



Disciplinary Procedure

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Approver: Philip Atwell

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This Policy is reviewed every 2 years unless updated guidance is received.

'Cheltenham College' refers to Cheltenham College Senior School *and* Cheltenham College Preparatory School (including Cheltenham College Pre-Prep and Nursery School)

'College' refers to Cheltenham College Senior School

'Cheltenham Prep' refers to Cheltenham College Preparatory School

'Nursery and Pre-Prep' refers to Cheltenham College Nursery School and Pre-Prep

Policy Statement

Whilst Cheltenham College does not intend to impose unreasonable rules of conduct on its employees, certain standards of behaviour are necessary to maintain good employment relations and discipline in the interest of all employees. Cheltenham College prefers that discipline be voluntary and self-imposed and, in the vast majority of cases, this is how it works. However, from time to time, it may be necessary for Cheltenham College to take action towards individuals whose level of behaviour is unacceptable or where there is a deliberate or careless failure on the part of the employee to perform to the standards of which they are capable. It will also occur where an employee knowingly breaks any legal requirement in connection with their employment.

This policy applies to Cheltenham College employees who have successfully completed their probation period and have been continuously employed by Cheltenham College for two years or more. Employees with less service who commit an offence or whose performance falls below the standard required may, at Cheltenham College's discretion, be liable, to dismissal where appropriate, however Cheltenham College reserves the right to commence this procedure at any stage if the circumstances warrant such action. Performance issues identified during the employee's probationary period will be dealt with under the probationary procedure.

With the exception of the section on alternatives to dismissal (which is contractual), this disciplinary procedure is **non-contractual** and does not form part of an employee's contract of employment. Cheltenham College may also vary this Procedure as appropriate.

Minor faults will be dealt with informally through counselling and training. However, in cases where informal discussion with the employee does not lead to an improvement in conduct or performance or where the matter is considered to be too serious to be classed as minor, for example, unauthorised absences, persistent poor timekeeping, sub-standard work performance etc., the disciplinary procedure set out below will be used.

Advice, guidance and support relating to the application of this procedure may be sought from Cheltenham College's Human Resources team. Where formal procedures are to be

invoked, or where the matter involves potential safeguarding issues, HR should be notified without delay.

All employees have a responsibility to familiarise themselves with the standards expected of them, including those listed under paragraphs entitled misconduct and gross misconduct.

Formal Disciplinary Procedure

Confidentiality

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

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

Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless the witnesses have not consented to the disclosure of their identity or evidence, or we believe that a witness' identity should remain confidential.

Safeguarding

Any allegations of misconduct against staff that involve potential safeguarding issues should be dealt with in accordance with Cheltenham College's Child Protection and Safeguarding Policy and Procedure and the Department for Education's Statutory Guidance Keeping Children Safe in Education. In such cases prompt consideration of the allegations by relevant bodies* should be allowed, as appropriate, before the commencement of any processes under this disciplinary procedure; this usually also includes the consideration of suspension.

* relevant bodies may include, for example, the County Council's Local Authority Designated Officer or a Multi Agency Strategy Meeting.

Criminal Allegations

Where an employee's conduct is the subject of a criminal investigation, charge or conviction, Cheltenham College will investigate the facts before deciding whether to take formal disciplinary action.

Subject to the receipt of external advice, Cheltenham College will not normally wait for the outcome of any criminal prosecution before deciding what action, if any, to take. Where the employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, Cheltenham College may have to take a decision based on the available evidence.

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

Suspension

In the event of serious or gross misconduct, an employee may be suspended on full basic pay while a full investigation is carried out. Any decision to suspend will be confirmed in writing. Any suspension will be for as brief a period as possible and will be kept under regular review to ensure that it is still necessary. Suspension does not constitute either disciplinary

action or a disciplinary sanction, it is not an assumption of guilt and it does not indicate that any decision has already been made about the allegations.

