



Brasenose College

Disciplinary Policy (This policy applies to non- academic staff)

Approved at Governing body 14 February 2018

This policy should be read together with the College Guidance to Investigations and in some cases the Grievance policy may also be relevant. Guidance is available from HR.

Brasenose College expects that its employees work professionally and conscientiously. This document details how the College deals with incidents of poor behaviour and misconduct. It is important that any breaches of our rules, or failure to achieve and maintain satisfactory standards of conduct and attendance are dealt with as effectively, fairly and consistently as possible. This procedure is non- contractual and sets out the procedures the College will normally follow, although we reserve the right, at our discretion to vary, replace or terminate the procedure at any stage.

Cases of minor misbehaviour should normally be dealt with informally by managers, and this policy should be used for notable acts of misconduct or persistent misbehaviour.

The application of the Disciplinary Policy may result from an investigation initiated by the application of the College's **Grievance policy**.

Where employees are having difficulty working at the required standard of performance, we recognise that these may best be resolved through informal coaching, target setting, and the provision of advice and training. Serious cases of poor performance relating to ability may be addressed using the College's **Capability Policy**.

This document applies to all non-academic staff other than those in their probationary period. Academic staff are governed by their own relevant policies. Students of the College who are employed by the College (for instance as casual support on Open Days or in the Bar) are also subject to this policy whilst at work.

Policy

Statement of Policy

This policy is designed to:

- Ensure that employees of the College are fully aware of expected standards of behaviour.
- Ensure that employees are fully aware of the procedure to be used when a case of alleged misconduct takes place, and have an opportunity to present their point of view.

- Ensure that employees who are sanctioned for misconduct are made properly aware of the reasons for the sanction and of their right to appeal.

The following core principles should be followed by those dealing with disciplinary matters:

- No disciplinary action will be taken without full and proper investigation, undertaken by the appropriate level of management.
- Each step in the procedure will be taken without unreasonable delay. The timing and location of any meetings will be reasonable and any meeting will be held in as private a location as possible, without interruptions. However it should be recognised that complex cases can often take trigger other grievances or disciplinary actions, and may take some time to resolve.
- The College will act consistently in all situations where misconduct is alleged.
- The College will inform employees of the allegation or problem and give them an opportunity to put their case in response before any decisions are made.
- The College will allow employees to be accompanied at any formal Disciplinary Hearing.
- The right to appeal will apply.

Legal background

- The ACAS Code of Practice on Disciplinary and Grievance Procedures.
- Current data protection regulations. The College will ensure that any information gathered, records taken and communications written to employees (including letters outlining sanctions) will be kept confidentially by the College and those involved in the process, in line with data protection legislation. (See section below on Confidentiality for further details)

Unsatisfactory conduct and misconduct

Any breach of the College's rule will be regarded as **misconduct**. Examples are given below. This is not a complete list:

You will be liable to disciplinary action if you are found to have acted in any of the following ways:

- a) Failure to abide by the general health and safety rules and procedures
- b) Smoking in designated non- smoking areas
- c) Unauthorised consumption of alcohol on the premises
- d) Persistent absenteeism and/or lateness
- e) Unsatisfactory standards or output of work
- f) Inappropriate behaviour towards fellows, students, visitors and other members of staff
- g) Rudeness towards members of College, members of the public or other employees, objectionable or insulting behaviour, harassment, bullying or bad language
- h) Committing any act of discrimination

- i) Failure to devote the whole of your time, attention and abilities to the College and its affairs during your working hours
- j) Failure to carry out all reasonable instructions or to follow College rules and procedures
- k) Unauthorised use of, or negligent damage to or loss of College property
- l) Failure to report immediately any damage to property or premises caused by you
- m) Unauthorised and/or inappropriate use of email, internet and social media and/or failure to comply with IT security advice and policies or lack of care over data security.

Gross misconduct offences are serious and will generally result in dismissal without notice.

Examples of actions or behaviours which could be regarded as 'gross misconduct' are given below. This is not a complete list:

- Being under the influence of alcohol or drug consumption (including so-called 'legal highs') during working hours or on College business.
- Grossly indecent or immoral behaviour, deliberate acts of unlawful discrimination or serious bullying or harassment.
- Dangerous behaviour, fighting or physical assault,
- Possession, use or supply of illegal drugs in working hours.
- Deliberate falsification of records (including time sheets, absence records in respect of yourself or any other employee).
- Undertaking private work on the premises and/or in working hours without express permission.
- Taking part in activities which could cause the college to come into disrepute, or which cause College to lose faith in an employee's integrity e.g. bribery or not declaring a conflict of interest.
- Theft or unauthorised possession of money or property, whether belonging to the College, another member of College or a third party
- Destruction or sabotage of College or other property on the premises
- Serious breaches of the Health and Safety Policy, or grossly negligent behaviour that puts others or property at risk.
- Gross insubordination and/or refusal to carry out reasonable and legitimate instructions.
- Gross abuse or serious breach of College policies.

