

# St Padarn's Institute Disciplinary Policy for Learners



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ST PADARN'S INSTITUTE

## Document Control Table

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# **St Padarn's Disciplinary Policy for Learners**

## **Introduction**

This policy covers St Padarn's Disciplinary procedures in relation to non-academic misconduct by learners and outlines the procedures that should be followed when an allegation of non-academic misconduct has been made. Academic misconduct will be dealt with under the relevant accrediting body's policy. Staff misconduct is covered by the Representative Body of the Church in Wales Disciplinary Policy.

## **Scope**

This policy covers alleged non-academic misconduct by a learner occurring on or off St Padarn's premises (including via social media) where the behaviour has affected St Padarn's itself, another learner, a member of staff, or anyone visiting or taking part in St Padarn's activities. Contravention of St Padarn's or related Church in Wales policies may lead to disciplinary action.

St Padarn's may take disciplinary action against a learner of its own volition if the person who reports an incident does not wish to make a formal complaint.

## **Procedures**

St Padarn's will consider which procedure(s) is most appropriate to be used in relation to an alleged offence. For example, where there are underlying physical or mental health issues then the Fitness to Practice Policy may be used. Learners will be informed of which policy is to be used.

## **Definitions**

The St Padarn's Code of Conduct sets out expected standards of behaviour and gives examples of non-academic misconduct. Any behaviour which contravenes this Code of Conduct will amount to a breach of discipline.

Disciplinary are likely to fall into one of the following categories:

- Actions which cause actual or potential distress or harm to others;
- Actions which cause actual or potential damage to property of others;
- Actions which may prevent or disrupt the normal functioning of St Padarn's;
- Actions which may cause reputational damage to St Padarn's as a result of the misconduct of the alleged perpetrator;
- Actions which impede or interfere with the pursuance of work/study of any of the St Padarn's Community, or impact on its normal operations.

Examples of non-academic misconduct include:

- Antisocial behaviour;
- Inappropriate, abusive or threatening behaviour including on social media;

- Compromising the safety or wellbeing of others;
- Sexual misconduct;
- Violence, harassment and hate crimes;
- Behaviour like to bring St Padarn's into disrepute;
- Internet access abuse;
- Disruptive behaviour on St Padarn's premises, or at any of its activities;
- Damage to St Padarn's property or abuse of its facilities;
- Causing a health or safety concern;
- Fraud
- Behaviour which may also constitute a criminal offence.

Reasonable adjustments will be made as appropriate to the disciplinary process and communicating the outcome for all parties who have a declared disability or health issues. A learner's disability may be a mitigating factor in relation to the alleged offence.

Learners will be able to bring a named representative with them to disciplinary hearings.

In exceptional circumstances where a learner is unable to represent themselves, someone may be appointed to represent them. A written request should be made to the Principal in these circumstances.

Learners have the opportunity to present any mitigating circumstances or factors which they believe should be taken into account. These would not normally be taken into account when deciding a learner is guilty of an offence, but may be taken into account when deciding the penalty.

Mitigating circumstances might be:

- The offence is a minor example of a serious offence;
- It is a first offence; • The learner admits to the offence at the earliest opportunity;
- The learner has expressed remorse;
- The learner has compelling personal circumstances that affected their judgement.

## **Support**

The welfare of those who are part of the St Padarn's community and those they come into contact within the course of St Padarn's activities is paramount. Any allegation of misconduct is likely to have an adverse impact on all parties involved (whether the incident is dealt with through a disciplinary process or criminal process).

St Padarn's will ensure that all parties involved in such incidents have access to support, information, advice, and assistance throughout the process, from the time of first disclosure or first reporting of the incident until the time when the relevant criminal and/or disciplinary process has been concluded. Where appropriate St Padarn's will refer to external support services to provide further specialised support. Support can take a range of forms, depending

on what is needed and appropriate in each individual case. The disciplinary process may be suspended until access to appropriate support has been arranged.

All parties involved with the incident will be treated fairly and no presumptions will be made about any of the parties involved until the relevant criminal and/or disciplinary process has been concluded.

Support for the learner and complainant will not be provided by the same member of staff.

Staff will be able to access support through the HR Department.

