

# DISCIPLINARY AND GRIEVANCE POLICY

## 2024-26

Policy Review					
Author/Owner	Position	Approved by:	Approval Date	Review Cycle Review Date	Published on Website Y/N
Rachel Gage	Head of HR	SMT 	21.06.24	Bi-yearly	N

Document Control – Revision History (Policies only)					
Author/Owner	Summary of Changes	Date	Version	Date last reviewed by SED	Recommend to SED Y/N
Steve Chattell	Amended to reflect change in recording process	26.09.18		24.02.16	Yes
Gayle Williams	Minor amendments in Appendix and wording within the Gross Misconduct	03.12.2021			
Gayle Williams	Combined Disciplinary and Grievance policy together and removed the procedure	12.04.2022	v1		
Clare	Checked legislation updates, nothing requires any amendments from the legal standpoint	20.06.24	v1.1	-	-

Initial Equality Impact Screening					
<b>Has anyone else been consulted on this policy and/or procedure?</b>					
<b>What evidence has been used for this impact screening (e.g. related policies, publications)?</b>					
<b>Declaration (please tick one statement and indicate any negative impacts)</b>					
<input checked="" type="checkbox"/>	I am satisfied that an initial screening has been carried out on this Policy and/or Procedure and a full Equality Impact Assessment is not required. There are no specific negative impacts on any of the Protected Characteristics groups.				
<input type="checkbox"/>	I recommend that an Equality Impact Assessment is required by the Equality and Diversity group, as possible negative impacts have been identified for one or more of the Protected Characteristics groups as follows:				
<input type="checkbox"/> Age <input type="checkbox"/> Disability <input type="checkbox"/> Gender Reassignment <input type="checkbox"/> Race <input type="checkbox"/> Religion or belief <input type="checkbox"/> Sex <input type="checkbox"/> Sexual orientation <input type="checkbox"/> Marriage & civil partnership <input type="checkbox"/> Pregnancy & maternity					
Completed by:	Clare Hammond-Sayer	Position:	Director of People and Compliance	Date:	20.06.2024
Reviewed by Equality & Diversity Group: YES/NO			If Yes: Date:		
I confirm that any recommended amendments have been made					
<b>Summary of Comments including Recommendations from Equality &amp; Diversity Group Review:</b>					
Amended by Author:		Position:		Date:	

## Contents

1. PURPOSE.....	4
2. SCOPE .....	4
3. RESPONSIBILITY & AUTHORITY .....	5
4. GENERAL PRINCIPLES .....	7
5. RESOLVING A GRIEVANCE .....	9
6. GRIEVANCES RAISED POST EMPLOYMENT .....	10
7. PRECAUTIONARY SUSPENSION .....	10
8. RIGHT OF REPRESENTATION .....	10
9. APPEALS.....	11
10. TIMESCALES, LEVEL OF AUTHORITY AND SANCTIONS .....	11
11. NON-ATTENDANCE AT A HEARING. ....	12
12. REVIEW, VARIATION AND TERMINATION OF THIS POLICY.....	12
13. EQUALITY & DIVERSITY STATEMENT .....	13
14. RELATED POLICIES, PROCEDURES, DOCUMENTS, DEFINITIONS .....	13

## 1. PURPOSE

**1.1** Investigations into allegations of disciplinary breaches are necessary in order for the College to determine whether a disciplinary procedure is to be implemented. It is necessary for the efficient operation of the College and the health and safety of its staff. The College recognises the vital role that investigations play in a fair disciplinary procedure. This policy will be applied in accordance with the College's Instruments and Articles of Government, of the Corporation and is intended to conform to and comply with any relevant statutory provisions, national agreements, and ACAS Codes of Practice and associated guidance in force at the material time.

**1.2** It is the College's policy to find a solution to individual grievances as early in the procedure as possible and every effort will be made to resolve these at the informal stage.

**1.3** This disciplinary and grievance policy is designed to:

- Help and encourage employees to achieve and maintain acceptable standards of conduct and job performance.
- Ensure that fair, consistent, and reasonable action is taken where disciplinary action is regarded as necessary following a grievance or conduct concern.
- It is our policy to comply with all statutory requirements and the ACAS Code of Practice Disciplinary and grievance procedures.

## 2. SCOPE

This policy covers the following areas:

- Disciplinary
- Grievance

**2.1** This policy applies to all staff employed by the College including Senior Post Holders. Where the policy and procedure refer to Line Manager/ or Appropriate Manager, in the case of Senior Post Holders, this will be the Corporation, as defined in the College's Articles and Instruments of Government.

This policy does not apply to:

- a) Termination during or at the end of a probationary period of employment (this is covered by the Probationary Policy).
- b) Resignation by the employee, or other termination by mutual consent.

