

NEWBATTLE ABBEY COLLEGE
DISCIPLINARY POLICY AND PROCEDURES

1. Scope and Purpose

This Policy and Procedure applies to all members of staff.

Disciplinary Policy and Procedure (DPP) is a system to which Newbattle Abbey College (NAC) and employees shall have regard when matters of work conduct, performance and discipline arise. The goal of NAC is to encourage, high standards of conduct performance and discipline at all times. DPP should be viewed as a means of attaining that goal and not as a system to be used when, sanctions require to be applied. In constructing and utilising the Disciplinary Policy and Procedure, NAC at all times shall seek to achieve fairness in handling disputes.

DPP is intended to comply with the ACAS Code of Practice “Disciplinary and Grievance Procedures”.

2. General Principles

When a complaint or dispute arises an employee shall have the right to be accompanied to a meeting with NAC management. A trade union official or work colleague (“accompanying person”) may accompany the employee.

The role of the accompanying person is restricted to attendance at the meeting with NAC, management. The accompanying person shall not answer questions on behalf of the employee. The accompanying person shall not ask questions on behalf of the employee, or address the meeting. The accompanying person shall be allowed time, within reason, to confer with the employee privately.

Where the accompanying person is unable to attend with the employee on a date, proposed by NAC the employee may request a new date to be fixed within a reasonable time frame.

All meetings and Hearings are confidential. If it is necessary to disclose private information about an employee during a meeting or a Hearing, such information will be disclosed only where NAC considers the information is relevant.

Third parties may be contacted by NAC prior to a meeting or a Hearing. The discretion to contact third party bodies shall rest with the Principal.

3. Informal Procedure

Where the circumstances permit, all reasonable steps shall be taken to resolve a dispute or complaint without recourse to a meeting or a Hearing. A meeting or Hearing shall only be held when informal resolution procedure, such as discussion with the employee, has failed to resolve the issues.

4. Paid Suspension

An employee may be suspended from work where it is considered the circumstances of the case merit it. A suspended employee shall receive full pay during the period of suspension.

Suspension shall not be construed as a disciplinary sanction.

Upon suspension an employee shall have the following rights and duties.

- (a) To collect personal possessions. The employee shall be accompanied by a manager, and work colleague (if requested by the employee), while possessions are being collected.
- (b) Not to enter the College without permission after suspension. The instruction not to enter shall be given by a member of the Senior Management Team.
- (c) To attend NAC to be interviewed or questioned as part of the NAC investigation.
- (d) Not to discuss the investigation or the circumstances of the case with members of staff or students.
- (e) To forfeit access to NAC computer facilities and e-mail.

All suspensions will be reviewed normally on a 10 working days basis by the Administration Manager.

At a suspension review, suspension may be continued or cancelled. If suspension is continued the employee will be informed of the reasons.

The Chair of the Board of Directors shall have authority to suspend the Principal.

5. Formal Disciplinary Procedure

Stages of Formal Disciplinary Procedure

Stage 1 - Improvement Note

When work performance does not meet acceptable standards the employee will be issued with an improvement note. The employee shall be advised of the reason for the improvement note. The improvement note shall constitute the first stage of disciplinary procedure. See Appendix 2

A copy of the improvement note shall be lodged in the employee's file.

The improvement note shall specify:

- (a) Details of the work the employee is required to carry out.
- (b) Details of the required standard of work.
- (c) Details of the employee's work which falls below the required standard.
- (d) Information that monitoring arrangements will be made.
- (e) The duration of the monitoring arrangements.
- (f) An explanation that improvement of quality of work shall be expected within the monitoring period.
- (g) Dates when the monitoring process shall begin and end.
- (h) A date after the monitoring process when the case shall be reviews.
- (i) During the monitoring period NAC shall provide assistance, training or support to the employee, to assist the employee to attain the required standard of work.
- (j) The review shall be carried out by the employee's Manager within 5 working days of the end of the monitoring period.
- (k) At review a decision shall be made as to whether the employee has reached the required standard of work or not.
- (l) The decision shall be sent to the employee within 5 working days of being made.
- (m) The decision shall be in writing and shall outline the procedure which shall follow the review decision.
- (n) If the employee has attained a satisfactory standard of work there shall be a decision with that finding and the employee shall be advised there shall be no further action.
- (o) If the employee has not attained a satisfactory standard of work there shall be a decision with that finding and the employee shall be advised of the decision and that the next stage of proceedings shall be a written warning.

