



# Disciplinary Policy

Policy Owner: Lets Make Change

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# Let's Make Change (LMC)

## Disciplinary Policy

### 1. Policy Statement

Let's Make Change (LMC) is committed to maintaining high standards of professional conduct, safeguarding, integrity, accountability and fairness.

Where concerns arise regarding an employee's conduct, LMC will deal with them promptly, consistently and in accordance with fair procedure.

The purpose of disciplinary action is not primarily punitive. It is intended to:

- Establish the facts;
- Clarify expected standards;
- Address misconduct;
- Support improvement where appropriate;
- Protect learners, employees and the organisation;
- Maintain confidence in LMC's services;
- Ensure serious concerns are addressed proportionately.

No disciplinary outcome will be predetermined.

### 2. Purpose

The purpose of this policy is to:

- Provide a clear framework for dealing with misconduct;
- Ensure concerns are investigated fairly;
- Give employees a reasonable opportunity to respond;
- Ensure safeguarding issues are escalated immediately;
- Provide proportionate disciplinary outcomes;
- Support consistent decision-making;
- Protect the rights of employees;
- Maintain appropriate records;
- Provide a right of appeal.

### 3. Scope

This policy applies primarily to employees of LMC.

The principles may also be adapted where appropriate for:

- Workers;
- Self-employed tutors;
- Volunteers;
- Agency workers;
- Contractors.

The contractual and legal rights applying to these groups may differ according to their employment status and agreement with LMC.

Where concerns relate to non-employees, LMC may instead consider:

- Suspension of duties;
- Removal from a placement;
- Withdrawal of authorisation;
- Contract review;
- Termination of engagement;
- Safeguarding or regulatory referral.

## **4. Matters Covered by This Policy**

This policy may be used where there are concerns about:

- Misconduct;
- Failure to follow LMC policies;
- Safeguarding breaches;
- Inappropriate professional conduct;
- Poor attendance or unauthorised absence;
- Persistent lateness;
- Refusal to follow reasonable instructions;
- Misuse of organisational property;
- Health and safety breaches;
- Confidentiality or data protection breaches;
- Inappropriate communication;
- Social media misuse;
- Bullying;
- Harassment;
- Discrimination;
- Dishonesty;
- Fraud;
- Violence or threatening behaviour;
- Drugs or alcohol;
- Conduct outside work that materially affects the role or LMC.

## 5. Matters Managed Under Other Procedures

| Matter                                           | Relevant Procedure                            |
|--------------------------------------------------|-----------------------------------------------|
| Employee complaint about their treatment         | Grievance Policy                              |
| Complaint from learner, parent or commissioner   | Complaints Policy                             |
| Safeguarding concern about a learner             | Safeguarding and Child Protection Policy      |
| Allegation that an adult may have harmed a child | Allegations Against Staff / LADO procedure    |
| Public-interest disclosure                       | Whistleblowing Policy                         |
| Capability or performance concerns               | Capability / Performance Management procedure |
| Sickness absence                                 | Sickness / Attendance procedure               |
| Data protection request                          | Data Protection Policy                        |

Where more than one procedure may apply, LMC will determine the fairest and most appropriate approach.

Safeguarding action will always take priority.

## **6. Legislative and Good-Practice Framework**

This policy has been developed with reference to:

- Acas Code of Practice on Disciplinary and Grievance Procedures;
- Employment Rights Act 1996;
- Employment Relations Act 1999;
- Equality Act 2010;
- Data Protection Act 2018;
- UK GDPR;
- Health and Safety at Work etc. Act 1974;
- Children Act 1989;
- Children Act 2004;
- Keeping Children Safe in Education;
- Working Together to Safeguard Children.

This policy is non-contractual unless expressly incorporated into an employee's contract.

## **7. Principles**

LMC will ensure that:

- Concerns are addressed without unreasonable delay;
- Informal resolution is considered where appropriate;
- A reasonable investigation is undertaken;
- Employees are informed of the allegations;
- Relevant evidence is provided before a formal hearing;
- Employees are given an opportunity to respond;
- The employee may be accompanied at a formal disciplinary hearing;
- Decisions are made on the balance of probabilities;
- Sanctions are proportionate;
- Mitigating circumstances are considered;
- A written outcome is provided;
- A right of appeal is available;
- Safeguarding responsibilities are not delayed.

