

# Staff Disciplinary and Dismissal Policy and Procedure

Updated July 2021

# Staff Disciplinary and Dismissal Policy

## For those employed by Prospect Education (Technology) Trust Ltd

### General

Prospect Education (Technology) Trust, in operating Ashcroft Technology Academy (the Academy), recognises the shared responsibility between managers and employees for maintaining acceptable standards of behaviour, conduct and performance at work. Whilst most day-to-day issues will be identified through regular communication and supervision between managers and their staff - and should be dealt with informally by means of guidance, training or informal reprimand in order to improve conduct - there are occasions when an individual's conduct may need more serious attention. Staff should note that separate policies and/or procedures exist for dealing with matters related to capability, ill-health, grievance, bullying, harassment, discrimination or victimisation.

The Trust is committed to providing equal opportunities and access to all. This policy statement embraces the spirit of managing a diverse workforce; and those managing and dealing with the process of the Disciplinary and Dismissal Procedure must ensure that no employee is discriminated against, either directly or indirectly, or victimised, on the grounds of their race, disability, sex, sexual orientation, religion or belief, age, marital or civil partnership status or any stage of gender reassignment or any other protected characteristic.

The Academy Staff Disciplinary and Dismissals Policy (the Policy), underpins the standards of conduct, job performance, attendance and timekeeping of employees at the Academy and provides a framework against which to maintain these standards and to provide fair and consistent means of dealing with any failure to observe these standards in a non-discriminatory manner. All employees should be aware of the procedure to be followed if they become liable to disciplinary action: all outcomes from which shall remain confidential other than in certain limited circumstances where information must be shared by the Academy as per child protection and/or safeguarding matters laws.

The Policy has been drafted in accordance with employment law on disciplinary and dismissal matters and the statutory minimum procedure detailed within the Employment Act 2002 for dismissing or taking disciplinary action against an employee. Reference to this document is made within individual staff contracts of employment, as required under the Employment Rights Act 1996.

This policy is designed to help and encourage employees to achieve and maintain high standards of conduct and aims to ensure fairness, equity and consistency in the management of employees and is relevant to all permanent, temporary and casual staff working for the Trust.

In cases of alleged misconduct, the employee will be informed, in writing, of the nature of the allegations, that an investigation will be conducted and the name of the Investigating Officer. If the employee admits to the misconduct or if the facts are unarguably clear, the circumstances may be such that an investigation is not required and that the case proceeds directly to a disciplinary hearing. The aim of an investigation is to establish the facts of the case as thoroughly and as promptly as practicable. The employee should be invited, in writing, to attend an investigatory meeting with the appointed Investigating Officer. The employee should be given reasonable notice of the meeting in order to prepare. The letter should state the allegation(s) and state that it is an investigatory meeting. The letter should also outline the scope of the investigation, possible outcomes and that the investigation may require the Investigating Officer to speak with other members of staff or students in order to establish the facts.

All witnesses to the alleged offences should be asked to make written statements and to sign and date these statements. Witnesses must also be informed that they may be asked to attend a subsequent disciplinary hearing to provide evidence. As part of the investigation, the Investigating Officer will interview the employee and all relevant witnesses. The Investigating Officer may seek to obtain written statements, or take notes and subsequently check the accuracy of these with the employee. Moreover, the Investigating Officer will collect all relevant documentation relating to the investigation.

The employee should be clear that the interview is part of the investigation and not part of a disciplinary hearing.

On conclusion of the investigation, the Investigating Officer will make a recommendation or set of recommendations, including, in consultation with the Academy's HR Adviser, whether to proceed to a formal disciplinary hearing. The employee under investigation will be kept informed at all stages by the Investigating Officer. Every effort will be made to conclude the investigation as quickly as possible.