A written warning shall be issued where there has been a finding of misconduct by an employee.

Stage 2 - Written Warning

Where there is a finding of misconduct or non-satisfactory standard of work, a Written Warning will be given to the employee. The written warning shall provide details of the misconduct or unsatisfactory performance and will outline the next stage of proceedings. It shall also outline that the conduct/or performance will be monitored and the timescale for improvement. It will advise of the right of appeal.

The warning will be disregarded after **9 months** subject to satisfactory conduct and/or performance.

Stage 3 - Final Written Warning

If conduct or performance persists or if the conduct is sufficiently serious to warrant a written warning but the conduct is not sufficiently serious to justify dismissal, a Final Written Warning (FWW) shall be issued to the employee. The FWW shall provide details of the complaint and advise that dismissal will result if satisfactory improvement or conduct or standard of performance is not made. The FWW shall advise of the right of appeal.

Final Written Warnings may include other appropriate disciplinary sanctions short of dismissal. These may include suspension without pay, demotion, withholding incremental progression for a specified period of time, or job transfer. If performance or conduct improves to a satisfactory level, the FWW shall be disregarded after **12 months**.

Stage 4 - Dismissal

If conduct or performance is still unsatisfactory and the employee continues to fall short of prescribed standards, the employee shall be dismissed. The employee shall receive, no later than 5 working days prior to the date of dismissal, written reasons for dismissal and confirmation of the date on which employment shall terminate and information of the right of the employee to appeal the dismissal decision. Appeal shall be to a Disciplinary Hearing.

Disciplinary Investigation for Gross Misconduct

No disciplinary action will be taken against an employee until an investigation has taken place. Investigation may require the holding of a meeting with the employee and/or the gathering of evidence by the College for use at a Disciplinary Hearing. The investigation process shall be carried out with expedition consistent with the principles of fairness, reasonableness and good practice. Statements from witnesses may be taken and if taken they shall be signed and dated by the witness.

The employee shall be provided with a copy of the allegations against him/her. Statements from witnesses and copies of documentary evidence shall be given to the employee.

The employee and witnesses shall be entitled to have an accompanying person at any interview, discussion, meeting or Hearing.

The accompanying person shall not ask or answer questions directed to the employee or make a submission.

After gathering evidence NAC shall conclude that:

- (a) There is no case to answer or
- (b) The matter shall be dealt with through the process of staff development, guidance, coaching or counselling or

- (c) There is a case to answer and the case shall proceed to a Disciplinary Hearing.

If there is no case to answer, all documentation relating to the investigation will be destroyed.

Guidance notes for disciplinary investigations are in Appendix 1.

Disciplinary Hearing

If there is a case to answer, the Administration Manager or his/her nominee shall arrange for a Disciplinary Hearing (Hearing) to be held by a member of the Senior Management Team, other than the Principal. If it is not possible for a Senior Manager to undertake the Hearing, the Principal will nominate an alternative manager to do so.

The purpose of the Hearing is to present formally to the employee the results of the investigation and to allow him/her to answer the allegations made.

All relevant documents shall be sent to the Administration Manager in advance of the Hearing.

The employee shall be notified in writing of the Hearing not less than five working days before the Hearing. The employee shall be given the following:

- The allegation in writing of the gross misconduct, misconduct or unsatisfactory performance.
- A list of witnesses to be called, (if any), by the college and copies of witness statements.
- Information to the employee, of the right to be accompanied by an appropriate trade union representative or a work colleague at the Hearing.
- A copy of NAC Disciplinary Procedure.

The employee shall submit to the Administration Manager, at least 3 working days before the Hearing, the following:

- The name of the trade union representative or work colleague, if any
- The name of witnesses, if any
- Copies of documents to be relied on, if any.

Postponement of the Hearing

The Hearing may be postponed if, within 3 working days of the Hearing, further evidence comes to light and NAC or the employee considers as a matter of justice postponement is equitable in order that the new evidence be considered.

