



Exeter College

Disciplinary procedure

1. Introduction

In any organisation there is a need for rules and standards. It is important that any breaches of our rules, or failure to achieve and maintain satisfactory standards of conduct, attendance and job performance, are dealt with as effectively, fairly and consistently as possible.

This procedure is non-contractual, and sets out the procedure Exeter College will normally follow, although we reserve the right, at our discretion, to vary, replace or terminate the procedure at any stage.

The policy has been written with reference to the ACAS Code of Practice on Disciplinary and Grievance Procedures, and all managers are reminded of the requirement to comply with this.

2. Scope of this procedure

This procedure applies to all non-academic employees (including heads of department) who are employed at Grade 7 or below.

The College reserves the right to abbreviate and/ or vary the procedures outlined below for those staff with less than two years' service, including those who are in their probationary period.

The procedure does not apply for dismissals due to long-term ill health, redundancy, or the non-renewal of fixed-term contracts on their expiry. Suitable alternative procedures will be used in such cases.

3. Aims of this procedure

This procedure aims to help and encourage all of our employees to achieve and maintain satisfactory standards of conduct and performance, and to ensure (as far as possible) consistent and fair treatment for all.

4. Informal stage

This procedure is not appropriate for the day-to-day exchange of feedback that takes place between managers and employees in the normal course of maintaining standards at work, where there is no significant cause for concern about overall conduct, attendance and job performance. The Disciplinary Procedure is therefore separate from the appraisal process.

Where there are more serious concerns about shortcomings (e.g. minor misconduct or poor performance) on the part of an employee, we will normally seek to address these informally in the first instance.

Where an improvement is required, we will seek to ensure that the employee understands what is required, how this will be measured, and over what period. Any agreed action plan (including any training or support, as appropriate) will normally be confirmed in writing, together with the consequences of a failure to improve.

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Whilst such a record will not constitute a formal written warning (and should not be construed as such), a copy may be kept on file.

Whilst it is expected that an informal approach will solve most difficulties, where a sustained improvement is not apparent, or where matters are more serious or where the issue is one of misconduct, the formal disciplinary procedure will be used.

5. Core principles - general

The following core principles should be followed by those dealing with disciplinary matters:

- No disciplinary action will be taken without full and proper investigation, undertaken by an appropriate level of management.
- Each step in the procedure will be taken without unreasonable delay, the timing and location of any meetings will be reasonable, and any meeting will be held in as private a location as possible without interruptions.
- A fair disciplinary process will always be followed, up to and including cases of dismissal for gross misconduct.
- Where appropriate, and depending on the severity of the offence, we may omit any of the stages within the disciplinary procedure detailed below. It should be noted that, despite ongoing disciplinary action, an individual may be dismissed for another unrelated disciplinary matter if sufficiently serious. It is recognised that the circumstances of each case will be different and that each case therefore should be treated on its merits.
- A right to appeal will apply at every formal stage of this procedure.

6. Investigation

When considering whether an individual's conduct or performance should be considered in a formal disciplinary meeting, it may be appropriate to first undertake an investigation to establish the facts.

The following principles will normally apply to investigations:

- The nature and extent of investigations will depend on the seriousness of the matter - the more serious it is, then the more thorough the investigation should be. It is important to keep an open mind and look for evidence which supports the employee's case as well as evidence against.
- In some cases it will be necessary to hold an investigatory meeting with the employee before proceeding to any disciplinary hearing. However, in other situations the investigatory stage will be the collation of evidence by the employer for use at any disciplinary hearing, and it will not be necessary to hold a separate investigatory meeting.
- The investigating manager should endeavour to establish the facts promptly, before memory fades, and take statements from any witnesses.
- Where the issue is one of unsatisfactory attendance, the matter will be dealt with under this procedure. However, we recognise that short-term absences due to health conditions may not be the result of a deliberate act on the part of the employee, and in such circumstances the matter may be referred to as an "incapability" issue to reflect this distinction, and may be dealt with either under this policy or the Sickness Absence policy, at the College's discretion.

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- In misconduct cases, where practicable, different people will carry out the investigation and disciplinary hearings.
- An investigatory meeting will not by itself result in any disciplinary action.
- The right to be accompanied does not normally apply during any investigatory meetings, which are not part of a formal disciplinary process.

7. Core principles - suspension

We reserve the right at any stage of this procedure to suspend the employee. Suspension will be on full basic pay and will be for as short a period as possible, in order to carry out any investigation of an alleged serious offence or to prevent any recurrence. Such suspension is not disciplinary action and does not involve any pre-judgement.