If an employee is alleged to have committed an act of gross misconduct an investigation will be carried out in line with the College's process for investigations (**See College's Guide to Investigations**) prior to a decision on whether to call them to disciplinary hearing as per the process set out below. The employee will still be free to exercise their right to an **appeal**. However, dismissal for gross misconduct will be without notice or pay in lieu of notice.

Criminal convictions: Where an employee is charged or convicted of a criminal offence, this is not automatically reason for disciplinary action, unless the offence was committed while the employee was at work, impacts upon the employee's suitability to do the job, or affects their relationship with the College, the College's reputation or the employee's ability to carry out their job.

Preliminary Investigation Process:

When considering whether an individual's conduct or performance should be reviewed in a formal disciplinary hearing, an investigation should first consider the evidence. The investigation process follows the principles laid out in the **ACAS Guide to Investigations** and will usually follow the process set out in the **College Guidelines to Investigations**. Both these documents are available for reference from HR or on the staff website.

Summary of key points: All potential disciplinary matters will be investigated without unreasonable delay by an appropriate employee of the College, or sometimes by an external investigator.

-The aim of the investigation will be to try to establish the facts of the case, whilst keeping an open mind.

-This will usually require holding investigatory meetings with the employee and also with witnesses. The aim is to gather evidence related to the case, which could be referred to later at any disciplinary hearing.

- In all cases, the investigator will keep an open mind and look for evidence which may support an employee's case, as well as evidence which may support an allegation against them.

-In some cases, the matter can be resolved at the end of the investigation, with no further action required. In all cases, an investigatory meeting will not by itself result in any disciplinary action.

-If the matter cannot be resolved at the end of the investigation, and if having considered the available evidence and investigatory summary/report (including witness statements) it is decided that the employee has a 'case to answer' regarding the alleged misconduct, a disciplinary hearing will be arranged so that the employee's response to the case/evidence can be heard.

-In some cases, an employee may not be required to attend for work during an investigation, remaining on full pay, while the investigation takes place. This period will be kept as brief as possible, and will be kept under review. This period should not be regarded as a disciplinary sanction or as a reflection of any assumption of guilt.

Confidentiality and access to details and evidence in the case.

Information gathered during the investigation, including minutes from meetings/witness statements will be shared between those involved in considering the case (and professional legal advisers). In order not to prejudice the outcome, the fact that an investigation or

disciplinary hearing is being carried out should remain confidential to those involved in the process and should not be discussed with other colleagues or outside the College. (However, disclosure of evidence and regarding communication of progress of a complaint is different for a case brought as a result of a grievance. Please see the **Grievance policy**).

Evidence gathered during the investigation and all confirmed statements, including those made by any witnesses, will be made available to the person who chairs the disciplinary hearing (and any possible future appeal hearing), to the person who is the subject of disciplinary process and any companion, and to HR.

Disciplinary Process:

Invitation to attend a Disciplinary Hearing

If following the investigation it is recommended that there is a 'case to answer' i.e. there is sufficient evidence of possible misconduct which needs further consideration at a disciplinary hearing, the employee will be invited in writing to attend a formal disciplinary hearing to be held under the Disciplinary process. This hearing will be held without unreasonable delay, whilst still allowing time for the employee to read and consider the evidence against them. The employee will usually be given 2 working days' notice of a disciplinary hearing. If the employee or their companion cannot make the date and time suggested by the College, they are free to suggest a suitable alternative, generally within the next 5 working days.

Where reasonably practical, a different senior employee who has not previously carried out the investigation will carry out the disciplinary hearing. An individual from the HR department or other suitable note-taker will also usually attend the hearing in order to take minutes. College reserves the right to allow third parties to chair formal hearings where appropriate.

