



SHEBBEAR COLLEGE

STAFF DISCIPLINARY POLICY

Whole School Policy

Reviewed by SLT: March 2022

Next Review: October 2023

Policy Review at Shebbear College

The SLT acknowledge their responsibility to ensure that this policy is effective and follows regulatory requirements. The SLT and Governors undertake a regular review (at least annually) to satisfy themselves that the implementation of this policy is effective.

Purpose

If an employee has difficulties at any stage of the procedure, because of a disability, this should be discussed with HR as soon as possible.

This procedure does not form part of any employee's contract of employment and it may be amended at any time. Shebbear College may vary this procedure, including any time limits, as appropriate, in any case. This procedure does not apply to agency workers or the self-employed.

The procedure is designed to help and encourage all Employees to achieve and maintain acceptable standards of conduct, attendance, job performance and behaviour. The aim of the procedure is to ensure a systematic, consistent and fair approach to the enforcement of these standards. Employees must comply with Shebbear College's policies and procedures as failure to do so may result in disciplinary action being taken by the School.

Action under this policy may ensue when Shebbear College has concerns about your work, conduct or absence, for example.

Principles

- * No action under this policy will be taken until the case has been fully investigated.
- * At every stage of the procedure the Employee will be advised of the nature of the complaint against them and will be given an opportunity to state their case before any decision is reached.
- * At all stages of the procedure (excluding the initial, informal stage referred to below), a trade union representative or another employee of their choosing may accompany the Employee to any meetings.
- * Shebbear College reserves the right to commence disciplinary proceedings against the Employee at any stage in this procedure if the School considers the issues serious enough, and in particular, a final written warning may follow an incident of serious misconduct and dismissal may follow an incident of gross misconduct, even where no previous warning has been given.
- * Employees may not be dismissed for a first breach of discipline except in the case of gross misconduct or if the employee has not yet completed their probationary period.
- * There is a right to appeal against any disciplinary penalty or capability programme imposed.
- * Shebbear College should discuss any disciplinary or capability issues with you informally first unless this is inappropriate in the circumstances (for example, where there have been similar previous issues). Minor faults will be dealt with by counselling, help and advice, but where the matter is more serious the procedure outlined below will be used. Even where issues are dealt with informally, Shebbear College may record the issue, on an employee's personnel file but it will be ignored for the purposes of any future disciplinary or capability hearings.
- * In all but the most straightforward case, a disciplinary or capability meeting will be adjourned before a decision is reached to allow for proper consideration of the evidence. (If facts are disputed, the decision will be taken on the balance of probability as to which version is true).
- * The final decision will normally be given orally at the end of the disciplinary or capability meeting, or when it is reconvened following an adjournment, and in writing within ten days of the disciplinary or capability interview or reconvened interview.

Procedure

Action under this policy may be taken if Employees have demonstrated unsatisfactory conduct or performance that is inconsistent with their responsibilities or position and is therefore disruptive to the smooth working of Shebbear College.

The following is an illustrative but non-exhaustive list of behaviour that is considered unacceptable and which will normally lead to action being taken under this policy:

- **Failing to adhere to any safeguarding or legal requirements relevant to their role or likely to bring Shebbear College into disrepute.**
- **Persistent poor time keeping or absence from the workplace without permission or good cause, including abuse or misrepresentation of sickness or any other absence.**
- Failure to perform work tasks to acceptable, required standards.
- Failure to comply with Shebbear College's procedures and policies.
- Misuse or unauthorised use of Shebbear College property or equipment.
- Deliberately disobeying any reasonable request from a more senior employee.
- Undermining the authority or instructions of senior employees of Shebbear College or any member of the organisation's SLT or acting in a way designed to bring any employee of Shebbear College into disrepute or for any protected disclosures made pursuant to and in accordance with the Public Interest Disclosure Act 1998.
- Offensive language and/or behaviour.
- Breach of any of Shebbear College's rules relating to Health and Safety.
- Breach of the Shebbear College's rules relating to expense guidelines.
- Loss of ability to perform work tasks due to the consumption of alcohol, substances or being under the influence of illegal drugs.
- Unlawful discrimination on grounds of gender, race, disability or sexual orientation.
- Bullying or victimisation of any employees or pupils of Shebbear College.

The procedure is in three stages as follows: -

Stage One – Formal Oral Warning

In the first instance of alleged misconduct or poor performance against an Employee, a Senior Leader will carefully investigate and discuss the problems with them within five working days of the alleged breach of discipline or poor performance or as soon as is reasonably practicable.

The Employee will have the opportunity to state their case and will be provided with copies of all relevant documents and statements before the meeting. The Employee may be accompanied to any meetings by another employee, if they choose, or a trade union representative. If the breach of discipline is proved or alleged poor performance is founded, the manager will then give a formal oral warning identifying the problem, the corrective action required, the time in which the correction must be achieved and the likely consequences of failure to achieve the necessary improvements. The Employee will be informed by the manager that this is the first step of the procedure. A record will be kept of the meeting and a note made on the employee's personnel file.

The Employee will not usually be eligible for transfer, promotion or salary increase while the warning is in effect. This also applies to stages 2 and 3.

Stage Two – Written Warning

If the problem persists or a further or more serious complaint is made against the Employee, a Senior Leader will send the Employee a letter setting out the basis of the complaint following an investigation into the allegations as set out at Stage One.

The Employee will be invited to attend a disciplinary or capability meeting. The Employee may be accompanied by another employee, if they choose, or a trade union representative. At the meeting the manager will state what the allegation or issues are. The Employee will have the opportunity to state their case, present evidence, call witnesses and raise points about any information that witnesses may have provided.