A request for a postponement should be made by NAC or the employee as soon as possible and, if made orally, should be followed up in writing.

A detailed format for conducting a Hearing is included as Appendix 1.

Where the employee's first language is not English, or in cases where the employee has a disability the arrangements for a Hearing shall take these matters into consideration.

If an employee wishes to call witnesses, the employee shall make arrangements for their attendance at the Hearing.

Grievances Raised During Investigation

If during the course of a disciplinary process, an employee raises a grievance, the disciplinary process may be suspended pending resolution of the grievance. The Chair of the Hearing shall have discretion to suspend the disciplinary process, including fixing a Hearing, or continue with the disciplinary process. The Chair shall issue a decision to suspend or continue the process. The decision shall be issued within 10 working days of the grievance being raised.

The grievance raised shall be dated and shall be in writing.

Gross Misconduct

If the Chair of the Disciplinary Hearing is satisfied on the evidence that gross misconduct has occurred, the decision of the Chair shall be summary dismissal. Summary dismissal means dismissal without notice and without payment in lieu of notice.

The following examples of behaviour shall constitute gross misconduct:

- Theft, fraud and deliberate falsification of records.
- Physical violence or threatening behaviour.
- Deliberate damage to property.
- Fraudulent misuse of NAC property.
- Behaviour causing the name of NAC to be tarnished in the public domain.
- Serious incapability through alcohol or drug use.
- Negligence causing loss, damage or injury to NAC personnel or NAC property.
- Acts of insubordination or refusal or failure to comply with management instructions.
- Serious infringement of health and safety rules.
- Sexual, racial, disability or other harassment of a NAC employee or third party or NAC student.

- Unauthorised or inappropriate use of the NAC, internet and e-mail connections contrary to ‘Use of e-mail and Internet Policy’.

The above list of examples is not exhaustive.

The College reserves the right to suspend an employee who is facing criminal charges. In the event of conviction and sentence but not a sentence of imprisonment, NAC may dismiss the employee where the Senior Management Team considers that the nature of the offence brings the name of NAC into disrepute or, in all circumstances of the case, dismissal is considered to be justified.

Where the sentence is one of imprisonment, the College shall regard the contract of employment with the employee to be terminated and the employee shall be dismissed. In these circumstances the employee shall be deemed to have forfeited the right to notice of dismissal and pay in lieu of notice.

Principal/and Other Senior Managers

Where disciplinary proceedings are brought against the Principal, the Board of Directors will be responsible for the conduct of the Disciplinary Hearing and decision reached.

Spent Warnings

Written Warnings and Final Written Warnings shall be considered to be spent when they have been on file for the period specified and where the conduct or performance of the employee has improved to a satisfactory level since the date of the warning.

Appeals Procedure

There shall be a right of appeal against the decision of a Disciplinary Hearing. The right of appeal shall be to the Principal.

Appeals shall be made in writing within ten working days of the date of the decision being appealed against. The written document requesting an appeal shall set out the grounds on which the appeal is based.

The table below outlines to whom the grounds of appeal shall be sent.

Appeal to

- | | |
|----------------------|---|
| • Improvement Notice | A member of the Senior Management Team |
| • Written Warning | The Principal or Depute Principal |
| • Final Warning | The Principal or Depute Principal |
| • Dismissal | (1) The Principal
(2) The Board of Directors |

The decision of the person hearing the appeal shall be final.

If the Principal is unable to hear an appeal, a member of the Senior Management Team may hear the appeal, provided that person has had no previous involvement with the case.

Appeal Hearings shall take place in term time. The appeal shall be heard within ten working days of receipt of the grounds of appeal. The outcome of the appeal shall be communicated in writing to the employee within five working days of the appeal hearing.

Appeal by the Principal

Where disciplinary action is taken against the Principal, the appeal shall be heard by the Board of Directors sitting as a full Board. The appeal shall be heard within fifteen working days of receipt of the grounds of appeal. The decision of the Board shall be issued by the Chair of the board within ten working days of the date of the appeal.

At both stages only external members of the Board of Directors will be involved.

