

STAFF DISCIPLINARY POLICY

Last Review:	June 2023
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Vision

Loreto College is centred in God, rooted in Christ and animated by the spirit of Mary Ward, the founder of the institute of the Blessed Virgin Mary. Our vision is that it will be an educational community where each person has the experience of being loved and valued as a sacred individual created by a loving God; a community where students enjoy an enriching and liberating education that helps them grow into the fullness of life and empowers them to be people of courage who are alive to the needs of humanity and committed to making a better world.

Introduction

The College aims to be an educational community which gives expression to the core values of Mary Ward – freedom, justice, sincerity, truth, joy, excellence and internationality.

Loreto College has the highest expectations about the personal, academic and professional conduct of our employees. This document sets out the procedure the College will follow in the event that misconduct arises. Whilst ensuring it fulfils its legal obligations, the College will be mindful of its mission and core values in how it deals with disciplinary matters. It will exercise its duty of care to all staff and will endeavour to act at all times with justice, compassion and respect for the dignity and worth of all those involved in the process.

Policy Statement

The aims of this disciplinary policy and its associated disciplinary rules are to set out the standards of conduct expected of all staff and to provide a framework within which the College can work with employees to maintain satisfactory standards of professional conduct and encourage improvement where necessary.

It is the College's policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action. In the instance that low-level conduct issues arise, Loreto College is committed to addressing these without delay and, if appropriate, providing advice and instructions to employees with regards to expectations of their future conduct. Advice should be sought from HR prior to such a management instruction being given and a note of this will be kept on the individual's file. Advice given in this way is not part of the formal disciplinary policy and is not subject to appeal.

Where this is not possible and some form of formal action is needed, what action is reasonable or justified will depend on the circumstances of the particular case.

This policy does not form part of any employee's contract of employment and it may be amended at any time following consultation. Application of this policy may be varied, including any timescales for action, as appropriate.

Statutory Guidance

The Code of Practice and accompanying guidance from the ACAS Code of Practice (Disciplinary and Grievance) has been taken into consideration in drafting this policy.

Scope and Purpose

The policy applies to all employees regardless of length of service excluding those in their probationary period where separate arrangements apply. It does not apply to agency workers, casuals or self-employed contractors.

The disciplinary policy provides a framework for dealing with instances in which employees are alleged to have breached the required standard of conduct. The aim is to ensure prompt, consistent and fair treatment of all staff without discrimination.

As potentially recognisable figures in the local community the behaviour and conduct of College staff outside of work can impact on their employment. Therefore, conduct outside of work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment. It is important that all employees immediately inform their line manager of any criminal investigation, charge or conviction against them.

Matters relating to incompetence, incapability or poor performance at work by an employee due to lack of skill or aptitude will be dealt with under the College Capability procedures.

Confidentiality and Data Protection

It is the aim of the College to deal with disciplinary matters sensitively and with due respect for the individuals involved. All employees must treat any information communicated to them in connection with an investigation or disciplinary matter as confidential.

Employees and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this policy.

Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there is a good reason that a witness's identity should remain confidential.

During informal action, formal investigation and any subsequent stages of the policy, the College will collect, process and store personal data in accordance with the College Data Protection Policy. The data will be held securely, accessed by and disclosed to individuals only for the purpose of completing the disciplinary policy. Records will be kept in accordance with General Data Protection Regulation. Any breach of data protection may constitute a disciplinary offence, and will be dealt with under this policy.

Allegations

Allegations may be brought to the College's attention in a number of ways and through a variety of sources. As with disclosures made by children and young people, adults need to be aware that in making an allegation it is not always possible to keep the matter confidential. The Principal will need to decide upon the most appropriate course of action and may choose to proceed with an investigation even if the person making the allegation does not want them to.

Allegations made against members of staff involving issues of child protection and/or abuse of children will be dealt with in line with the College Safeguarding & Child Protection Policy and Keeping Children Safe in Education (KCSIE) guidelines.

Allegations that meet the harms threshold outlined within KCSIE guidelines will be referred immediately to the Local Authority's Designated Officer (LADO). These allegations include:

- behaving in a way that has harmed a child, or may have harmed a child and/or;

- possibly committing a criminal offence against or related to a child and/or;
- behaving towards a child or children in a way that indicates he or she may pose a risk of harm to children; and/or
- behaving in or having behaved in a way that indicates they may not be suitable to work with children.

Concerns that arise regarding a member of staff that do not meet the harm threshold but are consistent with the guidance outlined within the Safeguarding & Child Protection Policy and KCSIE can include, but are not limited to:

- being over friendly with children;
- having favourites;
- taking photographs of children on their mobile phones;
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door; or,
- using inappropriate sexualised, intimidating or offensive language.

