 SIXTHformCOLLEGE <small>CITY OF STOKE-ON-TRENT</small>	DISCIPLINARY PROCEDURE			Pages	5
				Issued	2009

1. Introduction

- 1.1 This procedure provides guidance on disciplinary issues. Guidance from the ACAS Code of Practice, (Disciplinary & Grievance) has been taken into consideration in drafting this procedure.
- 1.2 The disciplinary procedure provides a framework for dealing with instances in which employees are alleged to have breached the required standard of conduct. The aim is to ensure prompt, consistent and fair treatment for all employees without discrimination. As well as a guide to imposing sanctions, the disciplinary procedure should also be viewed as a means of encouraging and promoting professional conduct. The policy covers all staff except designated 'senior postholders'.
- 1.3 An employee's conduct outside of work may have a bearing on the employees continued employment, it is therefore important that all employees immediately inform their manager of any criminal investigation, charge or conviction.
- 1.4 Matters relating to incompetence or lack of capability at work by the employee due to lack of skill or aptitude should be dealt with under a separate capability procedure.

2. Suspension

- 2.1 At any stage the Trust reserves the right to consider whether the employee should be suspended on full pay pending further investigation. If the employee is so suspended the employee should be given written notification of the suspension, setting out the grounds on which the decision to suspend has been taken. If suspension continues for three weeks or more and a disciplinary hearing has not taken place, the employee may appeal to the Local Governing Body against the suspension. If an employee does so appeal the suspension shall continue pending the determination of the appeal, which shall be considered as soon as practicable. Suspension is a neutral act and not a disciplinary penalty.

3. Investigation

- 3.1 Where there is a suspected breach of discipline an investigation will normally be carried out by an appropriate senior member of staff who has not previously been involved in the matter. The purpose of this investigation is to establish the facts promptly and before memories fade, taking into account statements of any

REVIEW NUMBER	1	2	3	4	5	6	7	8	9
DATE	5 th Feb 2014	21 st October 2015	April 2016	April 2019					

relevant witnesses. The investigation will result in a report establishing the full details of the case including making a recommendation if, on the balance of probabilities, there is a case to answer, or if there is no case to answer. The investigation will be completed in a confidential manner.

- 3.2 The employee should have the opportunity to comment on the matter under investigation and may be accompanied by a work colleague or trade union representative if they wish.
- 3.3 The manager may decide based on the facts that there is no case to answer and no further action will be taken. If no further action is to be taken, no records will be kept.
- 3.4 Where there is no dispute to the facts of the case and the member of staff agrees that allegations of misconduct were correctly reported, it may be necessary to go straight to a disciplinary hearing.
- 3.5 The investigation will involve:
 - Establishing the facts of the case and nature of allegations
 - Speaking to the member of staff concerned to explain that they are subject to an allegation
 - Describing the nature of the breach of discipline or allegation
 - Obtaining an initial response from the employee
 - Interviewing witnesses and obtaining witness statements in relation to the allegation(s) where necessary
 - Gathering evidence to enable a decision to be taken on whether there is a disciplinary case to answer

4. Informal Action

- 4.1 In some cases, for minor offences, it may be considered appropriate to deal with the matter by issuing the employee with advice and instructions as to expectations of their future conduct. Where such a management instruction is given, a note of this will be kept on file. Advice given in this way is not part of the formal disciplinary procedure and is not subject to appeal and should not be kept on file for longer than 12 months. This will be classed as a verbal warning.

REVIEW NUMBER	1	2	3	4	5	6	7	8	9
DATE	5 th Feb 2014	21 st October 2015	April 2016	April 2019					

5. Formal Disciplinary Action

5.1 The following disciplinary sanctions will be deemed appropriate at a disciplinary hearing.

Formal disciplinary	Maximum time limits for disciplinary warning
----------------------------	---

No formal action

Written warning (confirmed in writing) 12 months

Final written warning (confirmed in writing) 18 months

Dismissal (with or without notice depending upon circumstances)

5.2 The chair of the disciplinary hearing will determine the appropriate level of sanction. In determining the appropriate level of action the chair will consider if there are any live warnings already and overall assess the gravity of the case.

5.3 In the case of gross misconduct being alleged and established on the balance of probabilities, the employee will be liable to summary dismissal.

