

Disciplinary and Performance Management Policy & Procedure

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Policy control

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DISCIPLINARY AND PERFORMANCE MANAGEMENT POLICY AND PROCEDURE

1. PURPOSE & SCOPE

The Disciplinary and Performance Management Policy and Procedure applies to all employees of the Glasgow School of Art (GSA).

The aim of this procedure is to ensure consistent and fair treatment for all staff. It is designed to clarify and reinforce rights and responsibilities for all staff and to help and encourage staff to achieve and maintain appropriate standards of conduct, attendance and job performance, as required by the School. It is important that all employees comply with these standards and this Policy also outlines the action that will be taken when those standards are not met.

For the purposes of this procedure 'the School' refers to the responsible officer who has been charged with progressing the procedures outlined.

The Head of HR has overall responsibility for ensuring the consistent application of this Policy.

1.1 The School will apply the procedures set out in this Policy if disciplinary action against an employee is being considered.

Some examples of the circumstances where the School may wish to consider such action are:

- for a reason related to conduct, e.g. misconduct or gross misconduct (see Appendix 1 for more details); or
- for a reason related to performance, capability or absence from work (see Appendix 1 for more details).

The Policy does not apply to dismissal due to redundancy or the non-renewal of fixed term contracts on their expiry.

1.2 In disciplinary cases involving staff at Director/Executive Group level and above, it is possible that Lay Governors (including the Chair) may be asked to become involved in disciplinary and appeals processes, should it be necessary to utilise the independence of Governors.

2. THE DISCIPLINARY PROCEDURE

The disciplinary procedure should be used to address any issues arising from conduct, capability and/or performance. Advice should be sought from the HR Department by the relevant line manager regarding any circumstances which could lead to disciplinary action or dismissal.

For ease of reference the procedure is outlined diagrammatically in Appendix II.

2.1 Informal Stage

Where possible, the School will try to resolve minor problems through informal means as opposed to formal disciplinary action.

- 2.1.1 During the informal meeting(s), the employee will be required to engage in discussions with their line manager in an attempt to establish the cause of the problem. If there are shortcomings in performance or conduct, training and additional support will be considered to enable the employee to meet the required standards. The employee will be made aware of the improvements required, how this could be achieved, the time scales for review and the implications of failing to reach the agreed standards.

A note of these meetings will remain on the employee's personnel file for background information.

- 2.1.2 No formal action will be issued at the informal stage. Should it become clear during an informal meeting that the matter is more serious and should be dealt with through the formal procedures, the line manager should terminate the meeting and contact the HR Department for guidance on progressing through the formal procedure.

2.2 Investigation

- 2.2.1 It is important to carry out a full investigation of potential disciplinary matters in order to establish the facts. In most situations this will require holding an investigatory meeting with the employee before proceeding to any Disciplinary Hearing. In other cases the investigatory stage will be the collation of evidence for the use at a Disciplinary Hearing. No disciplinary action will be taken until the matter has been fully investigated and the employee has had the opportunity to respond to the allegations.

The investigation will normally be carried out by the employee's line manager. In cases of misconduct it may be appropriate that the investigation be carried out by an alternative member of senior staff, who will be designated by the Head of HR. In all cases, the senior member of staff responsible for conducting the investigation will be referred to as the 'investigating manager'. During the investigation the investigating manager will not be able to discuss the matter with the employee being investigated, except during an investigation interview.

- 2.2.2 During the investigation it may be necessary for the investigating manager to interview other employees or witnesses who are able to provide information relevant to the investigation.

- 2.2.3 Any investigation interviews will be carried out by the investigating and a member of the HR Department, who will take a minute of the meeting.
- 2.2.4 Statements taken during the investigation process should be clear, concise, accurate and signed by the person being interviewed.
- 2.2.5 The independent investigating manager will ascertain facts and produce a concise report that clarifies the issues under investigation and, if any, the procedures/standards/performance areas that have been breached. The report will make a recommendation, based on the standards breached, as to whether the matter should proceed through the disciplinary process.
- 2.2.6 Employees being investigated as part of this process do not have the statutory right to be accompanied at this stage. However, the School would actively encourage employees to be accompanied by an appropriate representative (see 2.3.3) where possible.

