

STUDENT DISCIPLINARY POLICY AND PROCEDURE

POLICY / DOCUMENT PURPOSE STATEMENT

This document details the procedures which apply to issues of alleged misconduct and establishes a framework for handling such situations. The purpose is to help the College deal fairly and consistently with disciplinary issues and to ensure that students are aware of the process for handling such matters. It is also designed to ensure that all students achieve and maintain acceptable standards of behaviour.

APPLICATION

The policy and procedure described in this document applies to all students attending courses at Fircroft College.

INTERPRETATION

Further guidance on the use or interpretation of this policy may be obtained from the Student Services Team.

LINKS WITH OTHER POLICIES / DOCUMENTS

Student Charter
Admissions Policy
Safeguarding Policy
Health and Safety Policy
Freedom of Expression Policy
Preventing Radicalisation Guidance
Social Media Policy
Data Protection Policy
Complaints & Complements Procedure

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STUDENT DISCIPLINARY POLICY AND PROCEDURE

1. Scope and Purpose

- 1.1 This document details the procedures which apply to issues of alleged misconduct and establishes a framework for handling such situations. The purpose is to help the College deal fairly and consistently with disciplinary issues and to ensure that students are aware of the process for handling such matters. It is also designed to ensure that all students achieve and maintain acceptable standards of behaviour.
- 1.2 The procedure applies to all students attending courses at Fircroft College.
- 1.3 Information regarding expected student behaviours and College rules are introduced at induction and set out in the Student Charter.

2. General Principles

- 2.1 The principle of natural justice underpins this procedure. This procedure, together with Student Charter, ensure that all students know the standard of behaviour expected and the method of dealing with alleged actions which reduce that standard.
- 2.2 If the formal stage of the procedure is reached and a hearing is required, we will provide the student with details of the hearing, the allegation/s made against and the possible outcomes of the hearing. If the student does not understand the information provided or have any questions, they should ask the Student Services Team.
- 2.3 This procedure gives students the right to be accompanied from the formal procedure onwards. A representative can be a friend, family member, external support worker/carer or another student. Students may not be represented by a practising lawyer or barrister. The College reserves the right to refuse to accept any person whose presence may prejudice the meeting
- 2.4 We will give the student, together with any permitted person that they may choose as a companion, at least 5 working days to prepare their response. The student must provide contact details for their chosen person in 3 working days so that the college can send them any relevant information should they require.
- 2.5 At the hearing we will explain the College's case and give the student the opportunity to put forward their case in respect of the allegations made against them.
- 2.6 The student has the right to appeal against any formal action taken against them under the procedure.
- 2.7 We may miss out stages of the procedure if we think this would be reasonable in the circumstances. In cases of serious or gross misconduct, action against an individual, including exclusion, may occur at any stage of this procedure.
- 2.8 Depending on the circumstances, it may be appropriate to suspend a student from courses in order that an investigation can take place. Suspension does not imply that

any decision has already been made about the allegations nor does it prejudice the outcome of the investigation.

- 2.9 It would be inappropriate for matters that are subject to an internal investigation to be investigated independently by anyone else including the student/s concerned. This may prejudice the investigation and may be subject to disciplinary action.
- 2.10 A student will not be excluded for a first breach of discipline except in the case of gross misconduct when the penalty may be exclusion.
- 2.11 This disciplinary procedure should be understood as incorporating provisions relating to discipline matters, but not limited to, in College policies as above.
- 2.12 Each stage of this procedure will be carried out without unreasonable delay but considering the size and resources available within the College some delays may be unavoidable.
- 2.13 We aim to deal with disciplinary matters sensitively and with due respect for the privacy of the individuals involved. All students and third parties must treat as confidential, any information communicated to them in connection with an investigation or a disciplinary matter. This is regardless of the level of involvement in the process.
- 2.14 We will keep records of any formal action taken under these disciplinary procedures, including formal warnings that are no longer in effect, for as long as necessary. These records will be treated as confidential.
- 2.15 If a student has difficulty at any stage of the disciplinary procedure for any reason, including because of a Protected Characteristic (Equality Act), they should inform the Student Services Team as soon as possible.

