1. SCOPE AND PURPOSE

- 1.1 This procedure applies to the Principal and all senior post holders as defined in the Corporation's Articles of Government. References to section numbers are to the numbered sections of this document.
- 1.2 Where the Clerk to the Corporation is also a member of staff at the institution, the Clerk is to be treated as a senior post holder. In such circumstances the Corporation shall appoint an appropriate person to fulfil the tasks of the Clerk to the Corporation under these sections.
- 1.3 These rules and procedures will be reviewed regularly and applied in accordance with the Articles of Government of the Corporation; taking into account developments in employment legislation and in accordance with the Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice, 'Disciplinary and Grievance Procedures' dated April 2009.
- 1.4 The purpose of the procedure is:
 - (a) to help and encourage senior post holders to achieve and maintain acceptable standards of conduct and job performance;
 - (b) to ensure fair, consistent and reasonable action is taken where acceptable standards of conduct and job performance are not maintained;
 - (c) to ensure consistent and fair treatment for senior post holders in relation to disciplinary action taken in response to unacceptable conduct and job performance.

2. GENERAL PRINCIPLES

- 2.1 Every effort will be made to avoid the use of disciplinary action where alternatives are appropriate. Where the matter is not resolved informally or is of a serious nature, the procedure will be implemented.
- 2.2 The Corporation will ensure that its members are familiar with the provisions in this procedure.
- 2.3 A senior post holder has the right to be accompanied by a representative of a trade union or fellow worker at formal disciplinary meetings. The College should remind the senior post holder of the right to be accompanied prior to a disciplinary meeting.
- 2.4 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 personal circumstances of all parties involved in the procedure.
- 2.5 Where appropriate, the Corporation should consider alternative means of resolving problems, for example with training, counselling or use of other more suitable Corporation 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 senior post holder 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 Senior post holders will be provided with any written copies of evidence and relevant witness statements in advance of a formal disciplinary meeting.
- 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 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 senior post holder 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 before any decision is made.
- 2.10 No senior post holder 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. Before imposing any disciplinary penalty, all relevant factors will be considered including the extent to which standards have been breached; the senior post holder's general record, position and length of service and any special circumstances which might make it appropriate to adjust the severity of the penalty.
- 2.11 A senior post holder will have the right to appeal against any formal disciplinary action.
- 2.12 Accurate, timely and agreed records will be kept of all meetings and correspondence.
- 2.13 All reasonable steps will be taken to maintain confidentiality and written records of any disciplinary proceedings shall be kept and maintained by the Corporation in accordance with the Data Protection Act 1998.

3. INVESTIGATIONS

- 3.1 No disciplinary action will be taken against a senior post holder until the matter has been fully investigated by an individual nominated by the Corporation, having regard to the senior post holder's response to allegations.
- 3.2 An investigatory meeting is not a formal disciplinary hearing. If, following an investigation, the Corporation believes that there may be a case to answer, a formal disciplinary hearing will be arranged in accordance with this procedure.
- 3.3 The senior post holder will be informed as soon as possible that an investigation is to be conducted and once the investigation has been concluded.
- 3.4 The investigation should be conducted by an appropriate individual. This could be the Principal (where the Principal is not the senior post holder in question), a Governor or an independent external investigator.
- 3.5 It is recommended that the senior post holder is offered the opportunity to be accompanied by a work colleague or trade union representative at an investigation meeting.

- 3.6 Depending on the circumstances of the allegations, it may not always be necessary to conduct an investigation meeting with the senior post holder. If a meeting is held, the senior post holder will be given advance warning and reasonable time to prepare.
- 3.7 If appropriate, the Corporation, or the Principal where the power to suspend has been delegated by the Corporation, may suspend a senior post holder, in accordance with Section 4 below, whilst the investigation is carried out.
- 3.8 An investigation carried out following a student complaint, staff complaint or grievance, or under any of the Corporation's other procedures may form all or part of an investigation under this procedure, as appropriate.

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 tampered with, destroyed or witnesses pressurised.
- 4.2 The decision to suspend is ultimately the responsibility of the Corporation, but may be exercised by the Chair or Vice-Chair, or by the Principal when the responsibility has been delegated.
- 4.3 Suspension should only be imposed after careful consideration and it should be made clear to the senior post holder that it is not considered a disciplinary act.
- 4.4 If the Corporation (or Principal, where the power is delegated) decides to suspend a senior post holder from duty, he/she shall:
- i. confirm the suspension in writing to the senior post holder without unreasonable delay; and
 - ii. inform the senior post holder 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 (please refer to the Notes section for further details).
- 4.6 A senior post holder who is suspended from duty shall, throughout the period of suspension, continue to be entitled to his/her full pay unless there is a provision in the contract to the contrary.

5. INFORMAL PROCEDURE

- 5.1 If appropriate, before taking formal disciplinary action, reasonable effort will be made to resolve matters by informal discussions with the senior post holder. This will be dealt with either by the Principal or, if the Principal is the senior post holder concerned, by the Chair of the Corporation, or in his or her absence the Vice-Chair of the Corporation.
- 5.2 The College recognises that cases of minor misconduct or performance issues are often best dealt with informally. Therefore, minor lapses from acceptable standards of conduct or performance may result in an informal, oral warning or reprimands, which will not be recorded on the senior post holder's Personnel file.