## **8. Definitions**

### **Misconduct**

Behaviour that falls below the standards expected by LMC but may not justify dismissal for a first offence.

## **Gross Misconduct**

Conduct so serious that it may justify dismissal without notice following a fair investigation and disciplinary process.

## **Investigating Officer**

The person appointed to gather and assess relevant evidence.

## **Disciplinary Manager**

The person appointed to chair a disciplinary hearing and decide the outcome.

## **Working Day**

A normal LMC working day excluding weekends, public holidays and periods when LMC is formally closed.

# **9. Roles and Responsibilities**

## **Director**

The Director is responsible for:

- Maintaining a fair disciplinary framework;
- Ensuring serious matters are escalated appropriately;
- Appointing suitably impartial decision-makers;
- Monitoring significant disciplinary themes;
- Ensuring safeguarding and regulatory duties are met.

## **HR Lead**

The HR Lead is responsible for:

- Providing procedural guidance;
- Maintaining case records;
- Monitoring timescales;
- Supporting managers;
- Arranging meetings;
- Advising on consistency and proportionality;
- Coordinating appeals.

## **Managers**

Managers are responsible for:

- Addressing conduct concerns promptly;
- Considering informal action where appropriate;
- Preserving relevant evidence;
- Referring serious matters for formal investigation;
- Maintaining confidentiality;
- Implementing agreed outcomes.

## **Employees**

Employees are expected to:

- Follow LMC policies;
- Cooperate with reasonable investigations;
- Provide truthful information;
- Attend meetings where reasonably required;
- Preserve evidence;
- Maintain confidentiality;
- Avoid influencing witnesses;
- Follow lawful and reasonable instructions.

## **10. Equality and Reasonable Adjustments**

LMC will apply this policy fairly and without unlawful discrimination.

Reasonable adjustments may include:

- Accessible meeting venues;
- Remote attendance;
- Additional preparation time;
- Rest breaks;
- Interpretation;
- Communication support;
- Adjusted correspondence;
- Changes to questioning style;
- Additional support during meetings.

Before taking disciplinary action, LMC will consider whether:

- Disability affected the conduct;
- Reasonable adjustments were in place;
- Health or medication contributed;
- Pregnancy or maternity is relevant;
- Neurodivergence or communication needs affected events.

## **11. Informal Management Action**

Minor concerns may be addressed informally where appropriate.

Informal action may include:

- Management discussion;
- Clarification of expectations;
- Coaching;
- Additional supervision;
- Training;
- Policy reminder;
- Improvement plan.

Informal action is not a formal disciplinary sanction.

A brief written management record may be retained.

## **12. When Formal Action May Be Appropriate**

Formal action may be appropriate where:

- The allegation is serious;
- Safeguarding concerns arise;
- Informal action has not led to improvement;
- Similar concerns have occurred previously;
- There is potential gross misconduct;
- A significant policy breach is alleged;
- There is potential harm to learners, staff or LMC;
- Trust and confidence may have been damaged.

## **13. Initial Assessment**

When an allegation is received, LMC will assess:

- Nature and seriousness of the concern;
- Immediate safeguarding risk;
- Whether the DSL or LADO must be involved;
- Whether police or another agency should be notified;
- Whether evidence requires preservation;
- Whether interim measures are necessary;
- Whether an investigation is required;
- Whether another procedure is more appropriate.

An initial assessment is not a disciplinary finding.

## **14. Safeguarding Allegations**

Where an allegation suggests that an employee may have:

- Harmed a child;
- Possibly committed an offence against a child;
- Behaved in a way that suggests they may pose a risk to children;
- Behaved in a way that may indicate they are unsuitable to work with children;

the matter must be referred immediately to the Director, DSL and, where required, the Local Authority Designated Officer.

The employee must not be informed in a way that could prejudice safeguarding or police enquiries before appropriate advice is obtained.

The disciplinary process may be paused or adapted while safeguarding enquiries are undertaken.

## **15. Interim Measures**

LMC may introduce temporary measures while concerns are investigated.

These may include:

- Increased supervision;
- Temporary changes to duties;
- Removal from direct learner contact;
- Changes to work location;
- Restrictions on system access;
- Temporary withdrawal of transport duties;
- Changes to communication arrangements;
- Suspension.