3. Informal Procedure

- 3.1 At our discretion, we may choose to deal with minor instances of misconduct informally by way of guidance or instruction or ABC (Acceptable Behaviour Contract). This will usually be conducted by a Team Leader or Manager. A note of the circumstances and action to be taken will be noted on the student's records.
- 3.2 Where there are Mental Health or other relevant considerations the Fitness to Study Policy and Procedure will be considered.
- 3.2 Informal resolution will not be appropriate for serious or gross misconduct issues including matters such as allegations of bullying, harassment, or discrimination.
- 3.3 If, following informal action there are any further instances of misconduct whether linked to the original instance or a new instance the formal procedure will be applied.

4. Suspension Pending Investigation or Disciplinary Hearing

- 4.1 There may be circumstances before or during an investigation where suspension from courses pending an investigation or the holding of a formal disciplinary hearing may be appropriate. Examples of circumstances in which suspension may be appropriate, depending on the facts of the situation, include: gross misconduct cases; situations where there are risks to a member of staff and/or students or the College's property; or where there are reasonable grounds for concern that evidence could be tampered with, destroyed or witnesses pressurised.

- 4.2 The decision to suspend can only be made by Head of Student Experience or another Member of the Management Team
- 4.3 Suspension should only be imposed after careful consideration and it should be made clear to the student that it is not considered a disciplinary act.
- 4.4 If the decision is made to suspend a student from the College, they will:
 - i. confirm the suspension by e-mail or in writing to the student without unreasonable delay; and
 - ii. inform the student in writing of the reasons for the suspension, without unreasonable delay.

5. Investigation

- 5.1 The purpose of the investigation is to establish whether there is a case to answer. An appropriate Manager/Officer will be nominated to act as Investigating Officer. They will investigate the facts of the matter, including questioning relevant witnesses.
- 5.2 The results of the investigation will be presented in the form of a written or verbal report by the Investigating Officer. The Investigating Officer will also compile evidence relevant to the allegations.
- 5.3 If, after appropriate investigation, the Investigating Officer recommends that a case exists against a student, a formal disciplinary hearing will be arranged.
- 5.4 If, after appropriate investigation, there is no evidence of misconduct, no further action will be taken and the student will be informed of this in writing (by e-mail or letter).

6. Hearings

- 6.1 All disciplinary hearings, will be held at a reasonable time and place, the student will be given at least 5 days' notice to prepare for the meeting. If a student is invited to attend a disciplinary hearing they must take all reasonable steps to attend. If, without good cause, they are persistently unable or unwilling to attend, we will hear the matter in the absence of the student and decide an outcome based on the evidence available to us. In other circumstances where it seems likely that for a lengthy period, the student will be unable to attend a disciplinary hearing, the College reserves the right to go ahead with that hearing, affording the student the right to either submit written representations and/or be represented by a friend, family member, external support worker or carer.
- 6.2 Summarised minutes will be taken at all disciplinary hearings and these will be stored confidentially. Hearings will not be permitted to be recorded by anyone present.
- 6.3 If any matters come to light during a disciplinary hearing which require further investigation, we may, at our discretion, adjourn the hearing to enable further investigation.

See Appendix A for the procedure for disciplinary hearings.

7. Disciplinary Action

The usual penalties for misconduct are set out below. No formal penalty should be imposed without a hearing.

Stage 1: First written warning

At the conclusion of the disciplinary hearing, we may decide to issue a first written warning if a student's conduct does not meet the College's standards.

This will normally be issued by the Student Services Team Leader or Head of Student Experience and will state the following:

- i. the nature of the misconduct that has led to the warning.
- ii. the action or improvement (if any) which is required of the student.
- iii. that an Acceptable Behaviour Contract (ABC) will need to be agreed (if appropriate).
- iv. the consequences if the student does not take the required action or fails to improve or if there is further misconduct.
- v. when the warning will cease to have effect, subject to satisfactory conduct. This will normally be after 6 months, but a longer period may be stated depending on the circumstances.
- vi. the right of appeal.

