Quality Assurance Handbook PART A1

POLICY No.10: Personal mitigating circumstance and disciplinary policy

10. Purpose of policy

This policy sets out FIT's criteria for managing personal mitigating circumstances (PMC) and broader disciplinary actions in cases where programme regulations and procedures are not adhered to by an enrolled apprentice.

10.1 Policy scope

This policy applies to all active and enrolled tech apprentices and is closely aligned with the Code of Conduct Policy, providing appropriate disciplinary actions regarding alleged breaches of the code of conduct.

10.2 Overarching considerations

Apprentices are responsible for their own actions, behaviours and decision-making. FIT imposes expected minimum standards of conduct from all apprentices to ensure a respectful environment that is conducive to learning, skills acquisition and development.

The functioning of a work-based learning programme in the form of a statutory apprenticeship requires the active participation of several leading stakeholders, all with the Apprentice's best interests in mind. Personal mitigating circumstances (PMC) procedures

ensure that an Apprentice can notify occurrences that might otherwise be deemed by FIT as breaches of the code of conduct, providing relevant stakeholders with a need-to-know awareness that an issue is inhibiting that apprentice from making the expected progression. When an apprentice fails to adequately engage with their tutor and FIT to notify an issue presenting through the PMC procedure, disciplinary procedures/actions may apply.

10.3 Policy statement

FIT considers a PMC to be a recognisably severe or significant event affecting an apprentice's health or personal life that is beyond their control and anticipated to possibly occur within the period of active enrolment in a tech apprenticeship programme. The events are severe enough in nature to result in the apprentice being unable to attend (in person or virtually), complete, or submit an assessment on time.

The criteria that FIT applies to submitted PMCs are not exhaustive. In all cases, it is the responsibility of the apprentice to keep their employer informed about any issue regarding attendance. FIT's PMC criteria include:

1. The apprentice demonstrating that they could not have averted the circumstance in question, since it was unforeseen.
2. The PMC noting a significantly negative impact on the apprentice's capacity to submit or attend off-the-job classes, the workplace, or an assessment event within required deadlines.
3. Usually, the circumstance in question coinciding with the timing of the PMC request.

The confidential nature of the information provided by apprentices in support of an application for consideration of PMC shall be respected by FIT, its tutors and delivering partners, in compliance with General Data Protection Regulations (GDPR). Relevant confidential information will only be shared with the relevant individuals on a need-to-know basis, all of whom are required to record and store applications securely to avoid unauthorised access to them or other information security breaches.

FIT reserves the right to notify an employer of any reduction in an apprentice's rate of attendance in off-the-job programme elements, notwithstanding a case put forward for a PMC request. In the first instance, an apprentice should notify their off-the-job tutor and employer about a PMC request. In most cases, the tutor/delivering partner can approve the PMC request where necessary in consultation with the FIT Registrar, providing a timeline or plan to assist the apprentice in their progression on the programme.

In cases where an apprentice anticipates their prolonged absence from training, the PMC request should be notified to the FIT Registrar by submission of the required PMC form through FIT's LMS. The Registrar will confirm receipt of the application and engage the People, Analytics and Wellbeing Lead to assist in supporting the apprentice, where appropriate, through a period of an active PMC being in place. In addition, the Registrar will notify the apprentice promptly regarding the status and outcome of the PMC application. FIT is cognisant of the time-bound nature of these matters and provides an efficient approval process wherever possible. Apprentices should review the PMC Procedure to prepare themselves to communicate a PMC request.

FIT advises apprentices that, notwithstanding an application for a PMC, they are welcome at any times to contact the People, Analytics and Wellbeing Lead to discuss mental health, wellbeing or possible supports that they may require to assist with navigating a personal issue. FIT believes in providing a supported environment in which tangible support is rendered promptly by the appropriate FIT staff member.

10.3.1 Instigating disciplinary proceedings

FIT recognises that the employer is responsible for managing the employer/employee relationship in the context of an apprenticeship. However, by virtue of FIT's remit of national coordination of the programmes, a leading part of FIT's responsibility is to monitor apprentices' progress, provide them with support where necessary, and investigate cases where a breach of the code of conduct may have occurred.

Any suspected breach of the Code of Conduct Policy may be considered a disciplinary matter and be subject to disciplinary action, as outlined in this policy. FIT reserves the right to apply appropriate sanctions in cases where misconduct allegations are upheld.