Interim measures are neutral and do not indicate guilt.

## **16. Suspension**

Suspension may be considered where it is reasonably necessary to:

- Protect learners;
- Protect employees;
- Preserve evidence;
- Prevent interference with witnesses;
- Manage a serious workplace risk;
- Protect the integrity of an investigation.

Suspension will not be automatic and must not be used as a disciplinary sanction.

Before suspension, LMC should consider alternatives such as:

- Temporary transfer;
- Restricted duties;
- Remote working;
- Increased supervision;
- Removal from learner-facing duties.

## **17. Suspension Procedure**

Where suspension is necessary, the employee should normally be informed:

- That suspension is a neutral act;
- Of the general nature of the concern;
- Of any restrictions;
- Of pay arrangements;
- Of review arrangements;
- Of their named contact;
- Of available support;
- That they must remain available for reasonable meetings.

Suspension will normally be on full contractual pay.

The decision will be confirmed in writing.

## **18. Appointment of an Investigating Officer**

The investigator should:

- Be impartial;
- Have no material conflict of interest;
- Have sufficient authority;
- Understand confidentiality and safeguarding responsibilities;
- Be able to gather evidence fairly.

Where appropriate, LMC may appoint an external investigator.

## **19. Investigation Plan**

The investigator should identify:

- The allegation(s);
- Relevant policies;

- Key questions;
- Witnesses;
- Documentary evidence;
- Electronic evidence;
- Safeguarding issues;
- Target timescales;
- Reporting arrangements.

The plan may be updated as evidence emerges.

## **20. Investigation Process**

The investigation may include:

- Reviewing records;
- Interviewing the employee;
- Interviewing witnesses;
- Reviewing emails and messages;
- Reviewing attendance or incident records;
- Reviewing risk assessments;
- Reviewing training records;
- Reviewing CCTV or dashcam footage where lawful;
- Seeking specialist advice.

The investigator must:

- Gather evidence supporting and contradicting the allegation;
- Avoid assumptions;
- Distinguish fact from opinion;
- Maintain confidentiality;
- Keep clear records.

## **21. Investigation Meeting**

The employee should normally be invited to an investigation meeting and informed of:

- The purpose of the meeting;
- The general nature of the concerns;
- The date and time;
- Who will attend;
- That notes will be taken;
- Any documents required.

An investigation meeting is fact-finding and is not a disciplinary hearing.

There is not normally a statutory right to be accompanied at an investigation meeting, although LMC may allow a companion where fairness or reasonable adjustment requires it.

## **22. Witnesses**

Witnesses may be asked to:

- Attend an interview;
- Provide a written statement;
- Supply relevant documents;
- Clarify events.

Witnesses must:

- Provide truthful information;
- Distinguish direct knowledge from assumption;
- Maintain confidentiality.

Witness anonymity will only be considered in exceptional circumstances.

## **23. Learners as Witnesses**

Where a learner is involved, LMC will:

- Prioritise safeguarding;
- Involve the DSL;
- Avoid repeated questioning;
- Use age-appropriate communication;
- Consider SEND and communication needs;
- Avoid leading questions.

A learner will not normally be required to attend an employee disciplinary hearing.

## **24. Evidence**

Evidence may include:

- Witness statements;
- Emails;
- Messages;
- Attendance records;
- CCTV;
- Dashcam footage;
- Photographs;
- Risk assessments;
- Safeguarding records;
- Policies;
- Training records;
- Medical or occupational health information;

- Police or regulatory information.

All evidence must be handled lawfully and proportionately.

## **25. Investigation Report**

The investigation report should normally include:

1. Allegations;
2. Scope of investigation;
3. Process followed;
4. Evidence obtained;
5. Evidence supporting the allegation;
6. Evidence contradicting the allegation;
7. Relevant policies;
8. Factual findings;
9. Limitations;
10. Whether there is a case to answer.

The investigator should not normally decide the disciplinary sanction.

## **26. Decision Following Investigation**

Following investigation, LMC may decide:

- No further action;
- Informal management action;
- Additional training;
- Additional supervision;
- Further investigation;
- Formal disciplinary hearing;
- Safeguarding or regulatory referral;
- Contractual action for a non-employee.