All these matters will be confirmed in writing (e-mail or letter).

Stage 2: Final written warning

The College may issue a final written warning if:

- i. the required improvement/s has not been achieved (stated in the first written warning)
- ii. further misconduct occurs while a first warning is still in effect, whether or not involving a repetition of the conduct which was the subject of a previous warning
- iii. the seriousness of the misconduct merits it, regardless of whether we have issued any previous warnings

A final written warning will normally be issued Student Services Team Leader or Head of Student Experience. Where, at the conclusion of a disciplinary hearing, we decide to issue a final written warning, the student will be informed of the following:

- i. the nature of the misconduct that has led to the final warning, including any prior warning(s) which have been considered.
- ii. the action or improvement (if any) which is required of the student.
- iii. if appropriate, the timescale for implementing any such action.

- iv. the fact that this is a final warning and that the next stage of the procedure will be exclusion.
- v. when the warning will cease to have effect, subject to satisfactory conduct. This will normally be after 12 months but a longer period may be stated in exceptional cases.
- vi. the right of appeal.

All these matters will be confirmed in writing (e-mail or letter).

Stage 3: Exclusion

A decision to exclude a student will normally be taken by the Head of Student Experience or another Head of department. The student will be excluded only after they have received a written (by e-mail or letter) invitation to a disciplinary hearing and the hearing has been held or a decision has been taken in the student's absence if they have not attended.

We may exclude if:

- i. the required improvement has not been achieved (stated in the final written warning).
- ii. further misconduct occurs while a final written warning is still in effect, whether or not involving a repetition of the conduct which was the subject of a previous warning.
- iii. it is reasonably believed that the student has committed an act of gross misconduct.

See Appendix B for information regarding gross misconduct.

If the decision is to exclude the student, the student will be informed within 3 days in writing (by e-mail or letter) stating the grounds on which they have been excluded, the length of the exclusion and informing them of their right to appeal.

8. Appeals

- 8.1 If a student is dissatisfied with a disciplinary decision, they can appeal against that decision. Appeals should be in writing, setting out the reasons for the appeal, and should be delivered to the Head of Student Experience within 5 working days of the disciplinary decision. The student will then be invited to an appeal meeting, which will be held as soon as reasonably practicable. The appeal meeting may take place after the disciplinary decision has taken effect. If the student is appealing against exclusion and their appeal is subsequently upheld, they will normally be treated as having continued in study pending the hearing of the appeal. However, if the appeal is not successful, the original date of their exclusion will stand.
- 8.2 The student will be given at least 5 working days' notice of the date, time and place fixed for the appeal hearing to allow them to prepare.
- 8.3 At the appeal hearing, the student will be given the opportunity to state their case. The student will have the right to be accompanied by a friend, family member, or external support worker/carer. The Head of Department or Manager of the earlier disciplinary hearing may also be in attendance in order to explain the disciplinary decision made.

- 8.4 The purpose of an appeal hearing is to allow the student to raise issues as to the fairness of the original decision either on procedural grounds or in relation to the factual basis on which the decision has been made. This could include the presentation of new information not previously available. The basis of any appeal should be defined clearly and succinct. It should be presented in writing, stating the issues they believe make the decision unfair.
- 8.5 Summarised minutes will be taken at all appeal hearings and these will be stored confidentially. Any documentation from the process must be treated in the strictest confidence by all parties involved, failure to do so may lead to disciplinary action. Meetings will not be permitted to be recorded.

See Appendix C for the procedure for appeals.

9. Right to be accompanied in formal hearings

- 9.1 In any formal disciplinary hearings under this policy, including appeals, the student has a right to make a reasonable request to be accompanied by a family member, friend, or external support worker/carer.
- 9.2 When choosing a companion, students should bear in mind that it would not be reasonable to insist on being accompanied by a person whose presence may prejudice the hearing or who may have a conflict of interest. The College reserves the right to refuse the requested companion in these circumstances.
- 9.3 The chosen companion may:
- i. present the student's case;
 - ii. sum up the student's case;
 - iii. respond on the student's behalf to any view expressed at the hearing;

but has no right to:

- i. answer questions on the student's behalf;
- ii. address the hearing if the student does not wish it;
- iii. prevent any other party in the hearing from explaining their case.

