

## Zest Academy Trust

### Disciplinary Procedure

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## Introduction

Our disciplinary procedure exists to explain the standards of behaviour that the Trust expects and what will happen if an employee is alleged to have broken a disciplinary rule. It is necessary for the proper operation of the Trust's business and the health and safety of the Trust's employees and fairness to employees that the Trust operates a disciplinary procedure.

## Principles

The following procedure will be applied fairly in all instances where disciplinary action is regarded as necessary by the Trust's management, save to the extent that a minor reprimand is given for any minor act of misconduct committed by an employee.

The Trust reserves the right to implement the procedure at any stage as set out below taking into account the allegation made against the employee. Employees will not ordinarily be dismissed for a first disciplinary offence unless it is deemed to be an act of gross misconduct.

If dealing with an act of misconduct by an employee during their probationary period managers will refer to the Probationary Period Policy as disciplinary sanctions are different.

Employees have the right to be accompanied at a formal disciplinary hearing by a work colleague or trade union official of which they are a member.

A decision to invoke criminal or civil proceedings against an employee will not necessarily delay any investigation or subsequent disciplinary hearing. Similarly, a decision of the Criminal or Civil Court will not necessarily affect or have an impact on an investigation or the outcome of a disciplinary hearing.

Proceedings in disciplinary interviews and hearings shall be confidential.

Matters that the Trust views as amounting to disciplinary offences include (but are not limited to):

- persistent poor timekeeping;
- unauthorised absence;
- wilful damage to the Academy's property;
- failure to observe the Academy's procedures;

- abusive behaviour/language;
- unreasonable refusal to follow an instruction issued by a manager or supervisor;
- smoking in non-designated areas of the Trust's premises;
- bribery offences under the Bribery Act 2010.
- Unprofessional and inappropriate behaviour;
- Behaviour that is deemed to be bringing the Academy into disrepute.

## Informal Disciplinary Process

The aim of informal action is to make the employee aware of expected standards and to enable the Trust to take action to avoid relatively minor issues becoming a major problem. However, should this course of action fail, or were the misconduct be more serious, then formal action will be taken.

## Formal Disciplinary Process

### SUSPENSION

It may be appropriate, in serious circumstances, to suspend an employee during an investigation or pending a disciplinary hearing. Paid suspension is **not** disciplinary action and does not imply the employee is guilty of the alleged offence. There may be instances where suspension is necessary while investigations are carried out. The Trust has the right to suspend with pay where there are reasonable grounds for concern that evidence may be tampered with, destroyed or the presence of the employee might prejudice the investigation or influence witnesses, or if there is a potential risk to the Academy or other employees or third parties in allowing the employee to remain at work.

Suspension will normally be on full pay and for as short a period as possible. During a period of suspension, the contract of employment will continue together with all rights under the contract.

In the event of a long-term suspension this will be reviewed every 4 weeks.

### INVESTIGATIONS

No disciplinary action will be taken against an employee until a case has been investigated.

Depending on the circumstances of the case, the employee may be invited to attend an investigatory interview. If such an interview is held prior to a disciplinary hearing, the employee will be informed at the outset that the interview is an investigatory interview. Employees may be accompanied at a formal investigatory interview by a work colleague or a recognised Trade Union Official. Where the evidence is not in dispute the Trust reserves the right to dispense with an investigatory interview and to proceed directly to a formal disciplinary hearing.

### DISCIPLINARY HEARINGS

Where, upon completion of an investigation, there are reasonable grounds to believe that an employee has committed an act of misconduct; the employee will be invited to attend a disciplinary hearing before a Senior Manager of the Trust. In the event of a disciplinary hearing taking place the Trust will:

- give the employee a minimum of five working days' advance notice of the hearing;
- tell the employee the purpose of the hearing and that it will be held under the Trust's disciplinary procedure;
- explain the employee's right to be accompanied at the hearing by a work colleague or trade union official of which they are a member;
- give the employee written details of the nature of his/her alleged misconduct; and
- provide to the employee all relevant information (which may include document e.g. statements taken from any fellow employees or other persons that the Trust intends to rely upon against the employee) not less than five working days in advance of the hearing.
- Where the employee is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the hearing will be adjourned to another day. The Trust will comply with the above in respect of giving notice of the rearranged hearing. Unless there are special circumstances mitigating against it, if the employee is unable to attend the rearranged hearing, the rearranged hearing will take place in

the employee's absence. The employee's work colleague or trade union official may attend in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

Where the chosen companion is unavailable on the day scheduled for the initial meeting, it will be rescheduled, provided that the employee proposes an alternative time within five working days of the scheduled date.