6. Records

Written records and notes shall be kept at each stage of the disciplinary procedure. All parties involved will be entitled to see and check and agree the accuracy of the notes before the notes and records are distributed or sent to third parties. The notes kept shall be confidential and shall be retained in accordance with the provisions of the Data Protection Act 1998. Copies of the notes made shall be given to the employee concerned and the person accompanying.

Appendix 1

GUIDANCE NOTES FOR:

1. Verbal Warning with improvement note being given
2. Written Warning
3. Final Written Warning
4. Investigation - an investigation should really only take place with gross misconduct
5. Disciplinary Hearing

These notes should be read in conjunction with the College's Disciplinary Procedures.

1. Verbal Warning with improvement note

A Verbal Warning is a warning made verbally to an employee by a Manager. A verbal warning shall be made if, in the opinion of the Manager, there has been conduct in the course of employment which the Manager considers falls below an acceptable standard of conduct.

When a Verbal Warning has been made, an entry shall be made in writing in the file of the employee to that effect.

When a Verbal Warning has been made, a Note, called an Improvement Note (see Appendix 2), shall be handed to the employee. An Improvement Note is a Note in writing by the Manager which contains directions for improvement in the conduct of the employee. The said Note shall be handed to the employee within 7 days of the verbal warning being made. The Note shall include a period of review.

At review, the Manager shall assess the conduct complained of and shall review the Improvement Note. If the Manager considers improvement has been made, no further action shall be taken. The Manager shall make an entry to that effect on file. If the Manager considers improvement has not been made, the Manager shall inform the employee of that decision and the employee shall be told that a Written Warning shall be issued within 7 days. The Manager shall make an entry to that effect on file.

2. Written Warning

A Written Warning is a warning in writing to an employee. In certain circumstances, it may be preceded by a verbal warning. A Written Warning shall be issued if, in the opinion of a Manager, the conduct of an employee has fallen below an acceptable standard.

A Written Warning shall, where possible, be served in person on the employee, which failing, the warning shall be served by post to the address of

the employee. Upon service, a copy of the Written Warning shall be entered in the file of the employee.

The Written Warning shall contain details of the unacceptable conduct and shall contain directions for improvement. The warning shall also contain a date for review. The fixing of the date for review shall be at the discretion of the Manager.

At review, the Manager shall consider the conduct of the employee since the date of service of the written warning. If, in the opinion of the manager, there has been improvement, the Manager shall inform the employee and no further disciplinary action shall be taken. An entry to this effect shall be made in file of the employee.

If the Manager considers that insufficient improvement has been made, the Manager shall inform the employee. The employee shall be advised that the matter shall proceed to the issue of a Final Written Warning. An entry to this effect shall be made in the file of the employee. A Final Written Warning shall be issued within 7 days of the Review date of the written warning.

3. Final Written Warning

A Final Written Warning is a final warning in writing to an employee. The Final Written Warning shall relate to the conduct of an employee which has fallen below an acceptable standard and which has not improved since service on the employee of Written Warning.

A Final Written Warning shall, where possible, be served in person on the employee, which failing, the warning shall be served by post to the address of the employee. Upon service, a copy of the Final Written Warning shall be entered in the file of the employee.

The Final Written Warning shall contain details of the continuing unacceptable conduct and shall contain directions for improvement. The warning shall state that a Final Warning is the final stage in NAC Disciplinary Procedure, subject only to Dismissal. The warning shall include a date for Review. The fixing of the date for Review shall be at the discretion of the Manager.

At Review the Manager shall consider the conduct of the employee since the date of service of the Final Written Warning. If, in the opinion of the Manager, there has been improvement, the Manager shall inform the employee and no further disciplinary action shall be taken. An entry to this effect shall be made in file of the employee.

If the Manager considers that insufficient improvement has been made, the employee shall be advised that a Notice of Dismissal shall be issued within 7 days. A Notice of Dismissal is a notice stating that the employee shall be dismissed from employment as from the date in the Notice. The Notice shall state that Dismissal is due to continuing conduct of an unacceptable standard.

An entry to reflect the above shall be made in the file of the employee.