2.3 Formal Stage

- 2.3.1 If the matter is not resolved through the informal stage, the line manager may proceed to the formal stage of this procedure. In certain circumstances, depending on the severity of the allegations, it may be necessary for a line manager to proceed directly to the formal stage following investigation.
- 2.3.2 Throughout the formal stage, the timing and location of Hearings will be reasonable and the location will be accessible to all parties. Hearings will be conducted in a manner that the School considers allows both parties to explain their respective cases appropriately. All involved parties must take reasonable steps to attend Hearings that they are requested to attend. If they are unable to attend they should explain this immediately to a member of the HR Department.
- 2.3.3 At any Hearing the employee attends s/he has the right to be accompanied by a single representative who must be either:
- one of his/her colleagues who works for the School; or
 - a trade union representative (local or full-time).

A representative may explain the employee's case and summarise the employee's views in relation to the allegations, respond to any views expressed at the Hearing and confer with the employee during the Hearing. A representative cannot answer questions on the employee's behalf or prevent the School from explaining its case.

If the employee reasonably requests that such a person attends a Hearing with him/her but that person is not available to attend, the School will postpone the Hearing to give the employee the opportunity to make alternative arrangements. Normally the postponement will not be any longer than five working days. If the employee wishes a longer postponement s/he should explain this to a member of the HR Department.

- 2.3.4 HR will provide advice on who should conduct the Disciplinary Hearing(s), as referred to in section 2.3.6. A representative from the HR department will also be in attendance at any Hearings held as part of the formal procedure to offer advice and guidance to all

parties. The HR representative will normally be responsible for taking notes of the Hearing (see section 9 of this policy).

2.3.5 Should an employee persistently be unable or unwilling to attend a Disciplinary Hearing without good reason, the School reserves the right to make a decision in their absence based on the evidence available.

2.3.6 The Formal Procedure

Step One – Invitation to Disciplinary Hearing

If it is decided that there is a need to progress to the formal stage the employee will be invited to a formal Disciplinary Hearing. The employee will be notified of this in writing, detailing sufficient information regarding the allegations and the possible consequences. This will enable the employee to prepare their response for the Disciplinary Hearing. Copies of evidence, including witness statements, will also be included.

Step Two – Disciplinary Hearing

Disciplinary Hearings will normally be conducted by the employee's immediate line manager. However, should a final written warning be considered a potential outcome, the Disciplinary Hearing will normally be conducted by the next level of senior staff in the relevant School/Department. Should dismissal be considered a potential outcome, the most senior member of staff in the relevant School/Department will normally conduct the disciplinary hearing. The School reserves the right to nominate other appropriate individuals to conduct the Hearings, dependant on suitability and availability. These individuals will be designated by the Head of HR. A member of the HR Department will also be in attendance at all Disciplinary Hearings (see section 9).

Should the Director of the School be invited to a Disciplinary Hearing, a representative from the Board of Governors will conduct the Hearing.

At the Disciplinary Hearing, the employee will have an opportunity to respond to the allegations against him/her or to the circumstances surrounding their potential disciplinary or dismissal. The employee will also be offered the opportunity to outline any relevant mitigating circumstances.

The manager may adjourn the Disciplinary Hearing: -

- to enable a more detailed investigation if necessary
- to allow a decision to be reached.

The School may confirm the decision orally at the conclusion of the Disciplinary Hearing, if considered appropriate.

All decisions following a Disciplinary Hearing of potential dismissal or disciplinary action will be confirmed in writing within five working days of the date of the meeting. Within the letter the employee will be informed of the reason for the dismissal or the disciplinary action. The right of appeal will also be outlined in this letter.

Where disciplinary action short of dismissal is taken, the letter will also contain information, where relevant, of any perceived shortcomings relating to the employee, details of any time scales within which improvement is to be achieved and the likely consequences should there be no improvement (in line with the timescales outlined in Section 3).

Step Three - Appeal

If the employee wishes to appeal against the outcome of the Disciplinary Hearing they should write to the HR Department outlining their reason(s) for appeal, within five working days from the date of the letter having been received at the conclusion of Step Two. A senior member of the HR Department will designate an appropriate senior member of staff to lead the appeal stage. The member of staff hearing the appeal will not have had any previous involvement in the case.

In cases where the outcome of the Disciplinary Hearing is dismissal of an employee, the appeal will be heard by an Appeal Panel, which will be determined by a senior member of the HR Department. The appeal panel will normally include a member of staff more senior to the manager who conducted the Disciplinary Hearing. The Appeal Panel will also include at least one other independent member of senior staff. None of the panel members will have any previous involvement in the case.