## Disciplinary Procedure

When it appears that a failure to meet the required standards has occurred, the following will apply:

- i) The employee will be advised by his/her line-manager of the complaint. and the matter will be discussed with the employee. Where the matter is considered to be one where informal action is the probable outcome, the meeting is likely to be undertaken by the employee's immediate line-manager. The Principal will determine who should lead such a meeting, if more formal action is anticipated. The manager undertaking such a meeting should ensure that standards of fairness, objectivity and consistency have been applied.
- ii) Full investigation (where necessary) and careful consideration of the facts will be carried out without undue delay and may include consultation with any witnesses. Any investigation will be carried out by an appropriate Senior Leader, one who has not been involved in the matter previously and who therefore has no knowledge of the matter. Allegations of misconduct will normally require investigation before any disciplinary action is taken. In exceptional circumstances, an investigation might not be required, for example where the employee admits to the misconduct, or where the facts of the case are already unarguably clear (e.g. conviction of a serious criminal offence). In these circumstances, the case will proceed directly to a disciplinary hearing.
- iii) At all disciplinary meetings, the employee will be provided with an opportunity to explain his/her case to the line-manager who will then determine what disciplinary action is to be taken. The employee may, if he/she wishes, be accompanied during a formal disciplinary interview by a single companion, chosen by the employee, who may be a trade union official or a fellow employee. The role of the companion can vary to include support, guidance, advice or representation, they will have no legal right to answer questions on the employee's behalf but will have a right to address the hearing and should be allowed to ask questions. They may also confer privately with the employee. Acting as an employee's companion is voluntary and no detrimental action will be taken against any employee who chooses to act on behalf of another employee or who refuses to do so. The manager conducting the interview may also request the presence of another person employed by the Academy. In addition, or as an alternative, an employee under 18 years of age may request one or both parents or guardians to be present during a formal disciplinary interview.

If an employee or their colleague cannot attend a hearing because of illness or other unforeseen circumstances, they should notify the member of staff due to undertake the disciplinary meeting at the earliest opportunity and provide the reason. The hearing will be rearranged. However, if no suitable reason is provided, or the employee or their colleague fails to attend without notice a second time, the hearing will proceed in their absence. The reason for non-attendance will be recorded.

Disciplinary and dismissal proceedings shall not be affected or interrupted by the employee who is subject to the procedure by invoking the grievance procedure. Any grievance raised during the course of these proceedings, that relates to disciplinary action or dismissal, will be dealt with as part of the disciplinary hearing, or appeal hearing, as appropriate. Where an employee is absent on medical grounds at the time of a disciplinary process, Occupational Health advice will be sought, if deemed appropriate.

Written notes will be kept of the meeting by the manager conducting the meeting or the other person employed by the Academy who the manager has requested to be in attendance and these notes should be shared with both parties. Any disagreement by the employee as to the accuracy of the notes should be formally recorded and added to the note.

- iv) If disciplinary action is found to be the appropriate course of action, the employee will be advised of the action that will be taken and the reasons for it. The action will be recorded on the employee's personal record and will be disregarded after a specified period of no more than 12 months for the purposes of subsequent disciplinary proceedings. The employee will also be informed of their right to appeal the sanction, should they believe this to be excessive. Disciplinary action in respect of absence from work shall only result after proper investigation and in accordance with the staff absence policy. Should this be in respect of sickness or injury such action should only occur following receipt of appropriate medical information.
- v) Written confirmation will be given to the employee and if desired, to his or her representative if the disciplinary action is to be greater than an informal warning.
- vi) Disciplinary procedures relating to the Principal or to the Vice-Principal will be carried out by the Chairman of the Executive Board, and/or Board of Trustees.

## **Disciplinary Action**

Disciplinary action will normally comprise one or more of the following:

### **Informal warning**

As part of his/her day-to-day responsibilities, a line-manager may comment adversely on the employee's standard of job performance or conduct, as such it is usual that the issuing of informal warnings is often delegated to immediate line-managers. These informal warnings, which may be recorded as such, may be taken into account should a continuation or recurrence of the unsatisfactory performance or conduct lead to further disciplinary action. The employee has a responsibility to respond positively to informal attempts to resolve disciplinary issues by their line-manager and to co-operate fully during all stages of the disciplinary procedure. Therefore, it is hoped that the majority cases of minor misconduct or unsatisfactory performance can be resolved informally.