**2.2** Work performance below acceptable standards, where the problem stems from a lack of skill and/or aptitude. In this case, the matter will be dealt with separately through the College's Capability Policy and Procedure.

### **3. RESPONSIBILITY & AUTHORITY**

**3.1** Levels of authority, sanctions and timescales are clearly articulated in section 10.

**3.2 Employee:** All employees are encouraged to achieve and maintain standards of conduct and job performance. Informal action will be considered, where appropriate to resolve problems. The disciplinary procedure may be implemented at any stage if the employee's alleged misconduct warrants this.

**3.3 Managers:** All Managers members of the College Management Team (CMT) responsible for the application of this policy.

**3.4 Investigating Officer:** The investigating officer's role is to establish the facts concerning the alleged misconduct. They will conduct an investigation that includes:

- Interviewing and obtaining statements from the employee against whom the allegation has been raised against as well as potential witnesses.
- Obtain any other relevant documentary evidence.
- Prepare a comprehensive report that contains all the relevant and factual documents, interview meeting notes and witness statements. The report will contain an evaluation of the facts and make recommendations where appropriate, which will include whether the matter should be referred to a disciplinary meeting.
- Attend and complete the relevant training related to disciplinary and grievance policies and procedures.

**3.5 Disciplinary Chair:** Ensure the fair conduct of the hearing and compliance with the rules of natural justice. Ensure they are familiar with the principles in the ACAS code of practice on disciplinary and grievance procedures. Ensure they have the necessary authority to impose disciplinary sanctions. The chair should also ensure that the employee has: read and understood the applicable disciplinary procedure; understood the purpose of the hearing; and received copies of any documents that will be referred to during the hearing.

**3.6 Appeal Chair:** Following the receipt of an appeal, HR will appoint an appropriate person to conduct the appeal, this could be another manager/officer at the same grade or above as the disciplinary chair, or a member of SMT (Senior Management Team). They may carry out some

additional investigations if new information has been raised. In delivering their conclusions they will also make recommendations to support those involved to move forward.

**3.7 Grievance Chair:** The manager assigned by HR to consider the grievance at Stage 1. Their role is to seek to resolve the grievance in a transparent and impartial manner. They meet with the employee to understand the basis for the grievance and the resolution sought. They will conduct any investigation required, including meeting with the respondent. The employee and respondent may identify potential witnesses and the Chair will consider which to see recognising the need to keep this to the minimum without compromising the need for a fair and reasonable process. If the Chair decides not to interview a potential witness the rationale for this should be explained to the employee and/or respondent when delivering the outcome. Following the investigation, the Chair will reach a conclusion on the outcome and make appropriate recommendations to resolve the grievance. They will then communicate these to the employee and confirm them in writing. They will also inform any other relevant parties of the outcome and actions required to take forward the recommendations. This may include recommending that the matter is progressed under Disciplinary processes. The Chair, with support from HR, is responsible for ensuring that as far as possible, both the employee and the respondent are kept informed and feel equally supported and fairly treated throughout the process.

**3.8 HR:** The Head of HR is responsible for ensuring that the policy is up-to-date, relevant and complies with prevailing legislation as well as training for relevant staff. The Head of HR or designated representative is responsible for ensuring the correct procedure is followed. A member of the HR team is present at all stages in the process to give appropriate advice and to take notes. They may provide advice on the process, the conduct of any investigation and the communication to the various parties involved. They may also advise on potential options for resolution, sharing information on relevant policy matters and precedence relating to the case. The HR Representative does not make the decision on the outcome but may be asked to support the actions arising from any recommendations made by the Investigation/Disciplinary/Grievance or Appeal Chair.

The HR Representative will always aim to ensure that all parties are treated fairly and with respect and are both guided and supported through the process. The HR Representative is responsible for retaining documents relating to the meeting and recording the outcome on the HR System. In the case of Senior Post Holders, the Corporation will decide whether these responsibilities will be with HR, Corporation, or external parties.

**3.9 Trade Union Representative or Work Colleague:** To support those involved in a process and assist them in preparing for any meetings and presenting information to the hearing

manager. Their role is to support the employee, they may assist the employee to prepare for any meetings, defining the issues and any supporting evidence and in cases of a grievance to help find a resolution. They may present information at any meetings on behalf of the employee and help them to ensure the Chair has a full understanding. They may not answer questions on behalf of the employee. The Trade Union Representative or colleague may request an adjournment during any meetings if they feel this is required.

**3.9.1 Corporation:** In cases where the grievance or allegations are against a Senior Post Holder, on all stages in the process the corporation will be responsible for appointing an appropriate investigating officer, chair and/or hearing panel as outlined in the Instrument and Articles of Governance. They will also be responsible for issuing any sanctions following any formal hearing.