In all cases, the School will invite the employee to attend an Appeal Hearing, generally within 20 working days of receipt of the appeal letter, at which stage the School can consider the grounds for appeal in more detail.

If the reason for appealing is related to the decision to dismiss the employee, the Appeal Hearing may take place after the dismissal has taken effect.

At the Appeal Hearing, the employee will have an opportunity to outline:

- any new information if that was not available at the original Hearing; and/or
- any complaints of a failure in the original decision making process e.g. a failure to follow procedures or a failure to provide a fair hearing.

The School may advise the employee of the decision orally at the conclusion of the Hearing, if considered appropriate.

Appeal decisions will be confirmed in writing, within five working days of the meeting, outlining the School's final response. The individual/panel hearing the appeal may either:

- uphold the original decision and confirm the original outcome; or
- substantially confirm the original decision but substitute a new outcome (this could increase or decrease the action of the original decision); or
- entirely overturn the original disciplinary decision.

There is no right of appeal from this decision. The Grievance Policy and Procedure may not be used as a mechanism for appealing against the decision of the disciplinary outcome (see section 6).

2.3.7 Suspension

The School may, where it considers it appropriate, suspend the employee with pay and without prejudice, pending an investigation and/or the conclusion of the Disciplinary and Performance Management procedure. In such cases, the School will send written confirmation of the suspension details to the employee.

The suspension is not applied as a punitive measure, and its aim is to ensure that individuals and employees are protected and/or to ensure that a full and fair investigation is carried out. The period of suspension will be as brief as possible, normally lasting no longer than ten working days. However, there may be cases where a longer suspension period is required to allow a necessary investigation and/or procedure to take place. The suspension will be reviewed periodically by the School and the employee will be informed in writing should the suspension period be extended. The suspension will end when the employee is informed of the outcome of the investigation or the decision reached following the Disciplinary Hearing.

3. OUTCOMES OF THE DISCIPLINARY PROCESS

3.1 Stage One - Written Warning

The employee will be provided with the reason for the warning, in writing, and informed of the action necessary to reach the required standard of conduct or performance. If appropriate, the employee will be offered extra training and/or counselling. The employee will always be given specific time-scales for improvement and will be advised of the implications should the required standard of conduct or performance not be met.

A record of the written warning will remain active on file within the HR Department for six months after which time it will be expunged.

3.2 Stage Two - Final Written Warning

A Final Written Warning will be considered where: -

- a) An employee's conduct or performance fails to improve having been first given a First Written Warning. Under these circumstances demotion may also be considered, dependant on the individual case; and/or
- b) An employee's actions (whilst falling short of serious breach justifying dismissal) are deemed by the School to be serious enough to warrant only one written warning. In cases of this nature the School may issue a Final Written Warning.

The employee will be provided with the reason for the final written warning and informed of the action required to reach a standard of conduct and performance that is acceptable to the School. The employee will also be reminded that if the required standard is not achieved, or if there is further misconduct, the implications could lead to dismissal. If appropriate, the employee will be offered extra training and/or counselling. The

employee will always be given specific time-scales for improvement.

A record of the final written warning will remain active on file within the HR Department for twelve months, after which time it will be expunged.

3.3 Stage Three - Dismissal

Dismissal will be considered where: -

- a) An employee's conduct or performance fails to improve having been given a Final Written Warning; and/or
- b) The circumstances of the case are considered to be an act of gross misconduct.

The employee will be provided with, in writing, the reasons for dismissal (see section 2.3.6).

- 3.3.1 If an employee is dismissed for gross misconduct they will be dismissed summarily i.e. with immediate effect and have no entitlement to notice or pay in lieu of notice.
- 3.3.2 Summary dismissal may also apply in circumstances where an employee is imprisoned for any offence and thus unable to attend their normal work place.
- 3.3.3 In cases where it is deemed that dismissal may be a potential outcome, employees will be given at least five working days notice to attend the Disciplinary Hearing. Should the employee be unable to attend, they should contact the HR Department as soon as possible explaining the reasons for this, in order that another Hearing can be arranged.