Any such low-level concerns regarding a member of staff should be shared with the College Safeguarding Lead who will decide on the appropriate course of action to take.

All low-level concerns will be recorded. The record will include the details of the concern, the context in which the concern arose, the action taken and the name of the individual sharing their concerns (if appropriate and consented to). Completed forms will be held securely within the HR Office in line with the College Data Protection Policy and will be reviewed in order to identify potential patterns concerning, problematic or inappropriate behaviour.

Preliminary Enquiries

Where there is a suspected breach of conduct or an allegation of misconduct has been made against a member of staff, initial enquiries may be made by an appropriate manager who has not previously been involved in the matter.

The manager will be required to undertake an initial fact-finding exercise. This will be carried out promptly and without delay. The purpose of fact-finding is to establish the circumstances of the alleged misconduct and to determine whether a formal investigation is required.

The fact-finding process will usually involve:

- Establishing the immediate facts of the case and nature of the allegations;
- Speaking to the member of staff concerned to explain that they are subject to an allegation;
- Describing the nature of the alleged breach of conduct or allegation;
- Obtaining an initial response from the employee;
- Briefly summarising the facts of the allegation/alleged breach of conduct;
- The manager will present the facts to an appropriate member of the Senior Management Team who has not previously been involved in the matter to decide if a formal investigation is required.

The senior manager may decide, based on the facts established as part of the fact-finding, that there is no case to answer and no further action will be taken.

Where all necessary investigations have been carried out as part of the preliminary enquiries, it may be appropriate to go straight to a disciplinary hearing.

Suspension

In some circumstances the Principal or designated alternate can take the decision to suspend the employee from work where there are reasonable grounds.

In cases of gross misconduct, suspension from work should not be automatic. All options should be considered prior to making the decision to suspend.

A suspension checklist (**Appendix A**) must be completed by the Principal or designated alternate. The purpose of this is to support with the decision making on whether it is appropriate to suspend an employee. Alternatives to suspension such as re-organisation of duties, work location or temporary deployment to another role will be explored where relevant before a decision to suspend is made. The nature and severity of the allegations will need to be considered as well as the employee's role and if their continued presence would result in potential harm to the College or others, or impede the investigation. Completing the form will record the decision-making process should the matter be challenged.

The suspension will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process. The arrangements for suspension, along with the grounds on which the decision to suspend has been taken will be confirmed to the employee in writing as soon as possible by the Principal or designated alternate. The suspension should not continue for longer than four working weeks. If there is a requirement for this to be extended, e.g. availability of key witnesses, then the employee will be kept informed of this and provided with a timeframe.

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Employees will continue to receive normal salary and benefits during the period of suspension.

A period of suspension can have a detrimental impact on the personal wellbeing of an employee. Regardless of the allegations that are being investigated, the College has a duty of care to the wellbeing of their staff and support should be offered to the employee by signposting them to services such as the employee assistance programme and Occupational Health.

The suspension will be kept under review as the investigation progresses. As information is gathered it may become appropriate to lift or extend the suspension during the course of the investigation or prior to any disciplinary hearing.

Formal Investigation

Where it is determined that there is a need for a formal investigation, or if the concerns are serious enough to warrant a formal investigation immediately, the Principal or designated alternate will appoint an Investigating Officer to carry out the investigation.

This will be an appropriate person to the nature of the allegations and the role of the employee.

The purpose of an investigation is to establish a fair and balanced view of the facts relating to any allegations made against an employee, before deciding whether to proceed with a disciplinary hearing.

The formal investigation may involve:

- Interviewing or taking a written statement from any witnesses – a record of the interview must be made and the witness must have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.
- Reviewing relevant documents and other information such as training records or CCTV footage.

The following procedures must be followed:

- The employee will be informed in writing of any allegation and that an investigation to establish the facts will be undertaken by an appointed Investigating Officer. Any exception to this must be agreed by the Principal.
- The investigative interview(s) with the employee in question will take place within seven working days of the member of staff being informed of the investigation. Should an extension be needed it will be agreed with the relevant parties. A record of the meeting will be made and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.
- The employee may submit a written statement in response to the allegation for consideration prior to the investigative interview taking place.

- The employee may be accompanied at the investigative interview, and all other relevant stages of the process, by a workplace colleague or trade union representative.
- If there is a case to answer, the Investigating Officer should collate the outcome of the investigation in a disciplinary report (with appendices).

Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

Criminal Charges

Where the employee is the subject of a criminal investigation, arrest, charge or conviction; the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances. Employees should inform the Principal immediately if they are involved in a criminal investigation, arrest or are subject to a charge or conviction. Failure to notify the Principal may result in disciplinary action.

A criminal investigation, charge or conviction relating to conduct outside of work may be treated as a disciplinary matter if it is considered relevant to the individual's employment.

Where a criminal investigation relates to allegations of abuse of children or young people the College will co-operate and share information about the employee with other relevant agencies as appropriate.

Misconduct

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

- Persistent bad timekeeping;
- Minor damage to College property;
- Failure to observe the College's procedures;
- Bullying or victimisation of other staff;
- Unreasonable refusal to follow an instruction issued by a manager or supervisor;
- Poor attendance;
- Smoking (or use of an e-cigarette) in non-designated areas of the College's premises;

Gross Misconduct

Gross misconduct is misconduct either in or outside of work that is serious enough to breach the employment contract and make any further working relationship and trust impossible.

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

- Being under the influence of alcohol, illegal drugs or other substances during working hours, or not being capable of fulfilling duties because of the effects of alcohol or illegal drugs or other substances;
- Fighting or violence towards others
- Serious damage or destruction of College property;
- Fraud or deliberate falsification of records;
- Theft or unauthorised removal of property or the property of a colleague, contractor, pupil or member of the public;
- Gross negligence or dereliction of duties;
- Serious breached of health and safety procedures or regulations;
- Gross insubordination;
- Serious breaches of confidence (subject to the Public Interest (Disclosure) Act 1998);

- Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;
- Bringing the College into serious disrepute;
- Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- Harassment of, or discrimination against, employees, pupils, parents or members of the public, related to any of the protected characteristics.

The list is not intended to be exhaustive.

In some instances, offences which would normally be constituted gross misconduct may be considered as misconduct because of mitigating circumstances. Similarly, issues which would normally be treated as misconduct may, in certain circumstances, be considered so serious that they constitute gross misconduct.

Disciplinary Hearing

If the investigation report concludes that there is a case to answer, a disciplinary hearing will take place to consider the recommendations of the investigation report and any disciplinary sanction. The employee will be informed in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences will be if it is decided at the hearing that the allegations are considered factual.

The hearing will be carried out by the Principal or designated alternate, unless the Principal has been involved in the investigation, in which case it will be carried out by a panel of at least three governors. The employee may be accompanied at the appeal hearing by a work colleague or a trade union representative.

Where the employee is unable to attend a disciplinary hearing that has been scheduled, and provides a good reason for failing to attend, the hearing will be postponed to another, mutually agreed day within a reasonable timeframe. Unless there are special circumstances mitigating against it, if the employee is unable to attend the re-scheduled hearing, this will take place in the employee's absence. The employee's fellow worker or trade union official may attend in such circumstances on the agreement of the employee and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation. The disciplinary hearing procedure is set out in **Appendix B**. Reasonable adjustments must be made for employees with a disability to allow them to fully participate during the hearing.

Upon concluding a disciplinary hearing, having reviewed all of the evidence presented as part of the investigation and the information provided during the hearing, the hearing chair will determine the appropriate level of sanction. In making this decision, the Chair will consider if there are any other live warnings and will assess the overall gravity of the case.

Disciplinary Sanctions

The following disciplinary sanctions will be deemed appropriate at a disciplinary hearing:

Disciplinary Sanction	Maximum time limits for disciplinary warnings
Formal Verbal Warning This will be confirmed in writing and held on the individual's personnel file	6 months
First Written Warning This is usually appropriate for a first act of misconduct where there are no other active written warnings. A copy of the warning will be held on the individual's personnel file.	12 months

Final Written Warning This is usually appropriate for misconduct where there is already an active written warning on the employee's record or misconduct that is deemed serious enough to warrant a final written warning despite there being no other active warnings on record. A copy of the warning will be held on the individual's personnel file.	18 months
Dismissal with Notice (procedural) This is usually appropriate for further misconduct where there is an active final written warning on the record.	
Dismissal Without Notice (summary) This is usually appropriate for cases of gross misconduct.	
Alternatives to Dismissal These may be considered in some cases, usually accompanied by a final written warning. Examples include: <ul style="list-style-type: none"> • Demotion • Transfer to another department or job • Loss of seniority • Reduction in pay 	

In cases where a sanction is issued, the employee will be sent a letter setting out the details of the misconduct, the improvement required, the length of time that the sanction will be live and the likely consequences of further misconduct. In cases of dismissal they will be advised of their employment end date and the arrangements with regards to their notice period (if applicable). The employee will also be advised of their rights with regards to the appeals process. Details of such disciplinary action should be given in writing to the employee within 5 working days of the hearing.

