



## **THE ENQUIRE LEARNING TRUST**

### **DISCIPLINE PROCEDURE**

**Implemented: 1<sup>st</sup> September 2015**

## **SUMMARY OF CONTENTS**

- 1. Scope**
- 2. Principles**
- 3. Investigation**
- 4. Hearing**
- 5. Disciplinary Action**
- 6. Appeal**
- 7. Gross Misconduct**

## **1. SCOPE**

**1.1** This procedure is applicable to all employees of the Enquire Learning Trust (the Trust) including those employed by the academies that sit within the Trust.

## **2. PRINCIPLES**

**2.1** It is necessary for the proper operation of the Trust's business and the health and safety of all employees that the organisation operates a set disciplinary procedure. The 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.

**2.2** It is the duty of each employee to conduct themselves appropriately and avoid acting negligently in carrying out their work, including adherence to rules, policies, procedures, regulations and standards.

**2.3** The Trust reserves the right to implement the procedure at any stage as set out below taking into account the alleged misconduct of an employee. Employees will not be dismissed for a first disciplinary offence unless the offence constitutes gross misconduct.

**2.4** Where time limits are referred to in the course of this procedure they may be varied by agreement between the employee and the Trust.

**2.5** Employees have the right to be accompanied at a formal disciplinary hearing by a fellow worker or trade union official of their choice, as defined in the ACAS Code of Practice and Employment Relations Act 1999. Right to be accompanied throughout the full process.

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

- persistent bad timekeeping;
- unauthorised absence;
- damage to the organisation's property;
- failure to observe the organisation's procedures;
- abusive behaviour;
- refusal to follow an instruction issued by a manager or supervisor;
- poor attendance;
- smoking on Trust property;

**2.7** If the employee concerned is a trade union official, whilst the same procedure applies, no disciplinary action will be taken until the circumstances of the case have been discussed with a full time official.

## **3. INVESTIGATION**

**3.1** An employee's supervisor or manager will promptly and thoroughly investigate any matter taking care to deal with the employee in a fair and

reasonable manner. The employee will be informed as soon as possible as to the specific allegations prior to the investigation. Once it has been concluded the employee will be provided with a written account of the intent to either proceed through the disciplinary procedure, or the intent to take no further action. Where no evidence is found to support the allegations all records will be expunged. An investigation is not a form of disciplinary action in itself.

**3.2** Where gross misconduct is alleged, suspension from duty may occasionally be necessary while investigations are carried out. Precautionary suspensions will always be on full pay, and will be confirmed in writing to the employee and the employee will be informed that the suspension is a neutral act. Suspension will only be used in extenuating circumstances where there has been a breach of the disciplinary procedure or where there are concerns around the employees presence at work impacting upon the investigation. Suspension is not in any way an assumption of guilt. Any suspension will be dealt with in accordance with the ACAS Code of Practice.

**3.3** 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. The Trust reserves the right to dispense with an investigatory interview in cases of gross misconduct and to proceed directly to a formal disciplinary hearing so long as sufficient evidence to support the disciplinary case is in place. If this situation occurs, this will be explained to the individual and their representative and the reasons for doing so provided in writing.

**3.4** If an investigation finds that there is no reasonable evidence to progress further, all records of the investigation will be expunged.

#### **4. HEARING**

**4.1** 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. The hearing will usually be chaired by a member of the leadership team. In the event of a disciplinary hearing taking place, the Trust will:

1. Give the employee a minimum of 5 working days' notice of the hearing - though it is recommended that a mutually agreed time, date and venue are arranged with the employee and their trade union representative if applicable.
2. Confirm in writing the specific allegations to the employee, the purpose of the hearing and that it will be held under the Trust's disciplinary procedure.
3. Explain the employees right to be accompanied at the hearing by a fellow worker or trade union representative.
4. Give the employee written details of the nature of his/her alleged misconduct and what the possible consequences might be.
5. Provide to the employee (and trade union representative if applicable) all relevant information (including statements taken from any fellow employees or other persons that Enquire MAT intends to rely upon against the employee) not less than 5 working days in advance of the hearing.

**4.2** Where the employee is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the hearing will be rearranged to another day. In this instance a further date should be mutually agreed but not later than 5 working days following the originally agreed date. In the event that the employee is persistently unable or unwilling to attend, the hearing may go ahead in their absence. The employee will still be advised of when this will take place. In such cases, the employee's fellow worker or trade union official may attend on behalf of the employee to present the employee's case, and the employee is entitled to provide a written statement to be presented at the hearing.

**4.3** The employee's chosen companion has the right to address the hearing to put forward 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 should not answer questions on behalf of the employee or address the hearing where the employee indicates that he/she does not wish this.

**4.4** A disciplinary hearing will normally be conducted by the employee's department manager (the chair) together with the organisations HR representative. Any member of management responsible for the investigation of the disciplinary offence shall not be a member of the panel, although such managers will attend the hearing to present any supporting facts and material to the disciplinary hearing and to answer any questions raised by the employee and/or their representative.

**4.5** The employee will be entitled to be given a full explanation of the case against him/her and be informed of the content of any statements provided by witnesses. The employee will be given a reasonable opportunity to ask questions, present evidence and call their own witnesses.

