



HILBRE HIGH SCHOOL HUMANITIES COLLEGE

DISCIPLINARY PROCEDURE POLICY

Author:
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Full
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PRINCIPLES OF PROCEDURE:

1.1 This procedure has been written to reflect the following principles:

- That the proper handling of disciplinary matters is in the interests of both the school and employees.
- That disciplinary action should only be taken if the school has a genuine belief that the employee has committed an act of misconduct. The belief must be on reasonable grounds following a reasonable investigation.
- That the purpose of disciplinary action is corrective.
- That any disciplinary action should be dealt with speedily, equitably and reasonably.

SCOPE OF THE PROCEDURE:

2.1 The procedure is designed to deal with misconduct or gross misconduct.

2.2 There may be some occasions where an employee's behaviour could also be described as incapability. This Disciplinary policy and the relevant Capability policy may be used concurrently whilst the school endeavours to ascertain if the behaviour is misconduct or incapability.

2.3 There may be occasions where an employee's conduct could relate to their health. This Disciplinary policy may be used concurrently with the Sickness Absence policy. In particular, if an employee goes off sick following the use of this Disciplinary policy the school may use its Sickness Absence policy.

2.4 There may be occasions when an employee attempts to use the Grievance policy in connection with actions taken under this Disciplinary policy. This shall not lead to any delay or pause in the conduct of any matters under the Disciplinary policy.

2.5 There may be occasions where this procedure needs to be modified, for example to comply with any requirements in relation to student safeguarding.

2.6 This policy does not form part of any employee's contract of employment and it may be amended at any time.

THE PROCEDURE:

3.1 Establishing facts:

When a disciplinary matter arises, the relevant facts should be firmly established by a thorough and reasonable investigation and the whole proceedings should be concluded with the minimum of delay.

3.2 Suspension:

In cases where it is justified, after a preliminary investigation, an employee may be suspended for a reasonable period of time. Suspension should ideally be undertaken in person but may be undertaken in writing. If it is undertaken in person, it will be confirmed in writing. Where practicable, the employee will be entitled to be accompanied by their trade union representative but their non-availability will not delay a suspension meeting.

Suspension may be justified in cases where: relationships have broken down; gross misconduct is alleged; there are reasonable concerns that evidence or witnesses could be

interfered with; there are responsibilities to other parties or to protect students or property.

During a period of suspension, the school may suspend an employee's access to his/her e-mail account/intranet and the school may take such steps, as necessary, to cover an employee's lessons or other commitments.

Suspension is a neutral act and is not a disciplinary sanction. It does not imply that any decision has already been made about the allegations. An employee will receive full pay and benefits during a period of suspension (unless he/she is otherwise absent from work due to sickness or other leave and have exhausted the full pay entitlements connected to his/her absence). The employee will also receive details of a named contact during any period of suspension.

3.3 Investigation:

An Investigation Officer will be appointed to conduct an investigation into the alleged conduct. The purpose of an investigation is for the school to establish a fair and balanced view of the facts relating to any disciplinary allegations against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case.

The investigation may include a face to face interview with an employee but these are not mandatory. Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. In the event an investigation meeting is required, an employee will be entitled to be accompanied at the meeting by a work colleague or suitably authorised trade union representative.

An employee is required to co-operate fully and promptly with the Investigation Officer to ensure that the investigation can be completed as swiftly and thoroughly as possible.

The Investigating Manager will normally produce an investigation report setting out evidence and detailed allegations and a recommendation on whether there is a potential disciplinary case to answer. An employee will be sent a copy of the investigation report.

Having completed the investigation process, the Investigation Officer may make determine the following:

- No further action to be taken.
- An employee may be given an informal warning. This would be appropriate in cases of minor breaches of discipline, for example poor time keeping, etc. Any informal action will be confirmed in writing and recorded on the personnel file, normally for a period of 6 months, unless otherwise stated. An employee will be advised of any improvements that are expected. If there is no improvement, formal disciplinary action would most likely follow in accordance with this policy. There is no right of appeal when informal action has been taken.
- Further action is appropriate, and the matter should not be dealt with by way of informal action, an employee may be invited to a Disciplinary Hearing.