Any disciplinary action related to safeguarding, live or spent, will be disclosed for safeguarding purposes.

Nothing within this policy is intended to remove the right of an appropriate person to give an employee informal advice and instruction as to expectations of their future conduct.

Appeals

If formal action has been taken by the Principal, then the appeal must be made to the Chair of the Governing Body. The appeal should be made in writing, stating the ground(s) on which the disciplinary penalty should be reviewed.

The grounds for an appeal must fall into one of the following categories:

- New evidence has come to light that should be investigated
- The sanction imposed was too severe or disproportionate to the misconduct
- The sanction was inconsistent with one imposed for similar misconduct
- Mitigating factors were not properly considered at the original hearing
- The disciplinary policy was not followed in a fair way

The employee may be accompanied at the appeal hearing by a work colleague or trade union representative. The appeal should be lodged in writing to the Chair of Governors within five working days of receipt of the letter informing the employee of the outcome of the disciplinary sanction/hearing. An appeal cannot result in a more severe penalty than that originally imposed and the decision at an appeal is final. The appeal will be carried out by a panel of at least three governors.

The Appeal Hearing procedure is set out in **Appendix C**. The procedure and the role of the representative remains the same as detailed in Appendix B. The Chair of the disciplinary hearing will replace the Investigating Officer in the order of the hearing. The Investigating Officer can be called as a witness by the Chair of the disciplinary during the appeal hearing.

The appeal hearing must not be a re-run of the original disciplinary hearing. Instead it must address the points raised by the member of staff as part of their appeal and consider any additional evidence that has been presented.

Related Policies and Procedures

- Anti-Harassment Statement
- Complaints Policy
- Procedures for Dealing with Allegations against Staff
- Safeguarding and Child Protection Policy
- Staff Attendance Management Policy
- Capability Procedure
- Data Protection Policy GDPR
- Grievance Procedure
- CCTV Policy
- Equality and Diversity Policy for Staff

Appendix A

Decision to Suspend Checklist

This document should be used to decide whether to suspend an employee as part of a disciplinary investigation. Suspension from work should not be automatic; all options should be considered prior to making the decision to suspend. Completing this form will record the decision should the matter be challenged.

Name of employee	
Job Role	
Allegation (give a brief description)	

Question	Detail	Decision	Rationale for decision
Do you have reasonable grounds to suspend the employee?	1. The employee poses a potential risk of harm to pupils (including safeguarding concerns) or a threat to the organisation or employees (including relationship breakdown) or property	Yes/No	
	2. The employee's continued presence at work may make it difficult for the employer to investigate the allegation (for example is there a risk that the employee may destroy evidence or attempt to influence witnesses)	Yes/No	
	3. The allegation(s) amount to gross misconduct which could lead to summary dismissal	Yes/No	
Are there any reasonable alternatives to suspension?	1. The employee can't be temporarily re-located to another office/location due to their work or there are no other alternative facilities	Yes/No	
	2. The employee cannot be given different duties	Yes/No	
	3. The employee cannot be redeployed within the organisation (for example	Yes/No	

	so they do not have contact with children)		
	4. The teacher can't be given different classes to teach	Yes/No	
	5. The employee refuses to agree to the changes and there is no contractual authority to impose the change	Yes/No	
Where you have spoken to the employee regarding the allegations, are you satisfied that suspension is the only reasonable course of action?		Yes/No	
<p>Where you have answered YES to the above (or the majority of the above) it may be appropriate to suspend based on the circumstances. It may also be appropriate if only some of the answers are YES depending on the circumstances</p>			

Decision made by:	Name	
	Position	
Signature:		
Date decision made:		
Advised by:	Name	
	Position	
Date advice received:		
Review date:		

Appendix B

Disciplinary Hearing Procedure

The employee will be given a minimum of seven calendar days' advance notice of the hearing.

The Investigation Report and associated documents that will be referred to at the hearing will be sent to employee seven calendar days prior to the hearing. It is the responsibility of the employee to ensure their representative has copies of the Investigation Report and associated documentation.

The employee should forward all paperwork that they wish to be considered at the hearing to the HR Manager three calendar days before the date of the hearing.

Where relevant, witnesses can be called by either party. If this is the case, two calendar days' notice of the witness attendance must be given to the HR Manager.