If suspended, the employee must be available to attend any fact finding interview called during the suspension period. Contact will be maintained with the employee throughout the period of suspension to keep them informed of the investigation. An employee who is suspended will only be allowed to contact Exeter College through a nominated person.

Any of the following are permitted to authorise suspension:

- any Head of Department

The following should be noted re suspension:

- Except for paid suspension (used purely as a precautionary measure to allow a fair and impartial investigation to take place, and without any pre-judgement of the outcome of any subsequent disciplinary hearing), no action will be taken against an employee until a disciplinary hearing has been held.

8. Core principles – invitation to hearing

When inviting an employee to a formal disciplinary hearing:

- The employee will always be given written notice of an invitation to any disciplinary hearing of which they are the subject, and will normally be advised of the nature of the complaint against them, the circumstances that have led to us contemplating the need for disciplinary action or dismissal, and the procedure to be followed. Full copies of any written evidence will normally be provided in advance of the hearing, although we may withhold the identity of a witness or redact witness evidence, if we believe it to be appropriate and necessary to protect the witness.
- The employee will be given sufficient information and time to enable them to prepare a response. This may vary depending on the circumstances of each case, but is not likely to be less than 48 hours.
- If either the employee or their chosen companion is unable to attend any meeting under this procedure for a reason that was not foreseeable at the time the meeting was arranged, then we will attempt to rearrange the meeting for a date within five working days of the original planned date. However, the employee is expected to take all reasonable steps to attend the hearing on the appointed date and at the appointed time. Where an employee persistently is unable or unwilling to attend an agreed disciplinary meeting, without good reason, a decision may be made in the employee's absence based on the evidence available.

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- The College will not normally re-arrange a meeting more than twice.

9. Core principles – at the hearing

The following should be borne in mind at the hearing:

- At all formal stages of this procedure, the person chairing the meeting is advised to be accompanied by a suitable employee of Exeter College who will act as a witness and take full notes of everything that is said. Where no internal person of sufficient seniority or confidential status is available, or where preferred, an external party may be invited to attend in this capacity.
- Under no circumstances should any meeting or conversation be recorded electronically or digitally without the prior permission of all those present. Any unauthorised recording of a meeting may, in itself, be considered misconduct, and may be addressed under the Disciplinary Policy.
- The employee will have the right to be accompanied, either by a fellow worker, a representative of a trade union (who must be certified in writing by that union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings), or an official employed by a trade union. The employee should tell the person conducting the hearing in advance whom he or she has requested to act as a companion. If the employee does not wish to be accompanied this should be noted. Fellow workers may not be compelled to attend as a companion.
- The companion is there to act as a witness to what is said, to provide moral support, and to assist and advise the employee in presenting their case. The companion may address the hearing (provided the employee wishes this), ask questions on behalf of the employee and confer with the employee, but may not answer questions on behalf of the employee, nor may the companion prevent the employer from explaining its case.
- If the employee is disabled, reasonable adjustments will (as far as possible) be made to ensure that they are not disadvantaged at the hearing. This may include the provision of further assistance (e.g. for a signer or other support) where necessary. Arrangements may also be made to assist any employee who does not have English as their first language and who may need an interpreter.
- The person conducting the disciplinary hearing will outline the complaint against the employee and go through the evidence that has been gathered. The employee will be given the opportunity to present any information in their defence, and to explain or comment before any decision is made. Either party may ask questions, call witnesses, submit witness statements and also question any witnesses called by the other party. If the employee wishes to call any witnesses, they should notify the person conducting the hearing in advance. Witnesses cannot be compelled to attend.
- A disciplinary hearing may be adjourned at any stage by the person conducting the hearing, in order to calm a tense situation, to check out facts or to take advice. Such adjournments will be kept brief wherever possible in order not to hold up the resolution of the hearing but may be extended where particular information needs to be checked in the interests of fairness or consistency.
- It may also be appropriate to adjourn a disciplinary hearing where a grievance is raised which has a strong bearing on the matter to be decided (e.g. an alleged conflict of interest for the person hearing the meeting, where bias is alleged concerning the conduct of the meeting, where it is alleged that evidence is being used selectively by the person hearing the meeting, etc). In this case, the grievance may be dealt with before the disciplinary process recommences. Where the disciplinary and grievance cases are related to each other, it may be appropriate to deal with both issues

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concurrently.