5.3 If, despite an informal discussions (or if informal discussions are not appropriate) the senior post holder's conduct or performance does not meet acceptable standards, the formal procedure, described below, should be used.

6. FORMAL PROCEDURE FOR DISCIPLINARY MEETINGS

- 6.1 If, upon completion of an investigation, there are reasonable grounds to believe that a senior post holder has committed an act of misconduct, or that he/she is not meeting acceptable performance standards, the Corporation will invite the senior post holder to attend a disciplinary meeting. The senior post holder will be advised in writing of the nature of the alleged misconduct or performance issue, the possible consequences of the meeting, and any relevant papers (such as written evidence and witness statements) to enable the senior post holder to prepare for the meeting. The Corporation will write to the senior post holder with all the above information at least 10 working days before the meeting. The written notification should also detail the date and venue of the meeting and the senior post holder's right to be accompanied.
- 6.2 If the senior post holder wishes to call relevant witnesses to the meeting, he/she should advise the Clerk to the Corporation of this in advance of the meeting. The senior post holder will be informed prior to the meeting if the Corporation intends to call relevant witnesses.
- 6.3 Before the meeting takes place, the senior post holder should notify the Clerk to the Corporation if he or she is to be accompanied and provide the name and contact details of the companion.
- 6.4 At any disciplinary meeting, the senior post holder will be given an opportunity to state his or her case and will have the right to be accompanied by a 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 senior post holder is unavailable on the date of the initial meeting, the senior post holder 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 Corporation and the senior post holder, but should not unduly delay the process.
- 6.5 Representatives of the Corporation, the senior post holder and the senior post holder's companion should make every effort to attend the meeting. If the senior post holder fails persistently, without good reason, to attend a disciplinary meeting which the Corporation 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 senior post holder will be unable to attend a disciplinary meeting, the Corporation reserves the right to go ahead with that meeting, affording the senior post holder the right to either submit written representations and/or be represented by a workplace colleague or trade union representative.
- 6.6 The disciplinary meeting will be chaired as follows:
- i. where disciplinary action short of dismissal is being considered: the meeting will be chaired by a disciplinary panel of the Corporation consisting of two or three Governors.
 - ii. Where dismissal is a possible outcome: the meeting will be chaired by a special committee of the Corporation consisting of three Governors.

Neither the disciplinary panel nor the special committee shall include the investigating officer or the staff or student Governors.

- 6.7 Although the individual who conducted the investigation shall not be a member of the panel at the disciplinary meeting, he or she 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 senior post holder. Where disciplinary action is the outcome, the senior post holder 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 Corporation reserves the right to implement the procedure at stage 2 or 3 if the senior post holder's alleged misconduct warrants this. The right will also apply in circumstances where a senior post holder commits a further act of alleged misconduct, that is sufficiently serious, whilst a formal warning is in place.

Stage 1: Oral warning

- 7.2 If it is established through the disciplinary meeting that the senior post holder's conduct (see 7.3) or work performance (see 7.4) does not meet acceptable standards, the senior post holder will normally be given a formal oral warning by the disciplinary panel.
- 7.3 In misconduct cases: this formal oral warning will give details of the senior post holder's misconduct, the improvement required and the time limit within which such improvement must be achieved. The warning will clarify that, if the senior post holder commits a further offence of misconduct during the period specified in the warning, action under Stage 2 will be considered. However, the senior post holder will also be advised that if any further act of misconduct is sufficiently serious, the Corporation reserves the right to go to a further stage in the procedure. The senior post holder will be advised of the right of appeal in accordance with Section 9 below.
- 7.4 In performance cases: this formal oral warning will give details of the senior post holder's unsatisfactory work performance, the improvement required and the time limit within which such improvement must be achieved. The warning will advise the senior post holder as to what steps he or she should take to improve and will state that, unless such improvement is achieved within the period specified in the warning, action under Stage 2 will be considered. The senior post holder will be advised of the right of appeal in accordance with Section 9 below.
- 7.5 A brief note of the oral warning will be placed on the Personnel Department's file relating to the senior post holder. The warning will be spent, and will be disregarded for disciplinary purposes after 6 months, subject to the senior post holder's conduct and work performance having been satisfactory throughout that period.

Stage 2: First Written warning

- 7.6 A first written warning will usually be given to the senior post holder by the disciplinary panel if:
- i. the senior post holder commits a serious act of misconduct or the standard of his or her work performance is seriously inadequate;
 - ii. the senior post holder fails to comply with a formal verbal warning given under Stage 1;

- iii. or despite having been given, under Stage 1, a formal verbal warning as the result of either misconduct or unsatisfactory work performance, the senior post holder commits a further offence of misconduct, or his or her work performance continues to be unsatisfactory.