4. ROLES AND RESPONSIBILITIES

4.1 Human Resources Department

The role of the Human Resources Department is to:

- provide advice to staff and management on this policy and procedure;
- provide information to senior staff on comparative cases or decisions which should be taken into account in deciding on a particular case to ensure fairness and consistency;
- provide advice to senior staff on the application of the procedure with the aim of promoting clear and effective use of the policy;
- attend all Disciplinary Hearings and Appeals on an advisory basis;
- provide training on implementing the procedure for managers;
- record and retain statistical information relating to disciplinary action, i.e. type and level, to inform future policies.

4.2 Senior Staff

The role of senior staff members is to:-

Investigation

Any senior staff member who has been requested by the HR Department to conduct an investigation under the Disciplinary and Performance Management Policy and Procedure, has a responsibility to: -

- Carry out full and thorough investigation in order to ascertain the full facts of the case, taking into account all relevant circumstances, prior to taking action;
- Produce a written report on the investigation findings, within a reasonable time frame, and submit this to the HR Department;
- Ensure that the employee being interviewed is aware that the information may well be utilised in terms of the Disciplinary and Performance Management Policy and Procedure;
- Consult the HR Department for advice, where required, whilst conducting the investigation.

Disciplinary Hearing

Any senior staff member who has been requested by the HR Department to conduct a Disciplinary Hearing under the Disciplinary and Performance Management Policy and Procedure, has a responsibility to: -

- Ensure that a full and thorough investigation has been carried out by the investigating manager. Where there is doubt, clarify the facts, or if necessary request the investigating manager carries out further investigation;

- Liaise with the HR Department to ensure that all employee statutory rights have been given;
- Provide the employee with an opportunity to state their case and keep them informed in writing throughout the process;
- Ensure that employees understand the possible outcomes of the Disciplinary and Performance Management Policy and Procedure;
- Take responsibility as required for the decision making of the final outcome of the Disciplinary Hearing;
- The senior staff member who chairs a Disciplinary Hearing should ensure that a final typed minute is submitted to the HR Department. This minute should clearly indicate the decision of the hearing and the circumstances taken into consideration;
- The senior staff member who chairs a Disciplinary Hearing should ensure that the decision of the Hearing is communicated to the employee in writing within the appropriate time-scales (see section 2.3.6).

4.3 Witness

The role of the witness is to:

- provide a clear, accurate and signed witness statement;
- attend a Disciplinary or Appeal Hearing if required;
- respond to any questions arising from their statement.

5. CRIMINAL CONVICTIONS

- 5.1 If an employee is charged with, or convicted of a criminal offence not related to work, and that does not lead to imprisonment, this is not normally in itself reason for disciplinary action. However, consideration will be given to the effect of the charge or conviction has on the employee's suitability to do the job and their relationship with GSA, colleagues, clients and stakeholders. In such circumstances the facts of the case will be carefully considered by the HR department in consultation with the line manager before any disciplinary action is considered.

6. RELATIONSHIP TO THE GRIEVANCE PROCEDURE

- 6.1 In the course of disciplinary proceedings an employee may choose to raise a grievance about the behaviour of the senior staff member handling the case. Where this occurs, the School will give consideration as to whether it is appropriate to suspend the disciplinary procedure for a short period until the grievance can be considered.

Consideration might also be given where possible to engaging an alternative senior staff member to deal with the disciplinary case. However, generally the raising of a grievance will not automatically suspend any disciplinary hearing or action. The Disciplinary Appeals procedure (detailed in section 2) should be utilised where an individual believes they have been unfairly treated during a disciplinary process.

The final decision about such matters rests with the Head of Human Resources.

7. TIMESCALES

- 7.1 The School will deal with all cases promptly and, wherever possible, in line with the time-scales outlined within this policy.
- 7.2 It is recognised that there are occasions when it will be impossible to meet the time-scales set out within the policy due to leave or other unforeseen circumstances. Where time-scales cannot be met owing to such exceptional circumstances, a written explanation of the reasons for exceeding the time limits will be provided to the employee, accompanied by a revised timetable for progression of the case.

8. CONFIDENTIALITY

- 8.1 So far as is reasonable, confidentiality will be maintained throughout the course of the procedures outlined in this policy. However, employees should be aware that it may be necessary to disclose certain information so that the School can fully investigate the circumstances of a case. Similarly, the School cannot be bound by its obligation of confidentiality or a request to take no action where it is advised of wrongdoing that it considers it appropriate to take action on.

