



Disciplinary and Dismissal Procedure for staff Policy

Updated April 2018



Disciplinary and Dismissal Procedure for all Staff employed by Prospect Education (Technology) Trust Ltd

General

It is the intention of the Academy Disciplinary and Dismissals Procedure to ensure that the standards of conduct, job performance, attendance and timekeeping of employees are maintained: also 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. The following procedure has been drafted in accordance with employment law on disciplinary and dismissal and the statutory minimum procedure detailed within the Employment Act 2002 for dismissing or taking disciplinary action against an employee.

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.
- ii) Full investigation and careful consideration of the facts will be carried out without undue delay and may include consultation with any witness.
- iii) The employee will be provided with an opportunity to explain his/her case to the line manager who will then make the decision as to 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 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.
- iv) If disciplinary action is found to be appropriate, 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. 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. 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. It is hoped that a 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 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 a union official or 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 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 where this is appropriate. 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 event 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 or, 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 penalty, 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.

Other Disciplinary Action

Depending on the circumstances, after the issue of 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 regarding the employee's employment with the Academy.

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 option of the employee to the next level of management above that at which the action was taken. Notice of the intention to appeal should also be given to the 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 outcome of that appeal will be final, made in writing and the employee advised that no further appeal may be made.

Form DIS 1



Identifying the need for disciplinary action

Prospect Education (Technology) Trust Ltd

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- 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*



Ashcroft

Prospect Education (Technology) Trust Ltd