Appendix A - PROCEDURE FOR A DISCIPLINARY HEARING

Arrangements and introductions

1. A copy of the Disciplinary Procedure will be sent to the student and they will also be informed in writing of the following, at least 5 working days prior to the hearing: -
 - date, time and place of hearing;
 - the panel members and identity of the chair;
 - specific details of the allegation(s) made;
 - that the hearing is of a formal disciplinary nature;
 - the right to be accompanied, as set out in point 8 of this policy;
 - the right to submit any written submission in advance of the hearing;
 - the right to receive any written submissions made in advance of the hearing, including witness statements;
 - the possible consequences.

 2. The Chair (who will be a Head of Department or an appropriate manager/person in the college) will introduce all those present.

 3. During the hearing, adjournments may be requested by either party or by the Chair and will not be refused unreasonably.

 4. If applicable the Chair will set out that the student's companion may:
 - present the student's case;
 - sum up the student's case;
 - respond on the student's behalf to any view expressed at the hearing;
- but has no right to:
- answer questions on the student's behalf;
 - address the hearing if the student does not wish it;
 - prevent any other party in the hearing from explaining their case.
5. The Chair may ask questions at any time.

Not every hearing will be conducted in exactly the same way and will depend on the particular circumstances and nature of the allegations and severity of the penalty that may be issued. However, a typical procedure to be followed at a disciplinary hearing is outlined below.

During the Hearing

- (a) The Investigating Officer will be a manager or an appropriate person in the college (IO) will present the details of the allegation and on the investigation undertaken.
- (b) The IO may be questioned by the student and their companion and afterwards by the chair conducting the hearing.
- (c) If appropriate, the IO may call witnesses* individually and ask questions of them. The student or companion and the chair may then question the witness(es).
- (d) The student and/or companion will present the case against the allegations and explain any special circumstances which may exist.

- (e) The Chair may ask the IO if they have any comments on what has been said by student or the witness(es).
- (f) The chair may question the student.
- (g) If appropriate, the student and/or companion may call witness(es).
- (h) The Chair may question the witness(es). The Chair may ask the IO if they have any comments on what has been said by the witness(es).
- (i) The IO will summarise the case against the student without introducing any new factors.
- (j) The student and/or companion will summarise the case against the allegation.
- (k) The Chair will conclude the hearing and adjourn.
- (l) After the hearing, the chair will decide whether or not an offence has been committed. The Chair may seek guidance from the Head of Student Experience on procedural matters.
- (m) If, in the opinion of the Chair conducting the hearing an offence has been committed, any relevant factors will be considered before deciding upon an appropriate disciplinary sanction.
- (n) Once that decision is made the student will be notified by the Chair immediately if possible, then written confirmation of the decision will be sent to the student without unreasonable delay.
- (o) The student will be advised of their right to appeal against the decision and informed who that appeal should be lodged with and in what timescale.

* Each witness will attend only for his/her own evidence and will withdraw once his/her evidence is given.

Appendix B – Definitions of Gross Misconduct

Gross misconduct is defined as behaviour, which, in the view of the College, fundamentally destroys the trust between College and student and thereby warrants formal disciplinary action. The following list illustrates conduct, which is likely to amount to gross misconduct, but this list is neither exclusive nor exhaustive. There may be other offences of a similar gravity which would constitute gross misconduct:

- Refusal to accept and act on reasonable instructions from College staff.
- Gross Negligence.
- Theft or unauthorised possession of any property or facilities belonging to the College or to any employee or student or visitor.
- Serious damage deliberately caused to College property.
- Inappropriate use of the internet or computer misuse (including deliberately accessing internet sites at College which contain pornographic, offensive, or obscene material or materials inciting terrorism in line with the Prevent Duty).
- Deliberate misuse of College policies and resources (including IT).
- Bringing the College into serious disrepute.
- Possession or trafficking of drugs or weapons.
- Deliberate falsification of College documents.
- Deliberate falsification of application form information.
- Bribery or corruption or fraud.
- Deliberate refusal to carry out reasonable instructions or to comply with College rules.
- Any actions amounting to a serious breach of trust and confidence.