5.4 If the case involves suspected criminal activity at work, the Trust may refer the matter to the police for a criminal investigation.


5.5 An allegation of a criminal offence outside of work may result in disciplinary action if the offence is one which renders the employee unsuitable for working within the Trust.

5.6 If the allegations are considered a safeguarding matter, the Trust will refer the case to the Local Authority Designated Officer (LADO).

5.7 Where it becomes necessary to refer any disciplinary matter to external parties, internal investigations may continue if there is sufficient information available. This may depend on advice provided by the police or LADO if relevant. Proceedings may be held in abeyance until the conclusions of any court/criminal proceedings should it be relevant.

6. Disciplinary Interview

REVIEW NUMBER	1	2	3	4	5	6	7	8	9
DATE	5 th Feb 2014	21 st October 2015	April 2016	April 2019					

	DISCIPLINARY PROCEDURE		Pages	5
			Issued	2009

- 6.1 If the investigative officer's report concludes that there is a case to answer, a disciplinary hearing will take place to consider the content of the investigation report and any disciplinary sanction.
- 6.2 The employee concerned should be informed in writing giving not less than 14 calendar days' notice.
- 6.3 Any documentary evidence to be considered in connection with the allegations should be circulated as soon as possible and at the latest 48 hours in advance of the interview to both parties. She/he will also be informed of her/his right to be accompanied by a work colleague or trade union representative during the disciplinary interview, and of the right to present her/his case, call relevant witnesses and give evidence.
- 6.4 If the allegations are upheld at the hearing there may be a written warning (or even a final written warning) setting out the nature of the offence, the improvement required, the timescale allowed for this and the likely consequences of further offences. Details of such disciplinary action should be given in writing within 5 working days to the employee and if desired to her/his work colleague or trade union representative. At the same time the employee should be informed of her/his right to appeal against the disciplinary action taken (see paragraph 11).
- 6.5 Where there is a further suspected breach of discipline or there is still a failure to improve following a formal written warning, an investigation will take place as outlined in paragraph 3.
- 6.6 Where the case of a further breach of discipline is upheld a further formal warning or final written warning may be issued. Other possible forms of disciplinary action that may be appropriate are alteration of duties and responsibilities, transfer to another post or demotion.
- 6.7 Where more than one breach of discipline is linked to neglect of duties it may be appropriate to proceed from this point with disciplinary action under professional misconduct.
- 6.8 Where a final written warning has already been issued and the case of a further breach of discipline is upheld, dismissal will normally result. The employee will be notified in advance that dismissal is being contemplated. If the decision is to dismiss, the employee and, if desired, his/her work colleague or trade union representative should be given written reasons for dismissal, the date on which employment will terminate and the right of appeal.

REVIEW NUMBER	1	2	3	4	5	6	7	8	9
DATE	5 th Feb 2014	21 st October 2015	April 2016	April 2019					

6.9 The disciplinary interview will normally be conducted by Senior Manager, accompanied by at least one other member of/or adviser to the senior staff. The decision on the outcome of the disciplinary interview will be that of the disciplinary panel.

7. Appeal

7.1 The ACAS Code of Practice provides for an appeal against any formal disciplinary action. The Personnel Department will allocate an appeal Chair, determined by the responsibility level of the manager who issued the formal disciplinary sanction. The employee may be accompanied by a work colleague or trade union representative at the appeal hearing. The appeal should be lodged in writing within 14 calendar days of receipt of the letter informing the employee of the decision. The decision at appeal is final.


8. Gross Misconduct

8.1 Gross misconduct is misconduct at work or outside work serious enough to destroy the employment contract and make any further working relationship and trust impossible. All alleged cases of gross misconduct must be investigated without delay. In the event of serious or gross misconduct, an employee may be suspended on full basic pay while a full investigation is carried out. Such suspension does not imply guilt or blame and will be for as short a period as possible. Suspension is not considered a disciplinary action. For gross misconduct an employee may be dismissed without notice or, if appropriate, any of the forms of disciplinary action referred to under the disciplinary procedure may be taken.