**4.6** Where the Trust intends to call relevant witnesses it will give the employee advance notice of this. The employee must also provide notice if he/she intends to call relevant witnesses.

**4.7** Either party may adjourn the disciplinary proceedings if it appears necessary or desirable to do so (including for the purpose of gathering further information). The other party will be informed of the period of any adjournment. If further information is gathered, the employee will be allowed 5 days, together with his/her fellow worker or trade union official, to consider the new information prior to the reconvening of the disciplinary proceedings.

**4.8** As soon as possible after the conclusion of the disciplinary proceedings, and no later than 5 days after, the chair will convey the decision of the panel to the employee and will also inform the employee what disciplinary action, if any, is to be taken. This decision will be confirmed in writing within 10 days of the decision being communicated. The employee will be notified of his/her right of appeal.

**4.9** All meetings taking place under the disciplinary procedure will take place during the employees normal working day.

## **5. DISCIPLINARY ACTION**

**5.1** Where, following a disciplinary hearing, the Trust establishes that the employee has committed a disciplinary offence, the following sanctions may be issued:

1. Where a minor offence has been committed, a verbal warning could be issued. The employee will be advised of the time period that this warning will remain 'live' for. The Trust may rely on such a warning in the event of further misconduct on the part of the employee. A verbal warning will remain on the employees record for between 3 to 6 months depending on the severity of the misconduct. Appeal procedure and expunged after a period of time.
2. Where more than one minor offence or a more serious offence has been committed the employee may receive a first written warning. The warning will:
  - Set out the nature of the offence committed and what changes or improvements are required;
  - Inform the employee that further misconduct is liable to result in further disciplinary action;
  - Specify the period for which the warning will remain 'live', after such time the warning will automatically lapse;
  - State that the employee may appeal against the warning;

A first written warning will remain on the employees record between 6 to 12 months depending on the severity of the misconduct.

3. Where a more serious disciplinary offence is committed but is not such a level for dismissal to be deemed appropriate (or the employee already has a 'live' first written warning), a final written warning may be issued. The final written warning will:
  - Set out the nature of the offence committed;
  - Inform the employee that further misconduct is likely to result in his/her dismissal;
  - State that the employee may appeal against the warning.

A final written warning will usually remain on the employees file for 12 months but a longer time period may be set in more serious cases.

Where the Trust establishes that an employee has committed an act of gross misconduct, the employee may be summarily dismissed. Expand.

## **6. APPEAL**

**6.1** An employee may appeal against any disciplinary sanction imposed against him/her (with the exception of any informal oral warnings given outside of this procedure) within 5 days of the hearing taking place. The appeal will be heard by a panel of 3 governors who have not been involved in the process prior to the appeal.

**6.2** When lodging an appeal, the employee should state:

- the grounds of appeal; and
- whether he/she is appealing against the finding that he/she has committed the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed.

**6.3** The appeal hearing should usually take place within 10 working days of receipt of the employee's written notice of appeal but where this is not possible it will take place as soon as possible without any unreasonable delay. The appeal will be a review of the decision that was taken, and not a full re-hearing. This means that the appeal panel will look to decide whether the relevant procedures and processes were followed correctly and fairly, and that the decision made was reasonable and appropriate in the circumstances. The panel will not look to re-investigate the case or interview witnesses.

**6.4** The appeal chair must consider any representations made by the employee, the employee's fellow worker or trade union official and those of the manager who conducted the investigation and the manager who conducted the hearing and imposed the sanction. The chair must decide on the basis of both sets of representations, together with any subsequent facts that may have come to light, whether or not to uphold the disciplinary sanction.

**6.5** In the event that the senior manager finds for the employee, the senior manager shall allow the appeal and shall remove all records of the disciplinary sanction from the employee's record. In the event that the senior manager does not accept the representations made by the employee, the senior manager must uphold the disciplinary sanction.

**6.6** Upon completion of the appeal, the chair will convey his/her decision to the employee and will confirm this decision in writing within one week of the appeal taking place. The organisation's decision at the appeal stage is final.

**6.7** Where an appeal lies against a dismissal by the panel, the panel's decision to dismiss will have had immediate effect and, therefore, if the dismissal is by notice, the period of notice will already have commenced on the date that the decision was given by the panel. If the panel's decision was to dismiss the employee summarily without notice, the Trust will be under no obligation to reinstate or pay the employee for any period between the date of the original dismissal and the appeal decision and the original date of termination will stand. In the event that the decision to dismiss is overturned, the employee will be reinstated with immediate effect and he/she will be paid for any period between the date of the original dismissal and the successful appeal decision. His/her continuous service will not be affected.

## **7. GROSS MISCONDUCT**

**7.1** Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the organisation. In the event that an employee commits an act of gross misconduct, the organisation 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 organisation, members of staff or the public;
- 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;
- fighting with or physical/verbal assault on members of staff or the public;
- deliberate damage to or misuse of the organisation's property;
- serious breach of the organisation's policies, procedures and rules;
- negligence;
- conduct that brings the organisation's name into disrepute;
- conviction of a criminal offence relevant to the employee's employment;

**Note: This procedure will be reviewed on a three year cycle unless a review is required before this point. Any amendment to it will be agreed at the Enquiry MAT JNC.**