## **4. GENERAL PRINCIPLES**

### **4.1 Investigations/ Disciplinary Hearings**

Wherever possible, minor problems should be resolved informally by the line manager, without recourse to formal procedures. Where it is not possible for a problem to be resolved informally, or the severity of the allegation warrants it, the formal procedure detailed below should be followed:

**4.2** An investigation will normally be undertaken following an allegation of misconduct. However, there may be some instances where an investigation is not needed and, in these instances, the matter will be taken straight to a disciplinary hearing (such as absence or lateness). Any such determination will be made by a senior member of the HR Team, and the reasons notified to the employee concerned in writing. Investigations will be carried out by an appropriate member of the College Management Team as appointed by the supporting HR Representative. The investigation will determine whether there is a case to answer, but not whether there is guilt.

- An investigatory meeting is **not** a formal disciplinary hearing.
- Formal warnings will only ever be issued following a disciplinary hearing.

### **4.3 Safeguarding and Assessing Low Level Concerns - Allegation**

Behaviour which indicates that an adult who works with children has:

- behaved in a way that has harmed a child, or may have harmed a child; and/or
- possibly committed a criminal offence against or related to a child; and/or
- behaved towards a child or children in a way that indicates they may pose a risk of harm to children; and/or

- behaved or may have behaved in a way that indicates they may not be suitable to work with children.

#### **4.4 Low-Level Concern**

Does not mean that it is insignificant, it means that the adult's behaviour towards a child does not meet the threshold set out above. A low-level concern is any concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' – that an adult may have acted in a way that:

- is inconsistent with an organisation's code of conduct, including inappropriate conduct outside of work, and
- does not meet the allegation threshold or is otherwise not serious enough to consider a referral to the LADO - but may merit consulting with and seeking advice from the LADO, and on a no-names basis if necessary.

#### **4.5 Appropriate Conduct**

Behaviour which is entirely consistent with the organisation's code of business conduct, and the law.

#### **4.6 Gross Misconduct**

Dismissal on grounds of Gross Misconduct will mean summary dismissal, without notice and confirmed to the employee in writing, specifying the reasons for the dismissal and the right of appeal against it.

Matters that the College views as amounting to gross misconduct include (but are not limited to):

- Theft or unauthorised possession of any property or facilities belonging to the College or to any employee or student.
- Serious and deliberate damage or misuse of College property.
- Deliberate falsification of College documentation (e.g., registers, reports, accounts, expense claims, self-certification forms, application forms).
- Supplying false information on a reference on behalf of the College.
- Bribery or corruption
- Serious inappropriate/offensive behaviour which threatens the College's reputation with stakeholders or the community
- Serious negligence or incompetence which causes unacceptable loss, damage, or injury.
- Possession, or consumption of alcohol or drugs whilst on the premises, or being under the influence of alcohol or drugs, which could affect work performance in any way or have an impact on other employees or students.

- Serious breach of Code of Business Conduct which could include a serious safeguarding matter.
- Violent, dangerous, or intimidating conduct to other employees or students.
- Intentional discriminatory behaviour, sexual harassment, or harassment in relation to any of the protected characteristics set out in the Equality Act 2010.
- A serious breach of the College's rules, policies or procedures including but not restricted to, health and safety rules and rules on computer use.
- Deliberately accessing internet sites containing pornography, offensive or obscene material.
- Arrest or Conviction of a criminal offence that is relevant to the employee's suitability to continue in their role and employment.

## **5. RESOLVING A GRIEVANCE**

**5.1** Every effort will be made to resolve the grievance at the informal stage at a local level as described in the procedure. At all stages of the procedure, a full record will be kept detailing the grievance. The record will be kept confidential and on the personal file of the employees involved. The employee should complete the grievance form and forward it to HR. If the grievance is about a Senior Post Holder, then it should be addressed to The Chair of the Corporation.

**5.2** If the grievance is not resolved at the informal stage, HR who will appoint an appropriate Manager to investigate the grievance.

**5.3** Where the subject matter of the grievance is also subject to another resolution procedure such as Respect at Work, including provision for appeal, that specific policy and procedure should be used; in such cases, recourse to the grievance procedure is confined to grievances relating to the manner in which the specific procedure has been undertaken.

**5.4** In the interest of ensuring that grievances are resolved as speedily as possible, time limits are given for appropriate stages in this procedure. These are for guidance. If it is not practicable to adhere to these time limits, they may be amended by mutual agreement. Due regard will be given to the personal circumstances of all parties involved in the procedure.

**5.5** Where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related, the Head of HR may take the view that it is appropriate to deal with both issues concurrently.

## **6. GRIEVANCES RAISED POST EMPLOYMENT**

**6.1** Where a member of staff raising a grievance has left the employment of the College, they should raise the matter in writing to the Head of HR, providing full details of the complaint. Within ten working days of receipt of the written grievance, the Head of HR will respond in writing explaining whether this procedure or a modified procedure will be followed. Where a modified procedure is proposed, the reasons for any such modifications will be given. If the grievance is about a Senior Post Holder, the Chair of Corporation will respond.