## **27. Notice of Disciplinary Hearing**

Where there is a case to answer, the employee will receive written notice of the disciplinary hearing.

The notice should include:

- Allegations;
- Possible consequences;
- Whether dismissal is a possible outcome;
- Date, time and location;

- Name of disciplinary manager;
- Right to be accompanied;
- Evidence to be considered;
- Relevant policies;
- Reasonable adjustment arrangements.

The employee will be given reasonable time to prepare.

## **28. Right to Be Accompanied**

At a formal disciplinary hearing, an employee may be accompanied by:

- A workplace colleague;
- Trade union representative;
- Trade union official.

The companion may:

- Address the hearing;
- Summarise the employee's case;
- Respond to views expressed;
- Confer privately;
- Take notes.

They may not answer questions on behalf of the employee unless agreed as a reasonable adjustment.

## **29. Disciplinary Hearing Procedure**

The disciplinary manager will normally:

1. Introduce those present;
2. Explain the procedure;
3. Confirm the allegation(s);
4. Present or summarise the evidence;
5. Invite the employee to respond;
6. Ask questions;
7. Allow the employee to present evidence;
8. Consider mitigation;
9. Allow the companion to contribute;
10. Adjourn before reaching a decision.

## **30. Attendance at Hearings**

Employees are expected to make reasonable efforts to attend.

Where the employee cannot attend:

- LMC should be informed promptly;
- Alternative dates may be considered;
- Reasonable adjustments may be made;
- Written submissions may be accepted.

Where an employee repeatedly fails to attend without good reason, LMC may proceed in their absence after considering fairness.

## **31. Meeting Records**

Written notes will normally be taken.

The notes do not need to be a verbatim transcript but should provide an accurate record.

Audio or video recording will not normally be permitted unless agreed in advance or required as a reasonable adjustment.

## **32. Standard of Proof**

Disciplinary findings will be made on the **balance of probabilities**.

This means deciding whether it is more likely than not that the alleged conduct occurred.

## **33. Factors Considered Before an Outcome**

The disciplinary manager will consider:

- Seriousness of the conduct;
- Evidence;
- Employee explanation;
- Intent;
- Actual or potential harm;
- Safeguarding implications;
- Previous disciplinary record;
- Length of service;
- Training and supervision;
- Mitigating circumstances;
- Remorse and insight;
- Likelihood of repetition;
- Consistency with previous cases;
- Whether trust can be restored.

## **34. Possible Outcomes**

Possible outcomes include:

- No action;
- Informal management guidance;
- Additional training;
- Additional supervision;
- First written warning;
- Final written warning;
- Dismissal with notice;
- Summary dismissal for gross misconduct;
- Other contractual action where permitted.

## **35. First Written Warning**

A first written warning may be appropriate where misconduct is established but is not sufficiently serious to justify a final warning.

The warning should state:

- The misconduct;
- Standards expected;
- Improvement required;
- Support arrangements;
- Duration of warning;
- Consequences of further misconduct;
- Right of appeal.

A first written warning will normally remain active for six months.

## **36. Final Written Warning**

A final written warning may be appropriate where:

- Misconduct is serious;
- There is further misconduct during an active warning;
- Previous improvement has not been sustained;
- The conduct falls just short of gross misconduct.

A final written warning will normally remain active for 12 months.

## **37. Dismissal With Notice**

Dismissal with contractual or statutory notice may be considered where:

- Misconduct continues during an active final warning;
- Conduct standards do not improve;
- Trust and confidence is seriously damaged;
- No reasonable alternative is appropriate.

## **38. Summary Dismissal**

Summary dismissal means dismissal without notice or payment in lieu of notice.

It may only be considered where gross misconduct is established following a reasonable investigation and fair disciplinary hearing.

## **39. Examples of Misconduct**

Examples may include:

- Persistent lateness;
- Unauthorised absence;
- Minor refusal to follow reasonable instructions;
- Inappropriate language;
- Failure to complete records;
- Minor policy breaches;
- Careless use of property;
- Failure to attend required training;
- Unprofessional communication;
- Minor misuse of systems;
- Minor transport procedure breaches;
- Inappropriate personal mobile phone use during work.

This list is not exhaustive.