4. Investigation - an investigation should really only take place with gross misconduct

No disciplinary action shall be taken until an appropriate investigation has been completed. The investigation should be conducted as quickly as possible after the alleged event. An independent manager may be appointed to conduct the investigation.

Every effort shall be made to establish the facts. In achieving this goal, statements shall be taken from witnesses. Statements shall be typed after the interview with the witness. The statement shall then be given or sent to the witness for approval. The statement shall be signed and dated by the witness when approved. Signing and dating the statement shall be confirmation by the witness that the statement is accurate.

The role of the investigator shall include:

- Establishing the facts by carrying out investigatory interviews with relevant individuals and obtaining written, signed statements from witnesses, where appropriate.
- Advising witnesses they may be requested to appear at any subsequent Disciplinary Hearing.
- Retrieving all relevant documentation which may assist in establishing the alleged complaint.
- Carrying out further relevant investigations to establish the facts, including deciding to take no further action, making an offer of counselling to an employee or offering a course of further employment, development or deciding that a disciplinary hearing shall be held.

An investigation is a prelude to possible disciplinary action and is not a substitute for it.

It shall not be assumed that every investigation shall lead to disciplinary action being taken.

5. Conducting a Disciplinary Hearing

- The Chair of the Hearing (the Chair) shall introduce everyone.
- The Chair shall explain that the purpose of the Hearing is to hear all the evidence and come to a decision in relation to the allegation(s).
- The Chair shall explain the procedure to be adopted during the Hearing.
- The Chair shall inform all parties that the proceedings are confidential.
- The Chair shall advise witnesses they shall be present within the Hearing only while giving evidence.

- The Chair shall advise witnesses they shall not discuss their evidence with anyone after they have given evidence.
- Evidence may take the form of oral evidence and/or written /documentary evidence.
- The Chair shall call witnesses to support the allegations and may refer to documentary evidence or real evidence (tangible things)
- The employee may call his/her own witnesses and question any relevant witnesses and may refer to any documents or real evidence.
- Each party will be entitled to ask questions of witnesses for the other side.
- The Chair may adjourn the hearing for further investigation, if necessary.
- The employee may request an adjournment to confer in the hearing room or outwith the hearing room.
- The Chair will record all the evidence.
- When all evidence has been heard the Hearing shall be concluded.
- The Chair shall advise that the decision of the Hearing shall be issued in writing within 14 days.

Newbattle Abbey College is committed to the active pursuit of challenging discrimination, advancing equality and celebrating diversity

Newbattle Abbey College	Policy/Procedure
Title: Disciplinary Policy	File ref: Organisational/Employment
Prepared by: Administration Manager	No of pages: 15
Approved by: Board	Next Revision date: 2018
Date approved: Nov 2012	Date last modified: July 2015

Appendix 2

NEWBATTLE ABBEY COLLEGE EMPLOYEE IMPROVEMENT NOTE
--

1. PERSONNEL DETAILS

Employee		Position	
Manager		Position	

2. PERFORMANCE ISSUE(S) TO BE ADDRESSED

(This section should outline the performance issues to be addressed by the employee during the review period)

3. PERFORMANCE REVIEW PERIOD

Performance review period begins on _____ and ends on _____
Interim reviews will be carried out weekly/fortnightly (delete as necessary) commencing on _____
Final review will be carried out on _____ by _____

4. PERFORMANCE STANDARDS TO BE REACHED

Performance expectations (what needs to be achieved)	Actions/tasks (How is it going to be achieved)	Performance indicators (How it is going to be measured)	Timeframe (action by)

5. EMPLOYEE DECLARATION

I understand that if I fail to meet the above performance targets within the required timeframe and without good reason that I may be subject to disciplinary proceedings.

Employee's signature
Manager's signature

Date
Date

* Manager is responsible for diarising, completing review(s) and completing the Review Outcome sheet below

6. REVIEW OUTCOME

Note. If the employee's performance was "below expectations" the reasons should be given in the Comments section.

Performance expectations (what needs to be achieved)	Actions/tasks (How is it going to be achieved)	Comments (Meets expectations / Below expectations)

Employee met expectations

Employee did not meet expectations

Employee's signature

Date

Manager's signature

Date