## **7. PRECAUTIONARY SUSPENSION**

**7.1** The College may decide to suspend or temporarily redeploy the employee on full pay and benefits whilst an investigation is carried out, where it is judged that the disciplinary matter is particularly sensitive and the employee remaining at work may impede a proper and full investigation. A precautionary suspension should only be carried out by a member of the Senior Management Team. The decision to suspend will be confirmed in writing, along with the grounds for suspension.

## **8. RIGHT OF REPRESENTATION**

**8.1** Employees **do not** have the statutory right to be accompanied at an investigation meeting. However, representation will be allowed at an investigation meeting under this policy on the basis that the availability of the chosen representative does not prevent the investigation being conducted in a timely manner relative to the issue being investigated. The representative **does not** have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

**8.2** Employees **will** have the right to be accompanied by a work colleague or Trade Union representative of their choice at all **formal** disciplinary hearings. The representative should be allowed to address the hearing to put and sum up the employee's case, clarify on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting. The representative **does not** have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

**8.3** Although normal disciplinary standards apply, no disciplinary action will be taken against a recognised Trade Union representative until the circumstances of the case and representation

have been discussed with the full-time Official of the Trade Union concerned. The only exception to this is in the case of suspension, where significant effort has been made to contact a full-time official without success. In this circumstance, suspension may take place and the matter will be discussed at the earliest opportunity.

## **9. APPEALS**

**9.1** An employee who wishes to appeal against any disciplinary sanction should complete the appeal form and email it to Head of HR, stating the grounds for the appeal, within **five working days** of the date of the relevant disciplinary decision. The appeal meeting should be held as soon as is possible.

## **10. TIMESCALES, LEVEL OF AUTHORITY AND SANCTIONS**

**10.1** Scope of the timescales, level of authority and sanctions relation only to staff of the college up to SMT level. Senior Postholder investigations, grievance and disciplinary timescales and sanctions will be the responsibility of the corporation, see 3.9 above.

**10.2** Timescales given under this Policy are guidelines only and may be varied by mutual consent.

Type of meeting	Time to complete	Outcome
Investigation	Carried out promptly and ideally concluded within 10 – 20 working days (depending on the situation and the number of witnesses)	If no formal action an ROC (Record of Conversation) may be completed by the investigating manager if appropriate.
Disciplinary	Invite letter to disciplinary meeting sent to employee within a reasonable time frame allowing the statutory notice of a minimum of 48 hours.	Outcome letter within 5 working days.
Appeal	Invite letter to appeal meeting <b>ideally</b> within 15 working days of the appeal being raised, with a minimum of 48 hours written notice to the employee before the meeting.	Appeal outcome letter within 5 working days of the appeal decision being made.

Grievance	Following receipt of grievance form, a formal meeting should be arranged within 14 days.	Dependant on how many witnesses may need to be interviewed/investigated, the outcome should be communicated in writing within a reasonable timeframe.
-----------	--	---

**10.3** Any disciplinary hearing will be chaired by an appropriate level manager dependent on the circumstances of the case. Following any disciplinary hearing outcome, the appropriate sanction will be placed on the employee's personnel record. The table below shows which levels of management can issue warnings at each level of sanction:

Level of sanction	Length of time warning is live	Who can issue warning
Written Warning	6 months	Member of CMT or their line manager
Final Written Warning	12 months	Member of CMT or their line manager
Dismissal - Contractual	Immediate, with pay in lieu of notice	Member of SMT
Dismissal - Summary	Immediate, no pay in lieu of notice	Senior Post Holder

## **11. NON-ATTENDANCE AT A HEARING.**

**11.1** If the employee is unable to attend for good reason e.g., illness, then the hearing will be re-scheduled. If their work colleague or union representative is unavailable the hearing may be postponed for up to **five working days**. Should the employee fail to attend their meeting for any other reason, the meeting will be re-scheduled once, however if the employee fails to attend the re-scheduled meeting, the meeting will be held in their absence and a decision made based on the evidence provided.

## **12. REVIEW, VARIATION AND TERMINATION OF THIS POLICY**

**12.1** This procedure will be reviewed every two years by the Head of HR.

## **13. EQUALITY & DIVERSITY STATEMENT**

**13.1** Yeovil College believes that everyone should be treated with respect and dignity. We strive to prevent discrimination in our college so that everyone feels welcome and at ease. This Disciplinary and Grievance Policy will be applied fairly and consistently to **all** staff regardless of their protected characteristics.

## **14. RELATED POLICIES, PROCEDURES, DOCUMENTS, DEFINITIONS**

- Sickness Policy
- Capability Policy
- Respect at work Policy
- Code of Business Conduct
- Probation Policy
- Allegations against Adults Policy