Where appropriate, during any disciplinary investigation or suspension, the Head or the Bursar may appoint a senior member of staff, who is not involved in the disciplinary procedure, to provide guidance and support to the member of staff under investigation or suspension.

Investigation

At all stages of the procedure, an investigation will be carried out in order for Cheltenham College to establish a fair and balanced view of the facts relating to the allegations against the employee before deciding whether to proceed with a disciplinary hearing. This can include, where necessary, an investigation of social media websites (social media websites are a public forum, even if account privacy settings are set at a restricted access level). Employees must co-operate fully and promptly in any investigation. This will include informing Cheltenham College of the names of any relevant witnesses, disclosing any relevant documents, and attending investigatory meetings if required.

Cheltenham College will appoint an investigating officer to carry out the investigation, ensuring that the person appointed has appropriate training and experience in conducting investigations and, where necessary, has specialist knowledge of the subject matter.

Where there is a lack of appropriate resource within Cheltenham College, for example, due to the nature or complexity of the allegation, an independent investigator may be appointed to undertake the investigation.

The investigation will be confined to establishing the facts and gathering any relevant documentation. Where necessary, the investigating officer will obtain statements from any relevant individuals. An investigatory meeting with the employee may take place if considered appropriate by the investigating officer.

Notification

If, as a result of the investigation, Cheltenham College considers that there are grounds for potential disciplinary action, the employee will be invited to attend a disciplinary meeting with the allegations against him or her confirmed in writing. Cheltenham College will provide sufficient information about the alleged misconduct or poor performance and its possible consequences to enable the employee to prepare to answer the case. This will include the provision of copies of written evidence, including witness statements, where appropriate. The employee will normally be told the names of any witnesses whose evidence is relevant to their disciplinary hearing, unless Cheltenham College believes that the identity of a particular witness should remain confidential, in which case as much information as possible will be provided while maintaining confidentiality. All employees must treat as confidential any information or evidence communicated to them in connection with any investigation or disciplinary matter.

Where either party intends to call any relevant witnesses to the disciplinary meeting, advance notice of their intention to do so must be given.

Disciplinary Hearing

Having given the employee reasonable time to prepare their case, a formal disciplinary hearing will then take place at which the employee will be given the chance to state their

case, accompanied if requested by a trade union official or a fellow employee of the employee's choice, other than a family member.

The hearing will be chaired by a manager, and it will also be attended by someone whose role is to take an attendance note of the hearing. The investigating officer may additionally be present. The employee's chosen companion will be permitted both to address the hearing and to confer with the employee during the hearing, but they will not be permitted to answer questions on the employee's behalf. They are also not entitled to address the hearing against the employee's wishes or to act in a way that prevents anyone from contributing to the hearing. The employee must inform the chair of the hearing of the identity of their chosen companion in good time in advance of the hearing. If the employee's chosen companion is unavailable at the time the hearing is scheduled and will not be available for more than five working days after that time, the employee may be required to choose someone else. Cheltenham College may, at its absolute discretion, allow the employee to bring a companion who is not a trade union official or representative or a fellow employee where this will help them overcome a particular difficulty caused by a disability or where they have difficulty understanding English. Individuals are not obliged to act as companions if they do not wish to do so. The employee should also inform the chair of the hearing if they need any reasonable adjustments relating to the hearing or other aspects of the disciplinary process in order to accommodate a disability.

If Cheltenham College intends to call relevant witnesses to appear at the disciplinary hearing, the employee will be notified in advance. Likewise, if the employee wants to call any relevant witnesses to appear at the hearing, they must notify the chair of the hearing in good time in advance of the hearing.

The employee must make every effort to attend the hearing. If they or their companion cannot attend, they must inform the chair of the hearing immediately so that an alternative date and time can be scheduled. Cheltenham College will normally only reschedule the hearing once, unless there are very good reasons to justify a second rescheduling. If the employee fails to attend the hearing without good reason, or is persistently unable to do so, this could result in the hearing being held in their absence and a decision being made by Cheltenham College based on the available evidence (including any written representations that the employee may have made).