Learners may decide that they would like a named representative (e.g. fellow learner, priest) to be copied into any communication in relation to their case. Such a request needs to be made by the learner in writing to the Principal. Legal representation is only allowed in exceptional circumstances.

Where a learner is acquitted of a criminal offence and no disciplinary action is taken against the learner, ongoing action may need to be taken outside of the disciplinary process to ensure the welfare and wellbeing of all parties.

Some of St Padarn's programmes are accredited by other institutions. As part of St Padarn's agreement with the institution St Padarn's operates under certain policies of that institution. Therefore, where an offence contravenes the accrediting institution's policies, that institution may need to be notified. In such a case, depending on the offence, the accrediting institution's disciplinary policy may supersede the St Padarn's disciplinary policy, or run alongside it.

### **Immediate Suspension**

In some circumstances, for example where the alleged offence is of a violent nature, it may be necessary to suspend the learner from some or all aspects of study while an investigation is carried out. Where the learner is engaged on an accredited course every endeavour will be made to put in place arrangements so that they will not be disadvantaged while an investigation takes place. Registry will work with the relevant accrediting body where necessary.

In the event of external criminal processes being commenced in relation to the alleged misconduct, the procedures outlined in this policy may need to be adapted. Any adaptations will normally be discussed with all parties. Criminal proceedings would take priority over St Padarn's procedures. If criminal proceedings are dropped St Padarn's may still choose to investigate an offence. If a learner is found guilty by criminal proceedings the verdict may be taken into account in issuing penalties under St Padarn's disciplinary proceedings.

Any alleged offence of a safeguarding nature must be reported to the Church in Wales Safeguarding team. St Padarn's will take the advice of the Safeguarding team in dealing with any offences of a safeguarding nature.

### **Confidentiality**

All those involved in disciplinary procedures should be made aware of the need for confidentiality. Any breach of confidentiality by staff, learners or any contributors to St Padarn's will be treated seriously. All records must be kept in accordance with the Representative Body of the Church in Wales Data Protection Policy.

### **Processes involving more than one student**

In cases of a group complaint, normally a spokesperson/representative will be appointed.

In cases of a joint or group allegation, care will be taken to ensure that all students will be able to have an equal opportunity to hear and respond to the allegations made against them. They will also be able to hear and respond to what others have said and to evidence that others have provided.

Where possible and practicable, joint or group allegations will be heard at a single panel meeting with all students in attendance. All students will be given the opportunity, normally as part of the investigative processes, to raise privately confidential or sensitive matters relating to mitigation.

Where it is not possible or practical to hold a single panel meeting for joint or group allegations, normally the same panel will consider the case against all students involved to ensure that there is a consistent approach.

Decisions cannot be reached by default in the case of joint or group allegations.

An outcome decision will be taken for each student individually, taking into account their particular circumstances and mitigating factors. However, there will be broad consistency in the penalty given to all students who commit the same offence in similar circumstances.

### **Processes for Disciplinary Procedures**

Many breaches of rules are minor and can be dealt with most effectively by an informal conversation between the learner and the tutor responsible for the relevant programme. A note should be made of the incident and action taken on the learner's file, and removed after 6 months, if no further breaches occur. Repeated minor breaches of rules could lead to a formal disciplinary process.

Offences of a more serious nature should be reported formally to the Principal. The Principal will appoint a member of the senior staff to investigate the offence (Nominated Officer). Where an alleged offence involves more than one person

The Nominated Officer would usually conduct an investigation within 10 working days of the offence being reported to determine whether there is a case to answer at a formal disciplinary hearing. The learner will be informed of the nature of the investigation, and that the outcome may be the invoking of disciplinary procedures. It is recognised that there may be some

occasions when to ensure a fair outcome the investigation will take longer. In this case all parties should be kept informed of the reasons for the delay. The Nominated Officer will produce a report to be given to the Principal, including evidence, and make one of the following recommendations:

- Take no action as there is no evidence of a breach of conduct
- Recommend that the matter be dealt with informally
- Recommend a disciplinary hearing

The Principal will ensure the appropriate course of action is taken. The learner will be notified of the course of action within 5 working days of the Principal receiving the report. Where the alleged offence has been committed by a learner on an accredited course, the accrediting institution may also need to be informed.