## **40. Examples of Gross Misconduct**

Gross misconduct may include:

### **Safeguarding and Professional Boundaries**

- Deliberate or serious failure to report a safeguarding concern;
- Abuse, neglect or exploitation of a learner;
- Grooming;
- Inappropriate relationships with learners;
- Serious professional boundary breaches;
- Deliberately placing a learner at risk;
- Serious failure to follow medication or allergy procedures;

- Serious supervision or transport breaches.

## **Violence and Threatening Conduct**

- Assault;
- Serious threats;
- Intimidation;
- Possession of weapons;
- Deliberate damage to property.

## **Dishonesty and Fraud**

- Theft;
- Fraud;
- Falsifying records;
- Falsifying qualifications;
- Falsifying timesheets or expenses;
- Providing false DBS, insurance or safeguarding information.

## **Equality and Dignity**

- Serious bullying;
- Harassment;
- Sexual harassment;
- Discrimination;
- Victimisation.

## **Confidentiality and Data**

- Serious confidentiality breach;
- Unauthorised disclosure of safeguarding information;
- Serious data protection breach;
- Deliberate misuse of personal data.

## **Drugs and Alcohol**

- Being unfit for work through drugs or alcohol;
- Possessing or supplying illegal drugs;
- Drinking while responsible for learners;
- Driving learners while impaired.

## **Health and Safety**

- Serious health and safety breach;

- Dangerous driving while transporting learners;
- Knowingly using an uninsured or unsafe vehicle;
- Serious failure to follow emergency procedures.

## **Organisational Integrity**

- Serious insubordination;
- Serious social media misconduct;
- Conduct bringing LMC into serious disrepute;
- Serious conflict-of-interest breach;
- Retaliation against a whistleblower, complainant or witness;
- Criminal conduct materially affecting suitability for the role.

This list is illustrative and not exhaustive.

## **41. Criminal Allegations**

Where conduct may be criminal, LMC may refer the matter to the police.

LMC will decide whether to:

- Continue its internal investigation;
- Pause the process;
- Seek advice;
- Apply interim safeguarding measures.

LMC does not have to wait for criminal proceedings to conclude where it can proceed fairly.

## **42. Conduct Outside Work**

Conduct outside work may be considered where it:

- Affects suitability to work with children;
- Creates a safeguarding risk;
- Damages trust and confidence;
- Brings LMC into serious disrepute;
- Undermines ability to perform the role;
- Creates a significant conflict of interest.

## **43. Social Media and Online Conduct**

Disciplinary action may be considered where online conduct includes:

- Disclosure of confidential information;
- Inappropriate contact with learners;

- Bullying or harassment;
- Discriminatory content;
- Threatening content;
- Safeguarding concerns;
- Serious reputational damage;
- Unauthorised recording;
- Misuse of LMC systems.

## **44. Active Warnings**

Active warnings may be taken into account when determining the outcome of further misconduct.

Expired warnings will not normally be used to determine a sanction unless exceptional circumstances make previous history legitimately relevant.

## **45. Alternative Sanctions**

Where contractually permitted and appropriate, LMC may consider alternatives to dismissal, such as:

- Transfer;
- Removal of specific duties;
- Withdrawal of transport authorisation;
- Increased supervision;
- Reassignment.

Such measures should not normally be imposed without contractual authority or agreement.

## **46. Written Outcome**

The employee will receive a written outcome confirming:

- Allegations considered;
- Findings;
- Evidence relied upon;
- Sanction;
- Reasons;
- Standards expected;
- Warning duration;
- Support arrangements;
- Consequences of further misconduct;
- Appeal rights.

## **47. Appeal**

An employee may appeal where they believe:

- The procedure was unfair;
- Findings were unreasonable;
- Relevant evidence was not considered;
- New evidence is available;
- The sanction was disproportionate;
- There was bias or conflict of interest;
- Mitigation was not properly considered.

Appeals should normally be submitted within 10 working days.

## **48. Appeal Hearing**

The appeal will be considered by someone who:

- Was not the original decision-maker;
- Has not previously determined the matter;
- Has sufficient authority and impartiality.

The appeal manager may:

- Confirm the outcome;
- Reduce the sanction;
- Overturn the decision;
- Direct further investigation;
- Require a rehearing.

The appeal decision will normally be final within LMC.

