



# Learner Disciplinary Policy and Procedure

## 1 Introduction

1.1 Eat That Frog Group requires its learners to conduct themselves according to the Learner Code of Conduct. This procedure applies to all learners of Eat That Frog Group.

1.2 Where a learner's conduct falls below the standards expected, the disciplinary procedure set out in this document will be followed. Repeated breaches or a single very serious breach of the Code of Conduct may result in a learner being excluded from Eat That Frog.

1.3 This procedure deals with instances of misconduct.

1.4. Staff should ensure that "reasonable adjustments" are being made and that The Equality Act 2010 is not breached by disciplining learners for a reason related to an aspect of their disability without having offered appropriate support.

## 2 Summary of Stages of the Procedure

The pre-disciplinary stage is not part of the disciplinary process but illustrates good practice which minimises use of the disciplinary process.

### 2.1 Informal stage – Cause for Concern

2.1.1 Minor lapses from acceptable standards of behaviour will be dealt with informally by staff as part of their general management of learners and the learning process.

2.1.2 Some examples of such infringements might include:

- Lapses of acceptable standards of behaviour which require documenting
- Poor behaviour and/or timekeeping
- Anti-social behaviour and abusive language
- Attendance below 90%
- Any other problem deemed a cause for concern by staff

3.1.3 The concern and the actions taken will be recorded in writing and placed on the learner's file.

### 2.2 Formal Stage 1

2.2.1 Formal Stage 1 should be used when informal action has not brought about the required improvements.

2.2.2 Some examples of situations in which it is appropriate to use Formal Stage 1 include:



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- Repeated abusive language
- Persistent inappropriate or poor behaviour
- Less than 85% attendance which is having an impact on achievement
- Repeated causes for concern through the informal stage of the procedure
- Any other problem deemed to be a disciplinary issue by staff, and agreed with the SENCO.

2.2.3 A meeting will be held with the learner and the SENCO and any actions/contract agreed will be recorded in a letter to the learner and a copy placed on the learner file. If appropriate, parents/carers may be invited to attend the meeting and will also receive a letter documenting the outcome.

### 2.3 Formal Stage 2

2.3.1 Failure to comply with previously agreed disciplinary actions/contract or inappropriate behaviours of a more serious nature should invoke Formal Stage 2 of the procedure.

2.3.2 Some examples of situations in which it is appropriate to use Formal Stage 2 include:

- Deliberate failure to comply with previously agree disciplinary actions/contract
- Assault, threatening or aggressive behaviour, harassment, vandalism
- Attending ETF under the influence of drugs or alcohol
- Deliberate misuse or damage of ETF equipment

2.3.3 A meeting will be held with the learner and the SENCO and any actions/contract agreed will be recorded in a letter to the learner and a copy placed on the learner file. If appropriate, parents/carers may be invited to attend the meeting and will also receive a letter documenting the outcome.

### 2.4 Formal Stage 3

2.4.1 Deliberate failure to comply with Formal Stage 2 disciplinary contracts or actions would invoke Formal Stage 3 of the procedure as would serious misconduct and/or any other behaviour deemed to be a disciplinary issue at this level.

2.4.2 Some examples of situations in which it is appropriate to move directly to Formal Stage 3 include:

- Violent behaviour
- Theft
- Serious breaches of Health & Safety
- Possession of a weapon
- Possession of illegal or non-prescribed drugs



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2.4.3 A meeting will be held with the learner and the SENCO and any actions/contract agreed will be recorded in a letter to the learner and a copy placed on the learner file. If appropriate, parents/carers may be invited to attend the meeting and will also receive a letter documenting the outcome. Temporary exclusion from ETF may be an outcome at this stage.

### 2.5 Formal Stage 4

2.5.1 Deliberate failure to comply with Formal Stage 3 disciplinary contract or actions, or gross misconduct would invoke Formal Stage 4 of the procedure.