At the hearing, the employee will be allowed to set out their case and answer any allegations and will also be given a reasonable opportunity to ask questions, present evidence, call relevant witnesses (see above) and respond to any information provided by any witnesses.

Although Cheltenham College will endeavour to hold a face-to-face disciplinary hearing with the employee in ordinary circumstances, Cheltenham College reserves the right at its absolute discretion to hold the hearing (and any appeal hearing) remotely in exceptional circumstances, for example, in the case of a pandemic.

Please note that it is prohibited for employees to record (whether covertly or otherwise) the proceedings at the disciplinary hearing, and at any appeal hearing, without the express permission of Cheltenham College. If it is discovered that the employee has done this covertly, they could be subject to further disciplinary action. Depending on the circumstances, it may amount to gross misconduct and could result in the employee's summary dismissal.

Cheltenham College may record the proceedings at the disciplinary hearing, and at any appeal hearing, but will not do so without the employee's prior knowledge.

Following the hearing, Cheltenham College will decide whether or not disciplinary action is justified and, if so, the employee will be informed in writing of the decision in accordance with the stages set out below and notified of their right to appeal against that decision. An employee will not normally be dismissed for a first act of misconduct, unless Cheltenham College decides that it amounts to gross misconduct. In that case, summary dismissal without previous warnings (and without notice or payment on lieu of notice) may be appropriate. Otherwise, it should be noted that an employee's behaviour is not looked at in isolation but each incident of misconduct is regarded cumulatively with any previous occurrences.

Please note that Cheltenham College will deal with all disciplinary matters within a reasonable timescale. However, it reserves the right to extend these wherever necessary and if appropriate.

Sanctions

In the event that disciplinary action is warranted, one of the sanctions below may be issued. A sanction may be imposed at any level, including summary dismissal, depending on the circumstances.

Written warning

In the case of a first act of misconduct or underperformance, or a repetition of earlier minor offences or a failure to improve, the employee will be given a formal WRITTEN WARNING. The employee will be advised of the reason for the warning, how their conduct or performance needs to improve, the timescale over which the improvement is to be achieved, that the warning is the first stage of the formal disciplinary procedure and the likely consequences if the terms of the warning are not complied with. The written warning will be recorded but nullified after six months, subject to satisfactory conduct and performance. However, Cheltenham College reserves the right to extend the validity of the written warning to a maximum of one year, where deemed appropriate.

Final written warning

Failure to improve performance in response to the procedure so far, a repeat of misconduct for which a warning has previously been issued, or a first instance of serious misconduct or serious poor performance, will result in a FINAL WRITTEN WARNING being issued. This will set out the nature of the misconduct or poor performance, how the employee needs to improve their conduct or performance, the timescale over which the improvement is to be achieved and warn that dismissal will probably result if the terms of the warning are not complied with. This final written warning will be recorded but nullified after twelve months, subject to satisfactory conduct and performance. However, Cheltenham College reserves the right to extend the validity of the final written warning to a maximum of three years in cases of very serious misconduct or where the employee has a history of misconduct issues.

Dismissal

Failure to meet the requirements set out in a previous warning(s) or an act of gross misconduct will normally lead to DISMISSAL. In the case of gross misconduct, the employee will normally be dismissed without notice or payment in lieu of notice. A decision of this kind will only be made after the fullest possible investigation. Dismissal can be authorised only by a senior manager or Head of Department. The employee will be informed of the reasons for dismissal, the appropriate period of notice, the date on which the employment will terminate and how the employee can appeal against the dismissal decision.