## **49. Grievance Raised During Disciplinary Proceedings**

Where an employee raises a grievance during disciplinary proceedings, LMC will consider whether to:

- Pause the disciplinary process;
- Consider the grievance first;
- Consider both matters together;
- Continue with safeguards in place.

The approach will depend on fairness and the relationship between the issues.

## **50. Confidentiality**

Disciplinary matters will be handled with appropriate confidentiality.

Information will only be shared where necessary for:

- Investigation;
- Decision-making;
- Safeguarding;
- Legal compliance;
- Support;
- Appeal;
- Regulatory referral.

Employees must not:

- Publish confidential material;
- Influence witnesses;
- Retaliate against participants;
- Share case information unnecessarily.

## **51. Protection of Witnesses and Participants**

LMC will not tolerate retaliation against:

- Complainants;
- Witnesses;
- Companions;
- Investigators;
- Whistleblowers;
- Employees participating in proceedings.

Retaliation may itself amount to misconduct or gross misconduct.

## **52. Data Protection and Records**

LMC will maintain appropriate records including:

- Allegations;
- Initial assessments;
- Suspension records;
- Investigation plans;
- Evidence;
- Meeting notes;
- Investigation reports;
- Hearing documents;

- Outcomes;
- Appeals.

Records will be:

- Accurate;
- Secure;
- Confidential;
- Restricted to authorised personnel;
- Retained in accordance with LMC's retention arrangements.

Safeguarding records will be kept within the appropriate safeguarding system.

## **53. Referrals and Notifications**

Depending on the findings, LMC may need to notify or refer to:

- Local Authority Designated Officer;
- Disclosure and Barring Service;
- Police;
- Children's Social Care;
- Professional regulators;
- Commissioners;
- Insurers;
- Health and Safety Executive;
- Information Commissioner's Office.

## **54. Resignation During Proceedings**

Where an employee resigns during an investigation or disciplinary process, LMC may continue where:

- Safeguarding concerns remain;
- Regulatory referral may be required;
- The allegations are serious;
- There is risk to others;
- Organisational learning is needed.

Resignation will not prevent necessary safeguarding or regulatory referrals.

## **55. Sickness Absence During Proceedings**

Where an employee is absent due to ill health, LMC will consider:

- Medical evidence;

- Occupational health advice;
- Reasonable adjustments;
- Remote participation;
- Written submissions;
- Temporary postponement.

Ill health will be treated sensitively but will not automatically prevent a process from continuing indefinitely.

## **56. Support and Wellbeing**

LMC recognises that disciplinary proceedings can be stressful.

Support may include:

- HR guidance;
- Management support;
- Occupational health;
- Reasonable adjustments;
- External support services;
- Return-to-work planning after suspension.

## **57. Monitoring and Organisational Learning**

The HR Lead will monitor:

- Number and type of disciplinary cases;
- Timescales;
- Suspension use;
- Outcomes;
- Appeals;
- Equality implications;
- Safeguarding themes;
- Training needs;
- Policy gaps.

Management will use this information to improve:

- Policies;
- Training;
- Supervision;
- Recruitment;
- Safeguarding systems;
- Organisational culture.

## **58. Training**

Managers involved in disciplinary procedures should receive guidance or training in:

- Informal management action;
- Investigation;
- Suspension;
- Safeguarding triage;
- Equality and reasonable adjustments;
- Conducting hearings;
- Evidence assessment;
- Decision-making;
- Sanctions;
- Appeals;
- Confidentiality;
- Data protection.

## **59. Related Policies**

This policy should be read alongside:

- Grievance Policy;
- Complaints Policy;
- Employee Code of Conduct;
- Whistleblowing Policy;
- Safeguarding and Child Protection Policy;
- Equality, Diversity and Inclusion Policy;
- Health and Safety Policy;
- Data Protection, Privacy and Information Security Policy;
- Lone Working Policy;
- Learner Transportation Policy;
- Volunteer Management and Supervision Policy;
- Online Safety Policy.

## **60. Monitoring and Review**

This policy will be reviewed:

- Annually;
- Following changes to employment law or Acas guidance;
- Following significant disciplinary cases;
- Following safeguarding or regulatory recommendations;
- Where monitoring identifies recurring concerns.