10. Core principles – making a decision

It is important to remember that the circumstances of each case will be different and that each case therefore should be treated on its merits:

- Before making any decision on disciplinary action, we will take into account the employee's disciplinary and general record; any similar precedents; any mitigating circumstances or explanations given by the employee; what would be reasonable under the circumstances; and whether any training, additional support or adjustments to the role or workload are necessary.
- An employee who is given a disciplinary warning or improvement note will be told where their performance or conduct falls short of what we consider satisfactory, what improvement is required, and over what timescale this is to be achieved. For employees who are under-performing, a review date will normally be set and we will also confirm any support, including any training that we will provide to assist the employee.
- A decision to dismiss should only be taken by someone with the authority to do so. The reasons for dismissal will be confirmed in writing, together with the date on which the employment will end, the appropriate period of notice and the right of appeal.

11. Core principles – possible outcomes

Our formal procedure contains the following stages:

First written warning (or improvement note): for incidents of misconduct or unsatisfactory performance

Final written warning: for further continued unsatisfactory performance, or further misconduct, or if an incident of serious misconduct occurs

Dismissal with notice: for continued unsatisfactory performance or conduct

12. Core principles – after the hearing

After the hearing, the following should be noted:

- Any warning or improvement note will be confirmed in writing to the employee. It will identify the next stage in the procedure (should the employee fail to reach a satisfactory standard or commit a further act of misconduct), specify for how long the warning will stand, and will inform the employee of their right of appeal.
- If the employee's standard of work or conduct remains unsatisfactory, and, after warnings, remains below the level that is acceptable, they may be dismissed.

13. Examples of general misconduct

The following is a non-exhaustive list of examples of offences which amount to misconduct falling short of gross misconduct:

- unauthorised absence from work;

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- unsatisfactory time-keeping or attendance: every member of staff is required to give constant and regular attendance within the terms of his or her contract of employment. (Note: where sickness absence levels are unsatisfactory, this will be managed under the provisions of the separate Sickness Absence Management policy);
- unsatisfactory job performance, or inadequate attention to work;
- time wasting, or failure to devote your full energy and attention to College business during your normal working hours;
- failure to follow a reasonable management instruction;
- minor contravention of health and safety regulations;
- disruptive, abusive, truculent or provocative behaviour, whether to staff, students or visitors;
- misuse of College procedures (including, but not limited to, making malicious and/or vexatious complaints of any kind);
- unauthorised use of the telephone, e-mail and/or the Internet facilities;
- failure to wear personal protective equipment (PPE), if issued;
- minor damage to our property;
- minor breach of our rules and/or other policies;
- leaving work without authority;
- failing to follow our absence notification procedures;
- failure to take reasonable care of College property in your care or possession;
- taking extended breaks;
- disrupting our business by receiving and making what we consider to be excessive personal telephone calls (either on personal mobile devices, or on College-owned telephones).

14. Examples of gross misconduct

An employee will not normally be dismissed for a first incident of misconduct, unless it amounts to gross misconduct, in which case summary dismissal without notice and without the need for any prior warnings may take place.

The list below is not exhaustive, but it is a guide to the type of offence which normally results in summary dismissal (i.e. dismissal without notice or pay in lieu of notice):

- theft, fraud or falsification of records, e.g. Exeter College documentation, expense claims or attendance records supplying false references or application materials, shared parental leave declarations etc;
- being under the influence of alcohol during working time, or reporting for work whilst under the influence of alcohol;
- being in possession of, or under the influence of, or attempting to deal in non-medically prescribed drugs;
- assault or fighting, either on our premises or while engaged on our business or where the act committed irrevocably damages the required trust and mutual confidence between the College and the employee;
- violent, abusive or intimidating conduct;