- 7.7 In misconduct cases: this written warning will give details of the senior post holder's misconduct, the improvement required and the time limit within which such improvement must be achieved. The warning will state that, if the senior post holder commits a further offence of misconduct during the period specified in the warning, action under Stage 3 will be considered. The written warning will also advise the senior post holder of the right of appeal in accordance with Section 9 below.
- 7.8 In performance cases: this written warning will give details of the senior post holder's unsatisfactory work performance, the improvement required and the time limit within which such improvement must be achieved. The warning will advise the senior post holder as to what steps he or she should take to improve and will state that, unless such improvement is achieved within the period specified in the warning, action under Stage 3 will be considered. The written warning will also advise the senior post holder of the right of appeal in accordance with Section 9 below.
- 7.9 A copy of the written warning will be placed on the Personnel Department's file relating to the senior post holder. The warning will be spent, and will be disregarded for disciplinary purposes after 12 months, subject to the senior post holder's conduct and work performance having been satisfactory throughout that period.

Stage 3: Final written warning

- 7.10 A final written warning will normally be given to the senior post holder if:
- i. the senior post holder fails to comply with a first written warning given under Stage 2;
 - ii. despite having been given, under Stage 2, a first written warning as the result of misconduct or unsatisfactory work performance, the senior post holder commits a further offence of misconduct, or his or her work performance continues to be unsatisfactory; or
 - iii. the senior post holder's misconduct or unsatisfactory work performance, although not considered to be serious enough to justify summary dismissal, is sufficiently serious to warrant a final written warning.
- 7.11 In misconduct cases: the final written warning will give details of the senior post holder's misconduct, the improvement required and the time limit within which such improvement must be achieved. The warning will state that, if the senior post holder 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 senior post holder of the right of appeal in accordance with Section 9 below.
- 7.12 In performance cases: the final written warning will give details of the senior post holder's unsatisfactory work performance, the improvement required and the time limit within which such improvement must be achieved. The warning will advise the senior post holder as to what steps he or she should take to improve and state that, if such improvement is not achieved within the period specified in the warning, his or her employment may be terminated. The final written warning will also advise the senior post holder of the right of appeal in accordance with Section 9 below.
- 7.13 A copy of the written warning will be placed on the Personnel Department's file relating to the senior post holder. 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 senior post holder's conduct and work performance having been satisfactory throughout that period.

Stage 4: Dismissal

- 7.14 The special committee may, following a disciplinary meeting, give notice of dismissal to the senior post holder if:
- i. the senior post holder 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 or unsatisfactory work performance, the senior post holder commits a further offence of misconduct or his or her work performance continues to be unsatisfactory.
- 7.15 The decision to dismiss will be communicated in writing to the senior post holder and will specify the reasons for dismissal and the date on which the employment will terminate. The communication must also notify the senior post holder of his/her right of appeal against the decision in accordance with Section 9 below.

8 GROSS MISCONDUCT/SUMMARY DISMISSAL

- 8.1 The Corporation may summarily dismiss the senior post holder without notice or pay in lieu of notice if, on completion of an investigation and a disciplinary meeting, it is established that the senior post holder has been guilty of gross misconduct.
- 8.2 In the event of summary dismissal the Corporation shall, without unreasonable delay, provide the dismissed senior post holder with a written statement of the alleged gross misconduct which has led to the dismissal and the reasons why the Corporation considers that the senior post holder was guilty of such misconduct and notifying that senior post holder of the right to appeal against the dismissal.
- 8.3 Any steps which the Corporation can take under sections 8.1 – 8.2 can also be taken by a special committee of the Corporation to whom the responsibility has been delegated by the Corporation, and the provisions of sections 8.1 – 8.2 shall be read accordingly.
- 8.4 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, self-certification forms or other documents.
 - Bribery or corruption.
 - 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 Corporation's rules and procedures concerning health and safety at work.
 - Unlawful discrimination or harassment.

- A criminal offence, which may (whether it is committed during or outside the senior post holder's hours of work for the Corporation) adversely affect the Corporation's reputation, the senior post holder's suitability for the type of work he or she is employed by the Corporation to perform or his or her acceptability to other employees or to students.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material.

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

9 APPEAL

- 9.1 A senior post holder 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 senior post holder should inform the Clerk to the Corporation in writing, stating the grounds for appeal.
- 9.2 The appeal will be heard by an appeal committee of the Corporation. In so far as is reasonably practicable, the committee will not include any member of the Corporation who has been involved in the disciplinary process in question so far. The committee shall not include the Principal, staff members or student members of the Corporation.
- 9.3 The appeal meeting will be held as soon as reasonably practicable after the notice to appeal has been received.
- 9.4 At the appeal meeting, the senior post holder 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 fellow worker.
- 9.5 If the chosen companion of the senior post holder is unavailable on the date of the initial meeting, the senior post holder 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 Corporation and the senior post holder, but should not unduly delay the process.
- 9.6 At the appeal, the disciplinary penalty imposed will be reviewed, but it cannot be increased. The appeal decision will be notified to the senior post holder (and, where it is a decision of a committee of the Corporation, also notified to the Corporation) in writing without unreasonable delay following the appeal meeting. The appeal decision is final.