The College will write to the employee to invite them to the disciplinary hearing, setting out clearly the allegation, and other details. The letter will include:

- Date, time and place of the investigation meeting.
- The name of the person who is to hear the case and any other people present
- The allegation
- An explanation that the meeting is to be heard under the Disciplinary policy and details of possible outcome/penalty (including dismissal if appropriate).
- A reminder that all details concerning the investigation process must be kept confidential and that a breach of confidentiality may result in a disciplinary action.
- The evidence being taken into consideration, including a copy of the witness statements or minutes from the investigation (employee's own and other witnesses').
- The right to be accompanied.
- That it may be considered a disciplinary issue if staff unreasonably refuse to attend the meeting.

NB Right to be accompanied

Employees have the statutory right to be accompanied to Disciplinary Hearings and Disciplinary Appeal Hearings.

Employees may be accompanied by a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must be certified by their union as being competent to accompany a worker, and the College reserves the right to bar any Trade Union official who cannot show their official identification. Employees may alter their choice of companion if they wish.

In accordance with the ACAS code the companion should be allowed to address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. The companion does not however, 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.

Preparation: The College will supply the employee with all sufficient information about the alleged misconduct and of its possible consequences to enable the employee to prepare to answer the case at a disciplinary hearing. The College will usually include copies of any written evidence, including any witness statements/minutes taken during the investigation.

The Hearing: Employees at the hearing are entitled to review and respond to the evidence against them, so that that they can give their explanation to what may have happened, and explain any mitigating circumstances.

The disciplining officer will listen to the employee and consider what the employee has to say and will take into account all available evidence, including any mitigating evidence.

The meeting will be adjourned if further investigations are required.

The disciplinary outcome will not normally be determined in the disciplinary hearing and the disciplining officer will end the hearing so that he/she may consider all evidence before coming to a conclusion on whether a disciplinary penalty or sanction is appropriate.

After the hearing: The employee will have the opportunity to review the minutes of the hearing, make amendments as they feel appropriate and will be asked to sign and return them as a reflection of a true record of the meeting.

A decision will be made on whether a disciplinary penalty/and or other recommendation is appropriate.

Disciplinary penalties/ Sanctions

In any case where it is decided that a formal disciplinary penalty is appropriate, the employee concerned will be notified in writing with details of the sanction and the reasons behind its imposition. In all cases penalties will be issued for misconduct, irrespective of the precise matters concerned, and any further breach of the rules in relation to a similar or entirely different matter of misconduct will be treated as a further disciplinary matter, and allow the continuation of the disciplinary process through to dismissal if the warnings are not heeded.

The following table shows the standard disciplinary sanctions which can be applied when employees are found to have committed acts of misconduct:

Offence	First Occasion	Second Occasion	Third Occasion	Fourth Occasion
Minor misconduct	Letter of Concern (informal sanction)	First written warning	Final Written Warning	Dismissal
Misconduct	Written Warning	Final Written Warning	Dismissal	
Serious Misconduct	Final Written Warning	Dismissal		
Gross Misconduct	Dismissal			

Any warning given will remain on file for a limited time before it is disregarded for disciplinary purposes. The following timescales are guidelines, and the precise length of time for which the warning will be kept on file will be notified to the employee when the warning is given:

- Written Warning: 12 months
- Final Written Warning: 12 months

The College reserves the right to act with discretion in respect of the disciplinary procedures and to vary the Disciplinary procedure and sanctions given the circumstances of an individual case.

- All employees have the **right to appeal** against any sanction imposed. (See section below on the Disciplinary Appeal procedure).

Disciplinary Authority

The operation of the procedure in the process will usually be carried out by the Domestic Bursar and Bursar for various levels of disciplinary action. However, this does not prevent a high or lower level of seniority from progressing any action at whatever stage of the disciplinary process, in the event of the appropriate level not being available or suitable.

Disciplinary Appeal Procedure

Any employee has the right to appeal against the finding of a Disciplinary Hearing, or against the sanction applied. If an employee wishes to make an appeal following a Disciplinary Hearing, they should make this appeal in writing to HR within 5 working days of receipt of the disciplinary outcome setting out the grounds of appeal.

An Appeal Hearing will be arranged as soon as reasonably practical for all concerned. Appeal Hearings will be held by another senior member of the College, including the Principal, or in exceptional circumstances, a third party, and not by the person who held the original Disciplinary Hearing. They will review the case impartially, and are free to re-run the

investigation into the misconduct. Employees may be accompanied by their companion to the appeal hearing.

A decision to uphold or amend the original disciplinary hearing decision, or to modify the sanction, will be communicated to the employee in writing, along with the reasons for the decision as soon as practical, and normally within 5 working days.

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