The Chair of the hearing must have an appropriate advisor/note taker present at the hearing. The role of the advisor will be to provide guidance on the procedure and take minutes of the hearing.

Order of the Disciplinary Hearing

1. The Disciplinary Chair will introduce all parties present and confirm the order of the hearing;
2. The Investigating Officer will outline the management case; and can then be questioned by employee and Disciplinary Chair;
3. The Investigating Officer will have the opportunity to call any witnesses;
4. Witnesses can be questioned by Investigating Officer, employee and Disciplinary Chair;
5. The Investigating Officers' witnesses will then withdraw from the meeting (if applicable);
6. The employee/respondent will state their case and can be questioned by the Investigating Officer and Chair
7. The employee/respondent will have the opportunity to call any witnesses;
8. Witnesses can be questioned by Investigating Officer, employee and Disciplinary Chair;
9. All witnesses should leave the hearing at this stage (if applicable)
10. The Investigating Officer will summarise the case;
11. The employee/respondent will summarise their case;
12. The Disciplinary Chair will call for an adjournment at this stage for the purpose of deliberation.
 - This adjournment will be used to deliberate the case, or to establish if a decision can be made within a reasonable amount of time in order to call all parties back to the hearing to communicate the outcome.
 - If further investigation is required, or if it is not possible to reach a decision within a reasonable amount of time, it may be decided to adjourn the meeting on a future stated date.
 - If further information is gathered during the adjournment, the employee will be allowed a reasonable period of time, together with their companion, to consider the new information prior to the reconvening of the disciplinary proceedings. Alternatively, it may be agreed that the decision on the outcome will be communicated to the employee in writing within a period of seven calendar days.
13. The decision of the Disciplinary Chair must be one of the following:
 - No further action – on the balance of probabilities, the allegations against the employee cannot be proven.
 - The allegations are proven on the basis of probabilities and a disciplinary sanction is issued.
14. If advised of a disciplinary sanction verbally as part of the hearing, the employee will be advised of their right to appeal.

Right To Be Accompanied

The employee has the right to be accompanied to any meeting either by an impartial colleague or a trade union representative. It is the responsibility of the member of staff to advise on who their chosen companion is in good time before the meeting. The employee is responsible for making the arrangements for their chosen companion to attend the meeting and to provide them with copies of any relevant paperwork.

At the meeting the employee's representative may make representations and ask questions, however they are not permitted to answer questions on the member of staff's behalf. The employee may also confer with their representative during the hearing and representative is permitted to request an adjournment to speak to the member of staff privately.

If the employee's chosen companion is unable to attend the date of any formal meeting, the meeting can be rescheduled once but the postponement can be for no more than seven calendar days.

Appendix C

Order of the Appeal Hearing

1. The Appeal Chair will introduce all parties present and confirm the order of the hearing;
2. The Disciplinary Chair will outline the management case; and can then be questioned by employee, Appeal Chair and Appeal panel;
3. The Disciplinary Chair will have the opportunity to call any witnesses including the Investigating Officer;
4. Witnesses can be questioned by Disciplinary Chair, employee, Appeal Chair and Appeal panel;
5. The Disciplinary Chair's witnesses will then withdraw from the meeting (if applicable);
6. The employee/respondent will state their case and can be questioned by the Disciplinary Chair, Appeal Chair and Appeal panel;
7. The employee/respondent will have the opportunity to call any witnesses;
8. Witnesses can be questioned by Disciplinary Chair, employee and Appeal Chair and Appeal panel;
9. All witnesses should leave the hearing at this stage (if applicable)
10. The Disciplinary Chair will summarise the case;
11. The employee/respondent will summarise their case;
12. The Appeal Chair will call for an adjournment at this stage for the purpose of deliberation.
 - This adjournment will be used to deliberate the case, or to establish if a decision can be made within a reasonable amount of time in order to call all parties back to the hearing to communicate the outcome.
 - If further investigation is required, or if It is not possible to reach a decision within a reasonable amount of time, it may be decided to adjourn the meeting on a future stated date.
 - If further information is gathered during the adjournment, the employee will be allowed a reasonable period of time, together with their companion, to consider the new information prior to the reconvening of the disciplinary proceedings. Alternatively, it may be agreed that the decision on the outcome will be communicated to the employee in writing within a period of seven calendar days.
13. The decision of the Appeal Chair must be one of the following:
 - Not upheld – there are no grounds or insufficient grounds and the original sanction remains.
 - Upheld – The grounds are sufficient and warrant a lighter sanction which can include reinstatement.
14. There is no further right of appeal following an appeal hearing and the decision is final.