- Serious negligence/incompetence which causes or might cause unacceptable loss, damage, or injury.
- Serious incapability and/or misconduct because of being intoxicated by reason of alcohol or illegal drugs.
- Violent, dangerous or intimidatory conduct or bullying behaviour. **(See Definitions).**
- Harassment or deliberate discrimination. **(See Definitions).**
- Violation of the College's rules and procedures concerning health and safety.
- A criminal offence, which may (whether it is committed during or outside the student's study at the College) adversely affect the College's reputation, or cause safety concerns within the College environment or student body
- Unauthorised disclosure of confidential information.

DEFINITIONS OF BULLYING AND HARRASSMENT

- Offensive songs, remarks, jokes, emails, or gestures
- Display of offensive posters, publications and graffiti
- Unwanted physical contact or advances
- Offensive remarks about a person's dress or appearance,
- Offensive remarks about a person's race, gender, marital status, disability, religion or belief, sexual orientation, gender identity or age
- Shouting, abusive or intimidating language
- Spreading malicious rumours, allegations or gossip
- Excluding, marginalising or ignoring someone
- Intrusion by pestering, spying or stalking
- Deliberately undermining a competent student
- Cyber-bullying: that is, the sending or posting of harmful, cruel or offensive text or images by email, internet, social networking websites or other digital communication devices.

The above list is intended to give a clear impression of the types of behaviour that the College considers to be unacceptable; however, it only contains examples and is not exhaustive.

The College will not tolerate acts of harassment or bullying.

It is recognised and accepted that vigorous academic debate, occasional raised voices or argument, in itself may not necessarily constitute harassment or bullying.

It is the individual's perception of whether the conduct in question was unacceptable that is important in determining whether harassment occurred. Where the conduct in question is found to have been unintentional, it will be viewed as having the effect of harassment if this could be regarded as a reasonable conclusion when considering all the circumstances, including the complainant's perception.

Appendix C - PROCEDURE FOR APPEALS

Arrangements and Introductions

An appeal can be conducted by a senior manager in the college who is not previously involved in the hearing.

1. If an appeal has been received and provided there are reasonable grounds for an appeal an Appeal Hearing will be arranged, and all parties invited.
2. Any additional information must be received by the College 3 working days before the date of the Appeal Hearing or it will not be considered.
3. During the hearing, adjournments may be requested by either party or by the Chair and will not be refused unreasonably.
4. The Chair will set out that the student's companion may:
 - present the student's case.
 - sum up the student's case.
 - respond on the student's behalf to any view expressed at the hearing.

but has no right to:

- answer questions on the student's behalf.
 - address the hearing if the student does not wish it.
 - prevent any other party in the hearing from explaining their case.
5. The chair may ask questions at any time.

Not every hearing will be conducted in the same way and will depend on the circumstances and nature of the allegations. However, a typical procedure to be followed at a disciplinary appeal hearing is outlined below.

During the Hearing.

- (a) The student or companion will state the precise nature of the appeal. They will then explain their case and any special circumstances which may exist.
- (b) If necessary, the chair of the hearing may call the chair and investigating officer from the original disciplinary decision in order to ask any relevant questions.
- (c) The student or companion may question the chair and investigating officer who made the original disciplinary decision.
- (d) The chair and investigating officer who made the original disciplinary decision will withdraw.
- (e) The student or companion will summarise the appeal, with no new factors to be introduced.
- (f) After the hearing, the chair will review case before making decision, taking account of the original disciplinary decision and the student's representations from the appeal hearing.
- (g) Once that decision is made following the hearing, written confirmation of the decision will be sent to both parties within 3 working days.