DISCIPLINARY HEARINGS:

4.1 General principles:

Before any formal disciplinary action is taken, the employee should be invited to attend a Disciplinary Hearing. The employee should be told the reason for the hearing, given full details of the allegations or concerns and adequate time to prepare.

The disciplinary meeting shall take place at least 2 days after disciplinary invitation was sent to the employee.

4.2 The Hearing:

At the hearing, the Disciplinary Manager shall consider all the evidence presented and the employee shall have an opportunity to present evidence in his/her defence and any evidence in mitigation.

The Disciplinary Manager is not required to hear oral evidence from witnesses and may rely on written evidence. If the Disciplinary Manager does decide to hear oral witness evidence, the employee will be given an opportunity to comment on it during the meeting.

4.3 Any employee asked to appear at a Disciplinary Hearing has the right to be accompanied by a work colleague or a suitably authorised trade union representative of their choice. The representative has the right to address the hearing but cannot answer questions on behalf of the employee.

4.4 Adjournment of hearing:

The hearing will be adjourned to consider the decision. If possible, a decision will be given to the employee following the adjournment. If further investigation of the facts is necessary or there is a dispute over anything relevant to the case, the hearing may be adjourned to another day while further enquiries are made with the minimum of delay appropriate in the circumstances.

4.5 Factors considered:

In considering what action is appropriate, the following should be taken into account:

- Mitigating factors.
- The gravity of the breach of discipline.
- The employee's work record.
- Any other relevant factors.

FORMAL DISCIPLINARY WARNINGS:

5.1 The type of formal disciplinary warnings are as follows:-

Stage 1	Written warning
Stage 2	Final written warning
Stage 3	Dismissal with notice
Stage 4	Summary dismissal (without notice)

5.2 The Disciplinary Procedure will usually commence at Stage 1. However, the school reserves the right in more serious cases of misconduct to commence the procedure at a later stage of the procedure. An employee will not be dismissed for a first disciplinary offence unless the offence amounts to Gross Misconduct.

a) Stage 1 First Formal warning:

A First Written warning would normally be appropriate if previous unsatisfactory conduct discussed informally has failed to improve or a further act of misconduct has arisen (even if that misconduct related to a different form of misconduct), or if a more serious act of misconduct is committed. First Formal warning will be recorded on the employee's personnel file and will normally lapse after a period of 12 months. Once a First Written warning has expired, it will be removed from an employee's formal record (with the exception of any issues relating to safeguarding) and disregarded in deciding the outcome of any future formal procedure.

b) Stage 2 Final Written warning:

A Final Written warning would normally be given for a further act of misconduct committed/discovered during the currency of a live First Written warning (even if the previous warning related to a different form of misconduct) or where a single infringement is sufficiently serious regardless of the previous disciplinary history. A Final Written warning will be recorded on the employee's personnel file and will normally lapse after a period of 12 months. Once a Final Written warning has expired, it will be removed from an employee's record (with the exception of any issues relating to safeguarding) and disregarded in deciding the outcome of any future formal procedure.

c) Stage 3 Dismissal with notice:

Dismissal on contractual notice would be given for a disciplinary offence (other than an act of gross misconduct) committed/discovered during the currency of a live final written warning (even if the final written warning related to a different form of gross misconduct). The employee will be advised in writing of the reason for dismissal, the date on which the employment will terminate, and the right of appeal available. For the avoidance of doubt, the notice commences immediately and does not await the outcome of any appeal.

Notice may be paid in lieu in accordance with the terms and conditions of the employee's Contract of Employment. The school also reserves the right to place the employee on garden leave during the notice period or require the employee to take any outstanding holidays as part of the said notice period.

d) Stage 4 Summary Dismissal (without notice):

Dismissal without notice will only occur if an employee has committed an act of gross misconduct or has otherwise destroyed the trust and confidence required between the employee and the school. The paragraph below contains a non-exhaustive list of matters which the school considers may amount to gross misconduct.

GROSS MISCONDUCT:

6.1 The following breaches of discipline will normally be regarded as gross misconduct and will normally result in summary dismissal:

- Theft, fraud and deliberate falsification of records.
- Gross negligence\underperformance.
- Discrimination on the grounds of sex, race, disability, age, sexual orientation or religion.
- Physical violence or threatening behaviour.
- Bullying or harassment of any kind.