2.5.2 Some examples of situations in which it is appropriate to move directly to

Formal Stage 4 include:

- Harassment, intimidation or bullying
- Compromising the health and safety of themselves or others
- Behaviour resulting in significant disruption to the running of ETF and/or other services – for example setting off fire alarms or making hoax calls
- Misuse of ETF's network and/or computer systems, including the downloading, storing, viewing or transmitting of sexually explicit and/or racially offensive material
- Publication or distribution of material deemed to be racially or sexually offensive
- Attempts to alter or pervert the examination or assessment procedure
- Fighting or other violent or threatening behaviour
- Being under the influence of alcohol and/or other substances

Any of the following acts which may also be deemed by the law as criminal:

- Behaviour of a racist, sexist or discriminatory nature
- Malicious damage to, or theft of, the property of other learners, staff, visitors of ETF
- Consumption, possession, selling or distribution of intoxicating, dangerous or controlled substances
- Violent or aggressive behaviour, including the carrying of weapons, or any other object with the intention of using them in a dangerous or threatening way
- Fraud

### 2.5.3 Investigation into Gross Misconduct

2.5.3.1 In the event of an incident of Gross Misconduct, the Deputy manager and SENCO/Employment and Skills Lead will agree which of them will lead the investigation, with the help of the Safeguarding team if the issues relate to safeguarding. The agreed lead will then undertake the investigation. This may include interviewing witnesses and taking statements. All statements should be signed and dated by the appropriate individuals. All reasonable investigations should take place. The results of these will be reported to the directors.

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2.5.3.2 The lead agreed in 2.5.3.1 will ensure that all statements are suitable to be submitted to the student and Panel members and will not compromise ETF's standing and/or reputation when shared externally.

2.5.3.3 The possible outcomes of this investigation are:

- no further action to be taken if the allegation proves unfounded;
- a Formal Stage 4 Contract
- progression to a Formal Disciplinary Hearing, with the agreement of the Director of Quality and

Safeguarding where the learner's suitability to remain at ETF will be assessed including possible temporary suspension pending a Formal Disciplinary Hearing

### 2.5.4 Temporary Suspension

2.5.4.1 Learners will only be suspended if the SENCO/Employment and Skills Lead considers the offence might ultimately lead to the learner's exclusion from ETF, or the learner poses a risk to him/herself or others if they remain in ETF. The SENCO/Employment and Skills Lead can action a temporary suspension but must ensure that the Director of Quality and Safeguarding is advised of this at or before the point of the suspension. Suspension, even for part of a day, cannot be approved without authorisation.

2.5.4.2 Where it is decided to suspend the learner pending a Formal Disciplinary Hearing, the Director of Quality and Safeguarding must write to the learner within 3 working days confirming the suspension. For learners with EHCPs, the director will also inform the local authority.

2.5.4.3 There may be circumstances where it is prudent to ask a student to leave ETF for the day in order to cool-off or so that the facts surrounding an incident can be established. If the student is told to come back into ETF on the following day, this does not count as a suspension.

### 2.5.5 Formal Disciplinary Hearing

2.5.5.1 A Formal Disciplinary Hearing will be convened in any one of the following circumstances:

- following the investigation outlined in 2.5.3.1 above, the SENCO/Employment and Skills Lead considers that the learner may have committed an act of gross misconduct and exclusion should be considered
- the learner has breached a Formal Stage 3 Contract and exclusion should be considered due to the seriousness of the breach
- the learner has breached a Formal Stage 4 Contract and exclusion should be considered

The Director of Quality and Safeguarding must sanction the initiation of a Hearing.

2.5.5.2 The PA to the Board of Directors will arrange a Formal Disciplinary Hearing following an official request by the SENCO/Employment and Skills Lead. The PA to the Board of Directors will check that the Director of Quality and Safeguarding has sanctioned the Panel Hearing.

2.5.5.4 The Disciplinary Panel will be chaired by a member of the Board of Directors. In addition, the panel will include the Director of Quality and Safeguarding, the SENCO and Employment and Skills Lead. The PA to the Board of Directors will act as note taker for the Panel.

2.5.5.5 The SENCO/Employment and Skills Lead who has undertaken the investigation should



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provide an evidence pack to the PA to the Board of Directors. This should include:

- A summary of the case to be answered
- Witness statements (if appropriate)
- Any other relevant documentation

The colleague undertaking the briefing should talk through the relevant online ProMonitor records.