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- act of unlawful discrimination, harassment, bullying or offensive behaviour;
- misuse of property belonging to Exeter College or of our name;
- malicious damage to property belonging to the College, our students, visitors, customers or other employees;
- flagrant disregard of our procedures, rules and regulations (including without limitation data protection policy, equal opportunities policy, and of our health and safety policy whether or not this resulted in an accident);
- unauthorised recording (in whatever media, but specifically including electronic and digital media) of any College meeting, including meetings held under the Disciplinary and/ or Grievance procedures;
- inappropriate use of the internet or computer misuse in breach of our policies. This includes deliberately accessing sites containing pornographic, offensive or obscene material, and/ or downloading, displaying, archiving, storing, distributing, purchasing, intending to purchase, editing or recording such material, or the inappropriate use of social media;
- any action in serious breach of legislative requirements which may affect our business;
- gross negligence;
- use of foul language or any act that violates commonly accepted standards of behaviour;
- actions which damage the reputation of Exeter College or bring it into disrepute - this includes taking part in activities which result in adverse publicity to ourselves, or which cause us to lose faith in the employee's integrity;
- any action constituting a criminal offence which makes the employee unsuitable for employment with us;
- unauthorised use or disclosure of confidential information;
- the acceptance or giving of anything that could be construed as a bribe in order to influence the behaviour of a third party;
- undertaking private work on our premises and/or during working hours without express permission;
- accepting gifts from outside organisations which have not been approved by the College;
- smoking in an unauthorised area where this constitutes a serious risk to health and safety or compromises our products;
- driving whilst under the influence of unlawful drugs or alcohol;
- sleeping on duty;
- using a hand held mobile whilst driving or in control of any vehicle whilst on our business;
- setting off an alarm, such as a burglar or fire alarm, deliberately and without good cause;
- gambling, bribery or corruption;
- prolonged unauthorised absence from work without following the proper absence notification procedures;
- loading unauthorised software;
- the unauthorised use of another employee's or user's password or keys to gain access to confidential information;
- contacting (formally or informally and by any means) any of our past, current or prospective suppliers, customers or clients for any purpose other than for the legitimate business interests of the College - this includes (but is not limited to) any activities which we consider may be linked to an

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intention of setting up in a competing business or working for a competitor after leaving our employment.

15. Gross misconduct and summary dismissal

Certain offences may be regarded as so serious as to render the employee liable to summary dismissal without prior warning (see examples above). A dismissal for gross misconduct will only be made following a disciplinary hearing (unless an employee has persistently failed to attend a hearing, in which case a decision may be made in their absence), and should be confirmed in writing, normally giving the reasons for dismissal, confirming that the employment terminates immediately without notice, or pay in lieu of notice, and outlining the employee's right of appeal.

16. Penalties other than dismissal

There may be circumstances where we consider alternative disciplinary action to dismissal to be appropriate. Such action could include suspension without pay, demotion (which may result in a reduction in pay for the employee), or transfer to another position which may result in a reduction of pay.

17. Duration and removal of warnings

Warnings will remain 'active' for the following periods, unless a different period is confirmed in writing to the employee:

- **first written warning or improvement note:** six months from the date the warning is first notified to the employee (either verbally or in writing) or such other period as may be specified
- **final written warning:** twelve months from the date the warning is first notified to the employee, (either verbally or in writing) or indefinite, depending on the circumstances resulting in the warning.

Following completion of the appropriate period, the warning will no longer be active and will normally be disregarded for the purposes of any future disciplinary action. Records of disciplinary warnings will, however, be retained on file for purposes of disclosure as required by regulation 11 of the Transfer of Undertakings Regulations (Protection of Employment) 2006.

A copy of the written confirmation of any warnings, improvement notes, dismissal, suspension or other disciplinary penalty (plus any appeal documentation) will be given to the employee and a copy placed on the employee's personnel file. Such documentation will be regarded as confidential.

18. Authority to give disciplinary warnings and to dismiss

The following are authorised by the College to give warnings or dismiss as follows:

- **first or final written warning or improvement note:** any Head of department (including, but not limited to: Rector, Academic Registrar, Accountant, Finance & Estates Bursar, Domestic Bursar, Catering Services Manager, College Librarian, IT Manager, Director of Development & Alumni Relations, Head Lodge Porter, Steward, Operations Manager, Accommodation Manager, Head Chef, or Buildings Manager).
- **dismissal or other penalty such as disciplinary transfer or demotion/loss of pay:** any head of department, as listed above.

19. Appeal

An employee who feels that a disciplinary warning, improvement note or dismissal is unfair may appeal against this. Such appeals should be lodged, in writing to the HR Manager, without unreasonable delay (we would expect this to be within seven calendar days of the decision being notified to the employee). The employee should clearly state the grounds on which the appeal is made (e.g. the finding is unfair, the penalty too harsh, new evidence comes to light, or because of a procedural defect).

An appeal hearing will be arranged without unreasonable delay. Where possible, the appeal will normally be heard by a member of staff senior to the person making the original decision and not previously connected with the disciplinary process, so that an independent decision may be made. If this is not possible, a further independent party or other external party may be requested to attend the hearing and advise.

The person conducting the appeal is advised to be accompanied by a suitable employee of Exeter College who will act as a witness and take full notes of everything that is said. Where no internal person of sufficient seniority or confidential status is available, or where preferred, an external party may be invited to attend in this capacity.