The Employee's companion may address the hearing in order to put the Employee's case, sum up the Employee's case and respond on their behalf. The companion may not, however, answer questions on the Employee's behalf but can request clarification if the question is not clear.

The manager will consider any information provided by the Employee. If the manager decides that the misconduct or poor performance is founded the School may proceed to issue a written warning. The Employee will be informed of the corrective action required, the time in which the correction must be achieved and likely consequences of failure to improve. The Employee will be issued with a written warning memorandum following the meeting confirming the details. A copy will be held on the Employee's personnel file and will usually remain live for 6 months. The Employee has the right to appeal against the written warning (see below).

Stage Three – Final Written Warning

If the Employee's conduct or performance has not improved within the specified time frame, or if there are any further issues, then a Senior Leader will proceed to the next stage – the final written warning. The same procedure will be followed as for the first written warning with

the exception that the consequence of not improving conduct or performance would be dismissal. A copy of the warning will be kept on the Employee's personnel file and will usually remain live for 12 months. The Employee has the right to appeal at this stage also.

Special Cases

As mentioned in the introduction to this procedure, the above procedures are those that will normally be followed. There may be cases which need special treatment and in more severe cases of discipline or poor performance Shebbear College reserves the right to proceed immediately to final written warning without preliminary stages.

Gross Misconduct

In cases of gross misconduct or assisting in gross misconduct an Employee may be summarily dismissed. Gross misconduct is any action which is discreditable, dishonourable or detrimental to the best interests of Shebbear College.

The following is an illustrative but non-exhaustive list of behaviour that is considered to be gross misconduct: -

- Theft or dishonesty.
- Falsification of records, expense accounts, work records, employment applications, medical records, cheques, or any other report or record.
- Disregarding of safety precautions which may endanger the Employee or others.
- Assault, verbal or physical, on another employee, pupil or authorised visitor or any other violent, dangerous or intimidatory conduct (including bullying and victimisation).
- Being under the influence of alcohol, substances or drugs, other than for medicinal purposes, whilst at work.
- Abuse or intentional damage of Shebbear College property or other employees' property.
- Any action which would result in Shebbear College contravening the law by continuing to employ the Employee.
- Any serious failure to adhere to safeguarding and legal requirements relevant to your role.
- Deliberately disobeying any reasonable request or instructions from the line manager after being warned.
- Undermining the authority or instructions of senior employees of Shebbear College or any member of the organisation's SLT or acting in a way designed to bring any employee of Shebbear College into disrepute save for any protected disclosures made pursuant to and in accordance with the Public Interest Disclosure Act 1998.
- Unauthorised disclosure of confidential information or statistics about Shebbear College.
- Conduct violating common decency.
- Acts of incitement or actual acts of discrimination or harassment on the grounds of sex, race, religion, colour, ethnic origin or sexual orientation against another Employee or pupil.
- Conduct, whether outside or inside working hours which may bring the reputation of Shebbear College into disrepute, or which reflects on the employee's suitability for the type of work they perform

Shebbear College may suspend Employees on full pay while investigating a complaint of gross misconduct. Suspension is not a disciplinary action and does not involve any prejudgment. Suspension may also be appropriate during the period of an appeal (see below).

The same procedure will normally be followed as far as the other stages of the disciplinary procedure save that if the gross misconduct is proved to be well founded the Employee is likely to be dismissed. The dismissal may be without notice and without payment in lieu of notice at Shebbear College's discretion.

Appeals Procedure

Employees may appeal against any disciplinary or capability action apart from a verbal warning. If an Employee wishes to make an appeal they must do so in writing, clearly stating the reasons for the appeal. The request must be received by the relevant Senior Leader, or the leader who held the disciplinary meeting, within ten working days of the notification of the disciplinary decision, unless otherwise indicated in the letter confirming the outcome.

If the Employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful, the Employee will be reinstated without any loss of continuity of service or pay.

The Employee will be invited to an appeal meeting. The appeal will be heard by a more Senior Manager where possible who was not involved in or approved the disciplinary or capability action. The Employee may choose to be accompanied by an employee or a trade union representative at the appeal meeting. The Employee will be given the opportunity to present their case at the meeting. The manager will consider all previous evidence, and any new evidence, together with any information provided by the Employee.

If the Employee raises new matters at the appeal, Shebbear College may need to carry out further investigations. If any new information comes to light, Shebbear College will provide the Employee with a summary, including copies of additional relevant documents and witness statements (if any and redacted if appropriate). The Employee will be given a reasonable opportunity to consider this information before the meeting. If new points are raised at the meeting, it may be adjourned to allow further investigations.

Shebbear College will give the employee written notice of the dates, time and place of the appeal meeting. This will normally be 2-7 days after the Employee is issued with written notice.

The appeal meeting may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new evidence that may have come to light. This will be at the School's sole discretion, depending on the circumstances of the case.

The manager hearing the appeal will act as the decision maker but a member of the HR department will also usually be present. The decision will be communicated to the Employee in writing shortly after the appeal meeting. This decision is final and there is no other right of appeal. Following the appeal meeting, the manager may:

- 1) confirm the original decision
- 2) revoke the original decision or
- 3) substitute a different penalty

Incapacity

Should an Employee become incapable of doing their job e.g. for health reasons, incapacity, significant changes in the work they are required to do or a deterioration in skills, the effects plus possible consequences and an assessment of their needs will be discussed with them.

Consideration will be given to rehabilitation, remedial training or any available alternative suitable work. Reasonable time will be given for the Employee to resume required performance standards depending on the individual circumstances that apply and the available resources. Unless the incapacity is due to genuine sickness and/or related absences, if the required performance standards are not consistently achieved, the usual stages of the procedure outlined above will be applied.