2.5.5.6 The investigator will brief the panel.

2.5.5.7 The PA to the Board of Directors will inform the learner by letter, within 5 working days of being informed of the suspension, of the date and time of the Formal Disciplinary Hearing and advise that they may be accompanied at the hearing by a parent/carer or friend to support them. The PA to the Board of Directors will also send the learner information on the Disciplinary Procedure together with the documentation supplied to the Panel (with learners' names deleted where necessary). The PA will give at least 5 working days' notice of the date of the hearing.

2.5.5.9 If under 18 at the start of the course, the learner's parent/carer will be invited by letter to attend the hearing.

2.5.5.10 The Formal Disciplinary Hearing will normally be held within 10 days following notification of the date of the hearing, unless additional time for further investigation is required.

2.5.5.11 If the learner fails to attend the Formal Disciplinary Hearing, the Panel may consider the case in their absence.

2.5.5.12 The possible outcomes of a Formal Disciplinary Hearing are:

- no further action to be taken if the allegation proves unfounded;
- a Formal Stage 4 Disciplinary Panel Contract;
- a recommendation to the Managing Director to exclude the learner from ETF

### 3 Exclusion

3.1 Where the outcome is to recommend exclusion, the Managing Director will review the evidence and confirm (or otherwise) the Panel's decision. A letter confirming the decision reached will be sent to the learner and a copy sent to parents/carers where the learner is under 18 at the start of the course. In the case of vulnerable learners who are over 18 - for example, those with a learning difficulty and/or disability – ETF will inform parents/carers and/or other relevant agencies if such arrangements are agreed with those learners. If a learner is sponsored by an employer, that employer will be notified of any formal disciplinary action.

3.2 The learner will have the right to appeal against the decision to exclude them in accordance with 4 below.



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## 4 Appeals Against Disciplinary Outcomes

4.1 If a learner wishes to appeal against a disciplinary panel outcome, s/he must lodge a written notice of appeal with the PA to the Board of Directors within 10 days of receipt of the letter from ETF confirming that outcome. The letter must detail the grounds for the appeal.

4.2 Appeals in respect of any disciplinary outcome will be considered by a panel chaired by a member of the Board of Directors, and two members of the Senior Management Team not involved in the original Panel.

4.3 The PA to the Board of Directors will make all necessary arrangements for an Appeal Panel. The PA to the Board of Directors will inform the learner by letter, within 10 days of receipt of the letter of appeal, of the date and time of the hearing and advise that they may be accompanied at the hearing by a parent/carer or friend to support them. If under 18, the learner's parent/carer will be invited by letter to attend the Appeal hearing.

The PA will give 5 days' notice of the date of the hearing and the hearing itself will normally take place within 15 working days after receipt of the letter of appeal.

4.4 The Chair of the original Panel will brief the Appeal Panel. Other learners and members of staff may also be required to attend the Appeal Hearing.

4.5 If the learner fails to attend the Appeal Hearing, the Panel may consider the case in their absence.

4.6 The possible outcomes of an Appeal Hearing are that the previous outcome is:

- confirmed;
- substituted with a reduced outcome; or,
- withdrawn with no other disciplinary outcome substituted.

4.7 The decision of the appeal panel is final. A letter confirming the decision reached will be sent to the learner, within 5 working days, by the Chair of the Appeal Panel.

## 5 Documentation

5.1 It is important that records are made of each stage of the disciplinary proceedings using the appropriate systems as Disciplinary Contracts or other documentation may be called upon as evidence at later stages of the procedure.

## 6 Withdrawal from Course

6.1 If a student withdraws from his/her course prior to the commencement of disciplinary procedures, this will be flagged on the student's record, as an outstanding disciplinary matter which must be addressed before any subsequent enrolment can take place.

## 7 Policy Monitoring and Review

7.1 All disciplinary action will be recorded in YETI.

7.2 The Disciplinary Procedure will be reviewed, normally every three years, by the Board of Directors.

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## 8 Variations and Amendments to this Procedure

8.1 In some cases it may be necessary to make variations to aspects of this procedure. ETF may make such variations as it sees fit, subject to informing the learner concerned and subject always to considerations of fairness. Such variations may include disciplinary or appeals interviews being conducted by different persons, if the person who should otherwise be conducting the interview is unavailable or has previously had close personal involvement in the matter to be considered.