The employee may, if they so wish, be accompanied by a work colleague, a trade union representative (who must be certified in writing by that union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings) or by an official employed by a trade union at any appeal hearing. The employee should tell the person conducting the appeal hearing in advance whom they have chosen as a companion. As with a disciplinary hearing, the companion will be able to address the hearing, ask questions on behalf of the employee and to confer with the employee, but not to answer questions on behalf of the employee.

If either the employee or their chosen companion is unable to attend an appeal meeting arranged under this procedure for a reason which was not foreseeable at the time the meeting was arranged, then we will attempt to rearrange the meeting for a date within five days of the original planned date.

If the employee is disabled, reasonable adjustments will (as far as possible) be made to ensure that he or she is not disadvantaged at the hearing. This may include the provision of further assistance where necessary. Arrangements may also be made to assist any employee who does not have English as their first language and who may need an interpreter.

The grounds of the appeal will be considered when deciding the extent of any new investigation: it may be that a complete re-hearing will be held should there be any suspected procedural defects.

The employee will be notified of the appeal decision in writing; whatever decision is taken at the appeal hearing will be final.

20. Authority to hear appeals

The following are authorised by the College to hear appeals as follows:

- **first or final written warning or improvement note:** Rector, College Officer, any Head of Department
- **dismissal or other penalty such as disciplinary transfer or demotion/loss of pay:** the Rector, College Officer, or any Head of Department (who may be accompanied by an external advisor if requested).

21. Probationary employees

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As above, the College reserves the right to abbreviate and/ or vary these procedures for employees with less than two years' service, including those who are still within their probationary period.

Accordingly, if a probationary employee is not performing satisfactorily or there are incidences of minor misconduct, they will normally be seen informally by their manager, informed of any shortcomings in performance or conduct, offered training and support (where appropriate) and warned that failure to improve will result in dismissal. If there is doubt about the employee's ability to reach and/or maintain a satisfactory standard, the probationary period may be extended, in which case the employee will be told of this and a new date set for the expiry of the probationary period.

If the employee is unable to reach and maintain a satisfactory standard of performance or conduct, the College may consider that they have not successfully passed their probationary period and will therefore terminate their employment accordingly.

Where an employee is dismissed for a failure to successfully pass their probationary period, the decision will be final and there will normally be no right of appeal.

A probationary employee who commits an act of gross misconduct will be summarily dismissed.

22. Absence during disciplinary proceedings

We recognise that disciplinary situations can be stressful for both the employee involved and also any other employees who are asked to give witness statements or to participate in the procedure in any way. However, we believe that in most cases this stress is best alleviated, and working relationships maintained, by completing the disciplinary procedure quickly.

Where an employee or worker is unfit for work, this does not necessarily mean that they are unfit to attend an investigatory meeting or a disciplinary hearing and employees must make every effort to co-operate with us in completing the disciplinary process.

If an employee is absent due to illness or other reasons (such as maternity/ adoption/ paternity/ shared parental or other leave), we will consider, in consultation with the employee (and/or their GP in the case of illness), whether there are any reasonable adjustments that can be made to enable the case to be progressed (e.g. by allowing the employee to make further written submissions, by conference call or by holding the meeting at a different venue).

If, after an attempt to contact the employee or worker, we reasonably believe that they are unlikely to attend a meeting in the near future or to provide any further information, we may decide the matter without the employee or worker's further input, based on the evidence and information available to us. Unless the employee has already been informed of this, we will normally write to inform the employee of our intentions to proceed in their absence before taking any decisions.

23. Mediation

There may be circumstances where we consider that it may be beneficial to use mediation to help resolve an issue. Mediation is not suitable in all circumstances and will not necessarily be offered, but where appropriate and offered, may be introduced at any stage of the process where both parties are in agreement that this could be an effective approach.

Where mediation is introduced before or during the disciplinary process, the disciplinary procedure may be adjourned whilst the mediation is being undertaken. Should mediation prove unsuccessful the disciplinary procedure will be resumed.

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24. Monitoring and review of this procedure

The Governing Body of the College has overall responsibility for implementing and monitoring this procedure, which will be reviewed on a regular basis following its implementation and may be changed from time to time.

Any queries or comments about this procedure should be addressed to the HR Manager.

25. Related policies

We also have the following related policies:

- Anti-Bribery policy
- Harassment
- Drug, alcohol and substance abuse policy
- Grievance
- Equality and Diversity policy
- Data Protection policies
- Sickness absence management
- IT policies

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