#### ROLE OF COMPANION

The employee's chosen companion has the right to address the hearing to put the employee's case, sum up the case and respond on the employee's behalf to any view expressed at the hearing. The companion may also confer with the employee during the hearing. However, the companion will not be permitted to answer questions on behalf of the employee, or to address the hearing where the employee indicates that he/she does not wish this.

#### OUTCOMES OF A DISCIPLINARY HEARING

As soon as possible after the conclusion of the disciplinary proceedings, the employee will be informed of the outcome of the disciplinary hearing and what disciplinary action, if any, is to be taken; the decision will be confirmed in writing. The employee will be notified of his/her right of appeal under this procedure.

Where, following a disciplinary hearing, the Trust establishes that the employee has committed a disciplinary offence; the following disciplinary action may be taken:

- a) Take no formal action.
- b) Where a minor offence or offences have been committed, a recorded oral warning may be given.
- c) Where either a more serious disciplinary offence has been committed or further minor offences have been committed by an employee following a recorded oral warning that remains "live", the employee will receive a first written warning.

- d) Where the employee has committed further acts of misconduct (these being acts of misconduct other than gross misconduct) and there is a current final written warning, the employee may be dismissed with notice or with pay in lieu of notice.
- e) Where the Trust establishes that an employee has committed an act of gross misconduct, the employee may be summarily dismissed.
- f) The Trust may as an alternative to dismissal demote or transfer the employee to another post and issue a final warning or further final warning. Should the employee refuse the demotion then the decision to dismiss will be applied.

The above sanctions may be imposed in conjunction with other forms of disciplinary action, or as an alternative to dismissal.

#### TIME LIMITS FOR WARNINGS

- Oral written warning                      3 months
- First formal warning    6 months
- Final warning                                12 months

### Appeals

An employee may appeal against any disciplinary sanction imposed against him/her, with the exception of an informal warning. Appeals should be made in writing outlining the grounds for appeal, within 5 working days of the date the employee received the letter confirming the outcome of the disciplinary hearing.

Appeals will be handled in line with the Appeals Policy

The Trust's decision at the appeal is final.

### Acts of Gross Misconduct

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the Trust. In the event that an

employee commits an act of gross misconduct, the Trust will be entitled to terminate summarily the employee's contract of employment without notice or pay in lieu of notice.

Matters that the Trust views as amounting to gross misconduct include (but are not limited to):

- stealing from the Trust, members of staff, pupils or contractors;
- other offences of dishonesty;
- falsification of a qualification that is a stated requirement of the employee's employment or results in financial gain to the employee;
- falsification of records, reports, accounts, expense claims or self-certification forms, whether or not for personal gain;
- sexual misconduct at work;
- violent, dangerous or intimidatory conduct including fighting, physical or verbal assault;
- deliberate damage to, or misuse of, the Trust's property;
- serious damage to the Trust's property;
- drunkenness or being under the influence of alcohol or illegal drugs while at work;
- possession, custody or control of illegal drugs on the Trust's premises;
- serious breach of the Trust's rules including, but not restricted to, health and safety rules and rules on computer use; ( please refer to relevant policies)
- gross negligence;
- conviction of a criminal offence that is relevant to the employee's employment;
- conduct that brings the Trust or the Trust Board into disrepute;
- discrimination against or harassment of a fellow employee or pupil;
- serious misconduct which falls below the standards of behaviour expected of an employee of the Trust;
- actions that are detrimental to the welfare of pupils;
- failure to comply with the main terms of a contract of employment;



- serious infringement of the Bullying & harassment policy;

Other acts of misconduct may come within the general definition of gross misconduct.

## Child Protection Issues

If an allegation involves a pupil(s) consideration will be given to referring the matter to the child protection agencies in accordance with Child Protection procedures.

## Review

This procedure will be bi annually reviewed in consultation with the ECC and the GJNCC. Any amendment to it will be notified to employees in writing by the Trust and such written advice will inform employees as to the date when any amendment comes into effect. This may be by means of the Trust's intranet or via use of notice boards.