8.2 Some examples of the kinds of offence likely to be treated as gross misconduct are:

- drunkenness or disorderly conduct sufficient to have an effect on the employee's ability to carry out their duties;
- drug abuse;
- fighting, violence towards others or destruction or damage of equipment or premises;

REVIEW NUMBER	1	2	3	4	5	6	7	8	9
DATE	5 th Feb 2014	21 st October 2015	April 2016	April 2019					


 SIXTHformCOLLEGE <small>CITY OF STOKE-ON-TRENT</small>	DISCIPLINARY PROCEDURE			Pages	5
				Issued	2009

- fraud or deliberate falsification of records for personal gain;
- theft of employer's or colleagues' property;
- gross negligence or dereliction of duties;
- serious breaches of health and safety procedures or regulations;
- gross insubordination;
- serious breaches of confidence (subject to the Public Interest (Disclosure) Act 1998;
- Violation of the organisation's rules in accordance with acceptable computer use;
- Serious breach of confidentiality;
- bullying or Harassment;
- any sexual approach or response to a student or the development of a relationship with a student, whatever the provocation;
- sexual offences, sexual insults, sexual harassment or sexual discrimination against students, other staff or visitors to the Trust;
- racial offences, racial insults, racial harassment or racial discrimination against students, other staff or visitors to the Trust;
- any admitted offence or police caution of a sexual child abuse nature;
- any admitted offence or police caution relating to physical abuse of a child.

This list is a guide and is not intended to be exhaustive.

NB: Time limits and procedures referred to in this policy will be followed wherever possible, however there may be circumstances where they can be varied subject to agreement by all parties.

REVIEW NUMBER	1	2	3	4	5	6	7	8	9
DATE	5 th Feb 2014	21 st October 2015	April 2016	April 2019					

 SIXTHformCOLLEGE <small>CITY OF STOKE-ON-TRENT</small>	DISCIPLINARY PROCEDURE			Pages	5
				Issued	2009

APPEALS PROCEDURE

The employee / respondent will be given a minimum of 14 calendar days' advanced notice of the hearing. The management case / evidence should be forwarded to the employee by 7 calendar days of the hearing. The employee should forward to the relevant manager / HR department all paperwork they wish to be considered at the hearing 7 calendar days before the date of the hearing.

The chair/panel can have an appropriate advisor / note taker present at the hearing. The role of the advisor will be to provide guidance on the procedure to follow and take any notes.


1. The Chair will introduce all parties present and confirm the order of hearing/procedure to follow.
2. The employers' representative will present the employers' case in the presence of the employee and her/his work colleague or trade union representative and may call witnesses.
3. The employee (or her/his work colleague or trade union representative) will have the opportunity to ask questions of the employers' representative on the evidence given by her/him and any witnesses whom she/he may call.
4. The Chair/panel may ask questions of the employers' representative and witnesses.

Witnesses withdraw at this stage, if applicable.

5. The employee (or her/his work colleague or trade union representative) will put the case in the presence of the employers' representative and call such witnesses as she/he wishes.
6. The employers' representative will have the opportunity to ask questions of the employee and her/his witnesses.
7. The Chair/panel may ask questions of the employee, her/his work colleague or trade union representative and witnesses.

Witnesses withdraw at this stage, if applicable.

REVIEW NUMBER	1	2	3	4	5	6	7	8	9
DATE	5 th Feb 2014	21 st October 2015	April 2016	April 2019					

 SIXTHformCOLLEGE <small>CITY OF STOKE-ON-TRENT</small>	DISCIPLINARY PROCEDURE			Pages	5
				Issued	2009

8. The employers' representative and then the employee (or her/his work colleague or trade union representative) will have an opportunity to sum up their cases if they so wish.
9. The Chair/panel should call for an adjournment for deliberation at this stage.
10. If, after a period of adjournment, the Chair/panel have determined that it is not possible to reach a decision within a reasonable period of time, the employee / respondent will be informed that a decision will be communicated to them in writing within a period of 7 calendar days.
11. the decision of the Chair will be one of the following:
 - a) No action to be taken. On the balance of probabilities, the allegations against the employee / respondent cannot be proven. The employee / respondent will be exonerated.
 - b) The alleged breach of discipline / allegation(s) is proven on the balance of probabilities in whole or part and one of the disciplinary sanctions open to the Chair will be imposed.

REVIEW NUMBER	1	2	3	4	5	6	7	8	9
DATE	5 th Feb 2014	21 st October 2015	April 2016	April 2019					