- Deliberate damage to property.
- Serious insubordination.
- Unauthorised absence.
- Selling contraband or other illegal activity.
- Misuse of school property or name.
- Bringing the school into disrepute.
- Serious incapability whilst brought on by alcohol or illegal drugs.
- Serious negligence which causes or might cause unacceptable loss, damage or injury.
- Serious infringement of health and safety rules.
- Serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998).

6.2 This list is not exhaustive.

CONTENT OF WARNING:

7.1 All Formal Disciplinary warnings will include:

- A specific description of the conduct which caused the Formal Disciplinary warning to be issued.
- The consequences of the employee committing any further acts of misconduct.
- The period during which the Formal Disciplinary warning will be enforced. First Formal action or a Final Written warning will normally remain live on an employee's personnel file for 1 year from the date that the warning is issued.
- The right to make an appeal.

7.2 Time limits for warnings:

- The time a record of a Formal Disciplinary warning is held on a personnel file will be dependent on the seriousness and the circumstances of the breach of discipline which brought about the need for the warning.
- An employee issued with a Formal Disciplinary warning has the right to be informed at the time the warning is given, when that warning will cease to be "live" and, therefore, usually be disregarded for future disciplinary purposes.

RIGHT OF APPEAL:

- 8.1 In all cases which result in a Formal Disciplinary warning, including dismissal, the employee has the right of appeal.
- 8.2 At the time of notification of a Formal Disciplinary warning, the employee will be advised of the name of the person to whom any appeal may be made.
- 8.3 Should the employee wish to appeal, they must set out the grounds of appeal in writing and send them to the person hearing the appeal.
- 8.4 If the employee is in any doubt at this stage they should contact the Headteacher to seek clarification. For the avoidance of doubt, if the employee is appealing against dismissal, the date on which the dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful the employee will be reinstated with no loss of continuity or pay.
- 8.5 Any appeal must be made and received by the school within 7 calendar days of notification of the Formal Disciplinary warning.

- 8.6 On receipt of the appeal, the employee will be notified of the hearing date of the appeal.
- 8.7 The appeal will be either in the form of a full rehearing or a review of the original Disciplinary Hearing. If the appeal is a review, it will focus on the specific grounds of appeal raised by the employee.
- 8.8 Any additional evidence and any additional arguments which the employee puts forward in support of the appeal will be conscientiously considered. All relevant facts will be fully reviewed before a final decision is made.
- 8.9 The result of the appeal will be notified to the employee in writing normally within 14 calendar days. This period may be longer depending on the amount of investigation that needs to take place.
- 8.10 Following the Appeal Decision, there is no further right of appeal.

ALTERNATIVE SANCTIONS:

- 9.1 In addition to the Formal Disciplinary warnings already outlined, the following further disciplinary sanctions may be applied:
- Suspension from work without pay.
 - Demotion.
 - Loss of pay increases in circumstances where previous Formal Disciplinary warnings have proved ineffective.

CRIMINAL OFFENCES:

- 10.1 If an employee is charged with, or convicted of, a criminal offence (outside of employment) this will not normally in itself be considered a reason for disciplinary action. In such circumstances, the facts of the case would be clarified through a formal investigation and then consideration would be given as to whether the matter warrants formal disciplinary proceedings, having taken into account whether the alleged incident, act, or behaviour affects an employee's suitability for their job and/or the reputation of the school. In the case of teachers', the content and effect of the Teachers' Standards will be taken into account when deciding whether, or not, the matter may warrant formal disciplinary sanctions.

REFERRAL:

- 11.1 Where a teacher is dismissed for serious misconduct (or may have been dismissed for serious misconduct if the teacher had not resigned), the school must consider whether to refer the circumstances to the National College for Teaching and Leadership under Section 141D of the Education Act 2002 which came into force on 1st April 2012.
- 11.2 Where a person working within the school (whether a teacher or not) is dismissed or would have been dismissed if they had not resigned) because that person committed conduct:
- which endangered a child or was likely to endanger a child;
 - which if repeated against or in relation to a child, would endanger that child or would be likely to endanger him;

- involving sexual material relating to children (including possession of such material);
- involving sexually explicit images depicting violence against human beings (including possession of such images);
- of a sexual nature involving a child.

The school must refer that person to the Disclosure and Barring Service under Section 35 of the Safeguarding Vulnerable Groups Act 2006.