Referral of Cases

A referral to the Disclosure and Barring Service and/or the Teaching Regulation Agency (TRA) may be made by Cheltenham College, upon the conclusion of disciplinary proceedings (and any appeal), in the following circumstances:

- (1) A referral to the Disclosure and Barring Service must be made if an employee has been dismissed or removed from working in regulated activity because of safeguarding concerns, or would have been had they not resigned. A referral will also be made where the employer becomes aware that the employee has received a caution or conviction for a relevant offence
- (2) A referral to the Teaching Regulation Agency (TRA) will be considered where Cheltenham College has dismissed the teacher for allegations of serious misconduct or would have dismissed them or ceased to use their services had they not resigned first.

Alternatives to dismissal

This section only of the disciplinary procedure is contractual and forms part of an employee's contract of employment.

In exceptional circumstances, Cheltenham College may at its discretion consider alternatives to dismissal. These may be authorised by management and will usually be accompanied by a final written warning.

Examples include:

- ☐ Demotion
- ☐ A period of suspension without pay
- ☐ Loss of seniority
- ☐ Pay reduction
- ☐ Loss of future pay increment or bonus
- ☐ Loss of overtime
- ☐ Transfer to another department or job.

Misconduct (falling short of gross misconduct)

Cheltenham College reserves the right to institute disciplinary action against an employee who commits a misconduct offence that falls short of gross misconduct, and this may result in a disciplinary sanction such as a written warning or final written warning. Examples of misconduct include but are not limited to:

- ☐ Persistent lateness, poor timekeeping or otherwise failing to adhere to working hours
- ☐ Time wasting, including but not limited to when working from home or as part of a hybrid working arrangement
- ☐ Unacceptable levels of absence
- ☐ Failing to comply with absence notification and certification procedures
- ☐ A minor breach of Cheltenham College's policies and procedures or the employee's contract of employment
- ☐ Working from home (or other unauthorised locations) contrary to the terms of the employee's contract of employment and without prior management approval
- ☐ A minor breach of health and safety or security rules

- ☐ Inappropriate dress or appearance which is below required standards
- ☐ Smoking on College premises, other than in designated outside smoking areas
- ☐ Failing to behave in a professional, polite and courteous manner toward other employees, client, customers or visitors
- ☐ Using foul or abusive language or engaging in other offensive behaviour
- ☐ Failing to comply with a reasonable management instruction, or insubordination
- ☐ Failing to comply with any measures implemented by College in response to an emergency or other critical situation
- ☐ Failing to co-operate with other employees
- ☐ Misuse of Cheltenham College's property, materials or equipment, including excessive wastage of materials and minor damage to property
- ☐ Excessive personal use of Cheltenham College's telephones or other information and communications systems for personal calls and messages
- ☐ Excessive personal email or Internet usage
- ☐ Negligence or carelessness in the performance of job duties
- ☐ Failing to maintain satisfactory standards of performance at work
- ☐ Failing to provide completed timesheets within a reasonable time frame or to comply with other management requirements to account for the employee's working time and activities, including but not limited to in respect of time spent working from home or as part of a hybrid working arrangement
- ☐ Failing to attend the workplace or other reasonably accessible location for meetings, training courses or other work-related events including but not limited to when the employee would otherwise be working from home and when instructed to do so by a manager
- ☐ Negligently breaking a legal requirement in connection with employment
- ☐ Witnessing or having other knowledge of another employee's misconduct and failing to report it to Cheltenham College
- ☐ Actively assisting or encouraging another employee to commit misconduct.

The above is intended as a guide and is not an exhaustive list.

Gross misconduct

Offences under this heading are so serious that an employee who commits them will normally be summarily dismissed, regardless of whether there are any active warnings on their record. In such cases, Cheltenham College reserves the right to summarily dismiss without notice of termination or payment in lieu of notice.