If after investigation the Nominated Officer comes to the conclusion that the allegation was malicious then disciplinary proceedings may be initiated against the person making the allegation.

### **Process for Disciplinary Hearings**

If a disciplinary hearing is to be held the Principal will appoint an appropriate senior member of staff to chair the disciplinary hearing.

The learner will be given written notification of the disciplinary hearing, no fewer than 5 working days in advance of the hearing (unless an earlier date has been mutually agreed). This notification will include:

- The specific nature of the issue
- The date, time and place of the formal hearing
- That the learner may be accompanied by another learner, member of staff or chaplain
- A copy of the disciplinary policy
- Information about the evidence against them, and who will be at the hearing
- That the learner may call witnesses or provide evidence. This information must be submitted to the chair at least 36 hours prior to the hearing. The number of witnesses and any supporting documentation must be in proportion to the level of misconduct and be of a reasonable quantity. The chair reserves the right to refuse an unreasonable quantity of documentation or number of witnesses.
- If a new matter that the learner is unaware of is raised at the hearing the learner will have 48 hours after the hearing to submit any additional documentation to the chair for consideration as part of the decision-making process.
- That a member of staff not previously associated with the case, the Nominated Officer who carried out the investigation and a note taker will normally attend
- That appropriate arrangements will be made to meet any special needs.

Recognising the dispersed nature of St Padarn's learners, and that most are part-time, location and circumstances of the learner will be taken into account when deciding on the date, time and venue for the hearing. In some circumstances a hearing may be held by electronic means.

If a learner does not attend the hearing without good cause, a decision may be taken in his/her absence.

### **The Disciplinary Hearing**

The chair will explain the purpose of the hearing and go through the evidence, including any evidence given by witnesses in person. The learner will have the opportunity to set out their case and ask questions, present evidence, call relevant witnesses and to raise points about any information provided by witnesses.

The outcome of the hearing is normally communicated to the learner within five working days, unless agreed otherwise.

### **Levels of Disciplinary Action**

After consideration of all factors, including any mitigating circumstances, the possible outcomes are as follows:

1. **Written warning.** The details of the complaint and the actions the learner needs to take in order to improve conduct are communicated in writing. The learner will also be informed that a final written warning will be considered if there is no improvement. The warning is kept on file for 6 months.
2. **Final written warning.** This is given if the offence is sufficiently serious, or if it is a repeated offence. The details of the complaint and the actions the learner needs to take in order to improve conduct are communicated in writing, and that if there is no improvement that the learner may be removed from the programme.
3. **Removal from a programme.** The Chair of the panel will present a report to the Principal on the findings of the hearing. Removal of the course will occur if the learner is found to have committed an act of gross misconduct, or if there is continued unsatisfactory conduct. The Principal may meet with the learner and his/her representative before making a final decision. After consideration, the Principal may implement the removal of the learner from the programme.

Where the programme is accredited by another institution, that institution will be informed, or involved with the decision, depending on the partnership agreement with that institution.

St Padarn's learners may be involved with more than one programme and it should be clear from which programme(s) the learner is being dismissed. For example, an offence which may cause dismissal from the Formation for Licensed Ministers programme may not be a cause for dismissal from an academic programme.

## **Appeals**

### **Appeals against disciplinary action short of dismissal**

To appeal against disciplinary action short of dismissal, the learner must write to the Principal with ten working days of receipt of the written communication informing them of the outcome of the disciplinary hearing.

After investigation the Principal may decide to:

- Uphold the disciplinary action
- Remove the disciplinary action
- Impose a disciplinary action of their own

The decision of the Principal will be communicated to the learner within 5 working days. The decision of the Principal is final.

### **Appeals against dismissal**

Where a decision has been taken to remove a learner from a programme, the learner may appeal to the Chair of the Council of Reference in the case of non-accredited programmes, or to the relevant accrediting institution or the Office of the Independent Adjudicator in the case of accredited programmes <https://www.oiahe.org.uk>.

In the case of appeals to the Chair of the Council of Reference, after investigation the Chair may decide to:

- Uphold the dismissal
- Recommend a less severe sanction is imposed

The decision of the Chair of the Council of Reference is final.