In instances where an apprentice does not utilise the PMC procedure or actively engages with their tutor, FIT, or employer when an issue of attendance presents, FIT may decide to provide an informal warning to the apprentice. If rectification does not subsequently occur, the FIT Registrar will issue a formal warning to the apprentice. When an occurrence or a possible breach of the code of conduct is not rectified, the Registrar will refer the situation to a Disciplinary Committee to sanction the apprentice. The Disciplinary Committee will comprise the Registrar/Director of Academic Affairs, and a representative of the apprentice's employer. Sanction by the Disciplinary Committee may lead to the apprentice's compulsory withdrawal from the programme, possibly also leading to a termination of their employment since the employer/employee relationship is based on the completion of the relevant Tech Apprenticeship programme.

Should an item of a criminal nature arise during the investigation of a matter relating to a possible breach of the Code of Conduct, FIT reserves the right to report said matter to the Gardaí or other authorities as it deems appropriate. Like the related Code of Conduct Policy, this policy is based on the principle of natural justice, so that anonymous reports of a breach of conduct or anonymous complaints will not be considered by FIT, and all parties have the right to respond to any allegation.

10.3.2 Apprentice suspension from active off-the-job training

Upon receipt of an allegation of a serious nature regarding a potential breach of the Code of Conduct, FIT reserves the right to suspend an apprentice from the off-the-job elements of the relevant programme. In all such cases, the FIT investigation will follow promptly after the matter is raised. Disciplinary procedures are internal to FIT and will not include dialogue with or between legal representation from either party. Once FIT informs an apprentice that disciplinary proceedings have commenced, the apprentice may be requested to attend a

meeting to discuss the matter. In such instances, FIT will advise the apprentice of their rights in relation to the matter.

10.3.3 Allegations of a breach of the Code of Conduct

In instances of suspected moderate or severe academic misconduct/impropriety of a serious nature, the Registrar will convene a sitting of the Academic Impropriety Committee. For other alleged breaches of the Code of Conduct, the Registrar will record all notifications of misconduct/potential breaches. The Registrar will investigate an allegation of a breach of the Code of Conduct and come to a preliminary finding either that no offence has occurred or note the admission of the offence by the apprentice. This process will follow the exhaustion of a previous process to address the matter presenting informally or in the cases that are of a serious nature. Once the Registrar processes the details of a case that is being presented, the Registrar will conduct a preliminary investigation. The Registrar will notify the Disciplinary Committee about the outcome of this process, and the Committee will investigate the matter further.

10.3.4 Investigation stage

As noted in Section 10.3.3, the Registrar will investigate an allegation of a breach of the Code of Conduct and come to a preliminary finding either that no offence has occurred or note the admission of the offence by the apprentice. In addition, the Registrar can also find that the evidence suggests a breach of the code of conduct may indeed have occurred. Where the Registrar finds that no offence has occurred, all records regarding the matter shall be destroyed and no reference will be made to it in the apprentice's record. In instances where the apprentice admits a breach of the code of conduct, the Registrar will forward the case to the Disciplinary Committee to apply an appropriate sanction in cases of an actual or potential major offence. Steps in the Registrar's investigation include, but are not limited to, the following:

1. The Registrar will notify the apprentice that they have been informed of a potentially serious breach of the Code of Conduct and are commencing an investigation into the matter.
2. The Registrar will collect evidence on the allegation that may take the form of documents and interviews with appropriate stakeholders. Evidence collected by the Registrar in this regard will be furnished to the apprentice for their review and consideration.
3. The Registrar will also provide this evidence to the Disciplinary Committee.
4. If the apprentice does not respond, the investigation will proceed nonetheless.

10.3.5 Sanctions for breaches of the Code of Conduct

The Disciplinary Committee will convene to review cases of an alleged significant breach of the Code of Conduct following receipt of the evidence from the Registrar. Any individual named who identified the potential breach of the Code of Conduct or who has a pre-existing relationship with the apprentice cannot be a member of the Disciplinary Committee.

If the Disciplinary Committee requires to speak with the apprentice, the apprentice may be accompanied by a friend or family member. However, a legal representative may not be this accompanying person. In cases of non-resolution at the investigation stage, the Disciplinary Committee must determine, on the balance of probabilities, whether an offence has occurred and the appropriate sanction to be applied where applicable. Sanctions may include the apprentice being required to repeat assessment elements of the programme, being referred to Tech Apprenticeship support services, or, in extreme cases, academic termination from a programme. An apprentice may appeal a decision of the Disciplinary Committee on the grounds of an administrative irregularity in the process.

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