### **Formal warning**

#### *First Written Warning*

In the event of continued minor breaches or a more serious breach of discipline (although that may be the first complaint), the employee will first be spoken with and then be written to, detailing what it is they are alleged to have done wrong and the reasons why this is not acceptable. The employee will be invited to attend an interview with his/her line-manager at which the matter would be discussed and at which the employee is entitled to be accompanied by either a union official or representative or by a work colleague. Notice of holding such a meeting and the reasons for so doing should be given in advance to allow the employee an opportunity to prepare a response. This should ideally be held between three and five working days, subject to agreement between the two parties. If there is a requirement for further investigation, prior to a meeting being held, this may delay the meeting, although the meeting should still take place as soon as reasonable possible. If the meeting results in disciplinary action being taken, a written warning will be given to the employee stating the nature of the misconduct, the standards expected, the steps that should be taken to correct deficiencies, and the length of time allowed for improvement and a date for a follow-up review,. The warning will inform the employee of the likely consequences of further misconduct. The employee will be asked to sign a copy of the warning letter to confirm understanding of the terms of the letter. A copy of the written warning will be placed on the employee's personal file and will be disregarded after a specified period of no more than 12 months.

#### *Final Written Warning*

Through a failure to improve or change behaviour in the timescale set at the first written warning stage, or where the incident is of a more serious nature, the employee will be issued with a final written warning, but only after they have been given the opportunity to present their case at a meeting (operated in the same way as detailed under the first written warning section). As under the first formal procedure, the warning should give details of, and grounds for, the complaint. The employee will be advised that failure to improve performance or modify behaviour may lead to dismissal or some other disciplinary action as described below, and also advised of their right of appeal. The action will be recorded on the employee's personal record and will be disregarded after a specified period of no more than 12 months.

Information relating to formal proceedings will be kept confidential other than where this relates to a safeguarding concern.

## **Other Disciplinary Action**

Depending on the circumstances, after issuing the final written warning, the penalty for continuing failure to meet the required standards or for further misconduct is likely to result in dismissal but may be in the form of an additional formal written warning or other disciplinary action.

## **Suspension With Pay**

If an incident has occurred which might warrant severe disciplinary action or where further investigation or consultation is required, the Principal, or in the case of his/her incapacity or illness, the Chairman of the Executive Board, may suspend an employee on normal pay. The period of the suspension will be specified both orally and in writing, at its commencement by the Principal or Chairman of the Executive Board and the employee will be instructed when he/she is to return to Academy premises. In the case of associate staff and certain part-time staff, the Principal or Chairman of the Executive Board may delegate this responsibility to the Vice-Principal.

## **Suspension Without Pay**

In exceptional circumstances, and at the discretion of the Principal, or in the case of his/her incapacity or illness, the Chairman of the Executive Board, suspension without pay for a maximum of five working days may be used.

In addition, in cases relating to criminal proceedings, an employee may be suspended without pay pending an investigation into the circumstances of the case. This will allow the Principal, Vice-Principal, (or if relating to either of the above, the Chairman of the Executive Board or Board of Trustees), to undertake a full review of the circumstances before reaching a final decision in relation to the employee's employment with the Academy.

Suspension (with or without pay) should only be applied where the circumstances of the case make it unacceptable for the employee to remain in work while the facts are ascertained. Such circumstances would be: an allegation, or potential allegation, of gross misconduct; if students or adults are at risk; if the employee needs to protect themselves or if the presence of the employee at work may impede the investigation. An employee does not have the right to be accompanied at a suspension meeting, unless this is a meeting that provides for suspension without pay, at which the employee may be accompanied. An employee can be suspended at any stage during the disciplinary process, if it is considered appropriate e.g., when further information comes to light.

## **Gross Misconduct**

Gross misconduct is conduct which normally renders an employee unsuitable for continuing employment. In the absence of any relevant mitigating circumstances, gross misconduct will normally lead to summary dismissal. Generally, gross misconduct is readily recognisable and accepted as such by an employee. However, for the sake of clarification the following illustrations of gross misconduct are given as examples; but are not intended to be exhaustive:

- theft, fraud or acceptance of bribes
- dishonesty, including falsifying any documents
- a serious breach of the Trust's/Academy's rules, policies and practices or breach of any professional code of conduct applicable to the employee's job role
- physical violence or bullying towards other staff or students
- deliberate and serious damage to property (whether belong to the Trust or a third party)
- serious misuse of the Trust's property or name
- serious abuse of the Trust's computer equipment/software
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- serious insubordination or indiscipline
- unlawful discrimination or harassment
- bringing the Trust, the Academy or any of its sponsors into serious disrepute
- serious incapacity at work brought on by alcohol or drugs
- causing loss, damage or injury through serious negligence
- a serious infringement of health and safety rules
- a serious breach of confidence
- making untrue statements with intent to deceive (e.g. false references, misrepresentation of qualification or false statements relating to sickness)
- engaging in a relationship with a student or other subordinate which is deemed by the Trust to be inappropriate
- indecent behaviour, or accessing indecent websites or social media groups
- misuse of social media, either at or away from work, such that it brings the Trust/Academy into disrepute; impacts upon an employee's ability to perform their job or contributes to any of the above listed examples occurring

## **Dismissal**

In instances of gross misconduct, dismissal may be summary without notice. In other circumstances, an employee may be dismissed after being given due notice if, despite adequate warnings, he/she fails to meet the required standards of attendance, job performance or conduct but only after they have been given the opportunity to present their case at a meeting (operated in the same way as detailed under the first written warning section). A decision to dismiss will be made by the Principal, or, in the case of his/her incapacity or illness, by the Chairman of the Executive Board. In the case of associate staff and certain part-time staff, the Principal, or Chairman of the Executive Board, may delegate this responsibility to the Vice-Principal provided each such case is discussed with the Principal before such a decision is made. The employee will be written to as soon as possible following the meeting, outlining the reasons for dismissal, the date on which the employment contract terminates, the appropriate period of notice and their right of appeal.



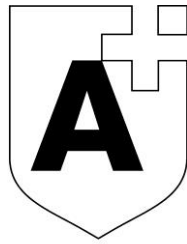
## **Appeals**

An employee has the right to appeal if not satisfied with the disciplinary action taken. The appeal should be made orally or in writing, at the choice of the employee, to the next level of management, above that at which the action was taken, clearly setting out the reasons for the appeal. This manager should have had no prior involvement in the matter. Notice of the intention to appeal should also be given to the line-manager who took the decision, within five working days of receipt of the letter confirming the disciplinary action.

An appeal against a disciplinary decision will normally be heard by the next level of management within ten working days from the date when the notification of the appeal is received.

However, time will be allowed to investigate the case and to give the matter careful consideration. The employee has the right to explain his/her case personally to the senior manager hearing the appeal and to be accompanied by a union official or work colleague. The manager who heard the original case at the disciplinary hearing will attend the appeal hearing and present the management case. The manager conducting the appeal will review the decision of the disciplinary hearing in the light of the evidence presented at the appeal hearing and taking into account the grounds of appeal will decide whether or not to confirm the disciplinary decision, overturn the disciplinary decision or impose a lesser penalty. The outcome of that appeal will be final, made in writing within 5 working days of the appeal hearing, it will detail the reasons for the decision made and it will advise the employee that no further appeal may be made.

# Form DIS 1



**Ashcroft**

## Identifying the need for disciplinary action

Prospect Education (Technology) Trust Ltd

- 
- Has the failure to meet required standards been investigated?

**YES**

**NO** – *Investigate*

- 
- Is there a case to answer?

**YES**

**NO** – *No further action*

- 
- Has the matter been discussed informally where appropriate?

**YES**

**NO** – *Discuss the issue with the employee*

- 
- Are there any special circumstances, eg job change or illness?

**YES** – *Consider impact of these circumstances*

**NO**

- 
- Where applicable, has the employee received all necessary counselling/training?

**YES**

**NO** – *give all necessary training/counselling*

- 
- Is it a disciplinary issue?

**YES**

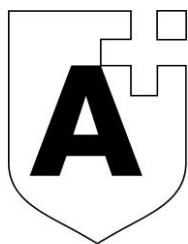
**NO** – *Review progress*

- 
- Could the matter be resolved by redeployment, retraining etc.

**YES** – *Redeploy/retrain, etc as necessary*

**NO** – *Take disciplinary action*

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**Ashcroft**

Prospect Education (Technology) Trust Ltd