Examples of gross misconduct include but are not limited to:

- ☐ Any breach of the criminal law, such as theft (regardless of the monetary value of the item stolen)
- ☐ Knowingly facilitating or committing tax evasion
- ☐ Covertly recording the proceedings at any work-related hearing or meeting or otherwise conducting covert recording in the workplace
- ☐ Misrepresentation, falsification or failure to declare relevant information on medical questionnaires or application forms that is fundamental to the contract. This may also constitute a criminal offence
- ☐ Deliberate failure to disclose unspent criminal convictions or, in respect of employment exempt from the terms of the Rehabilitation of Offenders Act (i.e. employment with children or young people), failure to disclose any Police warning, caution, bind-over or conviction before and during relevant employment

- ☐ Failing to work normal working hours, or giving false or misleading information relating to working time and activities, including when working from home or as part of a hybrid working arrangement
- ☐ Any unauthorised possession or removal of Cheltenham College products or property, or property belonging to another employee or to pupils, parents, customers or visitors, fraud (including making fraudulent or false expense claims), deliberate falsification of records, false declarations in connection with employment or applications for employment or any other form of dishonesty
- ☐ Using Cheltenham College's property, materials or equipment to carry out work for third parties on a personal basis without permission
- ☐ Misuse of Cheltenham College benefits such as improper use of a staff discount card
- ☐ Serious misuse of Cheltenham College's name
- ☐ Offering, promising or giving a bribe or requesting, agreeing to receive or accepting a bribe or bribing a foreign public official in connection with employment contrary to the Bribery Act 2010
- ☐ Wilfully or negligently causing harm or injury to another employee, to pupils, parents, customers or visitors, including physical violence, assault, fighting, bullying or grossly offensive, abusive or aggressive behaviour or language
- ☐ Unacceptable behaviour, including bullying and harassment, towards staff, pupils, parents, customers or visitors in the course of work or on Cheltenham College property
- ☐ Victimising or detrimental treatment (including bullying and harassment) of any employee for raising a concern or making a complaint or giving evidence or information under Cheltenham College's Policies
- ☐ Contravention of Cheltenham College's Equal Opportunities Policy
- ☐ Discriminating against, harassing, bullying or victimising another employee, pupils, parents, customer or visitor because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (including colour, nationality and ethnic or national origins), religion or belief, sex and/or sexual orientation
- ☐ Committing and act of sexual harassment i.e. subjecting another employee, client, customer, supplier or visitor to unwanted conduct of a sexual nature
- ☐ Abuse or suspected abuse of your position of trust
- ☐ Gross failure to meet required standards of performance and behaviour as expected within the employee's role and responsibilities, including, but not limited to: breaches of safeguarding procedures; failure to report or properly comply with school procedures for reporting allegations of abuse; failure to observe proper professional boundaries in staff-pupil relationships; serious failure to exercise reasonable care for the safety and welfare of oneself, other employees, pupils, governors, members of the public or others on Cheltenham College premises;
- ☐ Deliberately or negligently causing loss or damage to Cheltenham College's property, or to property belonging to another employee, pupil, parent, customer or visitor
- ☐ Vandalism of, or otherwise intentionally interfering with, Cheltenham College's computer(s) or telephone network
- ☐ Serious carelessness or gross negligence, including grossly negligent acts or omissions
- ☐ A serious breach of health and safety rules, including acts or omissions which endanger the safety of oneself, other employees, pupils, parents, governors, customers or visitors
- ☐ A serious breach of security or information security rules including a serious breach of College's Acceptable Use or Data Protection Policies
- ☐ A serious breach of College's policies and procedures or the employee's contract of employment

