



# **Staff Disciplinary and Dismissal Policy and Procedure**

Updated December 2023



# Staff Disciplinary and Dismissal Policy

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

### Purpose and scope

This Staff Disciplinary and Dismissal Policy (the Policy) outlines the expectations and procedures in relation to staff conduct and performance at Ashcroft Technology Academy (the Academy). It is designed to maintain a positive work environment for all employees, maintain the outstanding experience all students at the Academy receive and ensure fair treatment of all employees.

Prospect Education (Technology) Trust, in operating the Academy, recognises the shared responsibility between managers and employees for maintaining acceptable standards of conduct (acceptable and proper behaviour) and capability (performance) at the Academy. Whilst most day-to-day issues will be raised and addressed during regular communication between managers and their staff - good managers will routinely address poor conduct or practice informally with guidance, training or informal reprimand to secure improvement. Employees would be expected to accept guidance or informal reprimand and agree improvements to be made. An employee's manager may issue an informal verbal warning, which is time-limited and may be held on the employee's personal file. However, there might be occasions when an individual's conduct may require more serious attention and formal intervention.

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. Disciplinary actions will often follow a progressive approach, which will include a verbal warning, written warnings, and summary dismissal, depending on the severity and frequency of the violation. However, an alleged misconduct, after investigation, might require an immediate move to a more serious disciplinary action, therefore moving beyond lower-tier outcomes. The same is true where a previous warning is spent but a new investigation highlights a repeat of the same behaviour considered in the previous disciplinary hearing. All employees should be aware of the procedure that will 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. These circumstances would include child protection and/or safeguarding matters.

### Allegations of misconduct

The employee will be advised by his/her line-manager of the complaint/ or performance issue and the matter will be discussed with the employee. If the line-manager believes that the allegation could meet the threshold for formal disciplinary action, he or she will inform the member of staff that the matter will have to be raised with the member of the Leadership Group who has line-management responsibility for them and the Designated Safeguarding Lead (DSL), if the allegation or complaint relates to a safeguarding matter. The member of LG or the DSL, if the matter relates to safeguarding/ child protection, will let the employee know that they will investigate the matter. The aim of the investigation will be to establish the facts of the case as thoroughly as possible. However, if the employee admits to the misconduct, or if the facts are unarguably clear, the circumstances may be such that an investigation will not be required and, if so, the case will proceed directly to a disciplinary hearing.

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. The Investigating Officer will keep written records throughout the investigation and may also collect relevant documentation relating to the investigation. Any disagreement by the employee over the accuracy of the notes taken should be formally recorded and added to the note.

The employee may be accompanied during a formal disciplinary interview by a 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. However, they will have no legal right to answer questions on the employee's behalf. They 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.

Every effort will be made to conclude the investigation as quickly as possible, and on conclusion of the investigation, the Investigating Officer will make a recommendation or set of recommendations to the Vice-Principal. This will include a recommendation to proceed to a formal disciplinary hearing, if he or she feels that this is necessary.

Before a formal disciplinary hearing, the employee will be invited to a pre-disciplinary meeting. The purpose of that meeting will be for the Vice-Principal and the Investigating Officer to confirm the allegation(s), the scope of the investigation, the outcome of the investigation and confirmation of the need for a formal disciplinary hearing to determine disciplinary actions (if any). At the pre-disciplinary meeting, a date and time will be agreed mutually for the formal disciplinary hearing. All content from the investigation process not previously shared and agreed with the employee (copies of the findings or statements etc.), will also be shared with the employee at the pre-disciplinary meeting.

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.

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.

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.

Disciplinary procedures relating to the Principal will be carried out by the Chairman of the Executive Board (EB) or a delegated member of the EB.

## **Disciplinary actions**

### **Informal warnings**

As stated above, all employees have a responsibility to respond positively to informal attempts to resolve disciplinary issues raised by the investigating manager and to co-operate fully during all stages of the disciplinary procedure. Therefore, it is hoped that the majority of cases of minor misconduct or unsatisfactory performance, which may give rise to an investigation, can be resolved informally.

An informal verbal warning should be sufficient to address an employee's standard of job performance or conduct. The immediate line-manager – after discussion with their Leadership Group (LG) line-manager - will communicate this to the member of staff. An email confirmation might be sent from the line-manager to the member of staff after the warning has been given verbally. This will be time-limited and held on the employee's personal file. It is worth noting that an informal verbal warning could be the outcome following a full disciplinary investigation.

### **Formal Disciplinary Process**

#### ***First Written Warning***

If the disciplinary 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 most likely consequences of further misconduct and of their right to appeal. 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***

A failure to improve or change already identified poor performance or behaviour in the timescale set at the first written warning stage - or if the original issue is of a more serious nature - the employee will be issued with a final written warning. As under the first formal procedure, the warning should give details of, and grounds for, the complaint/ issue. The employee will be advised that failure to improve performance or modify behaviour may lead to dismissal or further disciplinary action as described below, and 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 Chair of the EB, 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 Chair of the EB 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 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 Chair of the EB, 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 the Principal, the Chair of the EB), 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. 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)
- misuse of the Trust's property or name
- abuse of the Trust's computer equipment/software
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- serious or persistent insubordination or indiscipline
- unlawful discrimination or harassment
- bringing the Trust, the Academy or any of its sponsors into serious disrepute
- 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 or persistent breaches of confidence or trust in the employee's ability to fulfil their duties correctly

- making untrue statements with intent to deceive (e.g. false references, misrepresentation of qualification or false statements relating to sickness or malicious, vexatious allegations)
- 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 Chair of the EB. In the case of associate staff and certain part-time staff, the Principal 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 upon conclusion of the disciplinary process. 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.