9. RECORDS

- 9.1 The School will keep a record of disciplinary action taken, including all letters sent to or by it in relation to the case and any written statements provided by employees or witnesses. These records will be expunged in line with the timescales outlined in Section 3.
- 9.2 Notes of Disciplinary Hearings and Appeal Hearings will be taken by an HR representative and will be used only for reference by the individual(s) conducting the Hearing(s).
- 9.3 All records will be maintained in accordance with the School's obligations in terms of data protection requirements and, as such, will be held for no longer than is necessary for the purposes for which they were obtained.

10. QUESTIONS OR COMPLAINTS

- 10.1 Clarification on the terms or operation of this Policy may be obtained from a member of the HR Department. Any complaints in relation to the Policy or its operation should be directed to a senior member of the HR Department.

11. MONITORING

- 11.1 The number and profile of staff who have been subject to disciplinary action will be monitored by the HR Department. The outcomes of the monitoring process will be presented along with other Performance Indicators to the relevant committees within the School.

MISCONDUCT

Misconduct may be minor, serious or gross.

The type of action taken will be decided in accordance with individual circumstances, including the seriousness of the misconduct and whether it is a first occurrence of unacceptable conduct.

Minor Misconduct

The following is a non-exhaustive list of examples of minor misconduct:

- minor damage to, or unauthorised use of, GSA property;
- a single act of unauthorised leaving of the workplace, or failure to attend work without reasonable excuse;
- minor absenteeism/poor timekeeping;
- minor carelessness, negligence or incompetence in performing normal duties;
- inability to meet performance standards;
- failure to notify the School within the first day of sickness or a minor failure to comply with the absence procedure;
- refusal or failure to fulfil minor contractual obligations.

Serious Misconduct

The following is a non-exhaustive list of examples of serious misconduct:

- persistent lateness or absenteeism;
- persistent work errors;
- failure to carry out lawful, reasonable and safe instructions from an appropriate senior staff member;
- persistent inability to meet performance standards;
- failure to respond adequately to previous warnings;
- rudeness to clients, colleagues at work or senior staff (which may, if sufficiently serious amount to gross misconduct);
- smoking in the workplace;
- unauthorised use of School telephone or fax for personal international calls;
- careless disregard of GSA rules or a breach of policies and procedures.

Gross Misconduct

Gross misconduct can be defined as any act or omission on the part of an employee, which represents a breach of the contract of employment and is so grave that the mutual trust necessary between the employee and the School is destroyed.

The following is a non-exhaustive list of examples of gross misconduct:

- an employee's wilful refusal or failure to carry out the reasonable instructions of the School;
- serious breaches of security or confidentiality, including misuse or disclosure of confidential information;
- unauthorised possession, copying, alteration, destruction or retention of GSA records;
- serious breaches of safety rules which endanger the life and safety of others;
- contravention of safe working practices, established procedures or regulations dictated by current legislation or authorities, including breach of Road Traffic Act legislation and/or regulations;
- conduct likely to bring GSA into disrepute, including abusive language, violent behaviour, fighting, threatening violence, immoral or obscene conduct, whether within or outside the workplace;
- physical assault on persons carried out on GSA premises or whilst engaged on School business;
- excessive or inappropriate use of foul or abusive language or threats made to other employees or clients;
- negligence or incompetence causing or likely to cause unacceptable loss, damage or injury;
- theft, fraud, damage or unauthorised possession of property belonging to GSA;
- disorderly conduct, including being under the influence of substances such as alcohol or drugs, being in possession of unauthorised substances or misusing substances during the course of employment or whilst driving on School business;
- conviction of a criminal offence considered potentially damaging to GSA, or preventing the individual from performing their work;
- frustration or fundamental breach of the contract of employment;
- any act of unlawful discrimination including race, sex, gender, marital status, sexual orientation, religion or belief, or disability against any person during the course of employment;
- any act or behaviour constituting any form of unlawful harassment or victimisation, including harassment or victimisation on the grounds of race, sex, gender, marital status, disability, sexual orientation, religion or belief;
- knowingly breaching legislation, including the Consumer Credit Act, Data Protection Act, Employment Rights Act, or any other legislation governing the operations of School business;
- misrepresentation or falsification of any sort, including GSA sickness records, timesheets, overtime records, expense claims, employment applications or recruitment information;
- deliberate interference with School operations, work or service;
- excessive unauthorised use of GSA internet and e-mail connections.

DISCIPLINARY/PERFORMANCE MANAGEMENT PROCESS

INVESTIGATION