- ☐ Repeatedly or seriously failing to comply with any measures implemented by College in response to an emergency or other critical situation
- ☐ Unauthorised use or misuse of Cheltenham College facilities or property
- ☐ Dereliction of duty, including sleeping whilst at work and undertaking unauthorised activities during normal working hours
- ☐ Serious carelessness or gross negligence; including grossly negligent acts or omissions
- ☐ Serious insubordination, non-compliance, wilful refusal to obey a reasonable management instruction or conduct intended to otherwise undermine
- ☐ Serious incapacity at work through an excess of alcohol or illegal drugs, whether consumed on or off Cheltenham College premises but which affects the employee's ability to carry out their job duties whilst at work
- ☐ Bringing illegal substances, weapons on to Cheltenham College premises
- ☐ Smoking on Cheltenham College premises, other than in designated outside smoking areas
- ☐ Misuse of Information Technology, including unauthorised and improper use of Cheltenham College IT equipment or of Cheltenham College's information technology systems, logging on to sexually explicit websites, downloading or circulating pornographic or other offensive, illegal or obscene material or using the Internet or e-mail for gambling, illegal activities or the sending of offensive e-mails (e.g. jokes) to work colleagues (in the latter case, including from the employee's home computer in their own time)
- ☐ Committing an act of indecency
- ☐ Posting derogatory, offensive, discriminatory or defamatory comments online (for example, on social media websites) about Cheltenham College, its employees, pupils, parents or customers or otherwise conducting themselves online in a way that is detrimental to Cheltenham College or brings Cheltenham College in to serious disrepute
- ☐ Behaviour outside working hours or work location, which either results in or has the potential to result in criminal charges or convictions, which affect the employee's ability to perform their job duties
- ☐ A serious breach of confidentiality, including unauthorised access of computer and personnel records and communicating or leaking confidential information about Cheltenham College, its employees or pupils, clients or customers to third parties (excluding making a protected disclosure under the terms of College's Whistleblowing Policy)
- ☐ Working for a competitor without permission
- ☐ Undertaking unauthorised paid or unpaid work during normal working hours, including when working from home or as part of a hybrid working arrangement
- ☐ Knowingly taking leave under any of College's family friendly policies when not eligible to do so
- ☐ Taking sick leave when not genuinely ill
- ☐ Repeatedly working from home (or other unauthorised locations) contrary to the terms of the employee's contract of employment and without prior management approval
- ☐ Engaging in an unauthorised activity which conflicts with the interests of Cheltenham College or its suppliers or customers
- ☐ Knowingly breaking a legal requirement in connection with employment
- ☐ Bringing Cheltenham College, the service or profession into serious disrepute, whether or not during working hours including failure to observe reasonable standards of ethics and behaviour (or appropriate professional standards) within and outside work, or to have proper and professional regard for the ethos, policies and practices of the school or County Council. This might include information on social

networking sites, particularly where this involves malicious, defamatory or abusive communication

- ☐ Unauthorised absence, including failure to return from a period of annual leave or other approved leave of absence
- ☐ Making malicious or vexatious complaints or allegations against colleagues or other members of Cheltenham College
- ☐ Witnessing or having other knowledge of another employee's misconduct and failing to report it to Cheltenham College
- ☐ Breaching copyright or any other proprietary interest belonging to Cheltenham College
- ☐ Actively assisting or encouraging another employee to commit gross misconduct.

The above is intended as a guide and is not an exhaustive list.

Appeals

An employee may appeal against any disciplinary decision, including dismissal, to the Bursar or Head, as appropriate, within five working days of receipt of the decision. Appeals should be made in writing and state the grounds for appeal.

The employee will be invited to attend an appeal hearing convened as soon as is reasonably practicable and chaired by a senior manager or member of Council as appropriate. At the appeal hearing, the employee will again be given the chance to state their case and will have the right to be accompanied by a trade union official or a fellow employee of their choice, other than a family member. The employee must inform the chair of the appeal hearing of the identity of their chosen companion in good time in advance of the hearing.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This decision will be at College's discretion depending on the circumstances of the case. In any event, the appeal will be dealt with as impartially as possible.

Where new evidence arises prior to or during the appeal, it may be necessary to carry out further investigation. The employee will be given access to any relevant new information or evidence and will have the opportunity to consider this before the hearing and make representations.

Following the appeal hearing, the employee will be informed in writing of the appeal decision. Cheltenham College's decision on an appeal will be final.

If the appeal is against dismissal, the date that any dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful, the decision to dismiss will be removed and the employee may be reinstated with no loss of continuity of employment or pay.