

STAFF CONDUCT & DISCIPLINE POLICY

2023-24

DOCUMENT TITLE: L&F STAFF CONDUCT & DISCIPLINE POLICY 2023-24
DOCUMENT NUMBER: L&F_SC&D Policy_V2
AUTHORS/CONTRIBUTORS: DESIGNATED SAFEGUARDING & PREVENT LEAD
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CHANGE AUTHORITY: BOARD OF DIRECTORS

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RECENT CHANGE HISTORY

VERSION	DATE	REASON FOR CHANGE	CHANGE BY
1.2	24/06/2021	Review	Gillian Dewsbury Business Excellence Manager
2	09/08/2023	Full review and Update to consistent policy template	Gillian Dewsbury Business Excellence Manager

Please Note: A formal, full review of this document will take place on a 3-yearly basis. However, in the interim, the document will be updated as necessary to remain current with any statutory legislation and/or significant Government guidance updates on the subject.

CHANGE MECHANISM

Any person seeking to alter this document must consult the author before making any change.

L&F Change Authority must endorse any alterations to the approved version of this document before any wider dissemination of the altered document version.

The person making the alteration must indicate every change between the previous (approved) document version and the altered document version.

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1. L&F Training's Commitment

L&F Training (L&F) employees and staff (including Freelance staff) play a key role in creating and delivering the best experience to L&F's customers. For this reason L&F has high expectations of all employees/staff, in relation to standards of performance and conduct.

L&F will clearly demonstrate expectations of the standards required of all L&F personnel and, whenever appropriate, will give each individual every opportunity and support to improve, where performance or conduct are not meeting expected standards.

However, when dealing with cases of misconduct, under-performance or absence, L&F needs to ensure that the performance, reputation and security of L&F Training is not compromised.

L&F will deal with any disciplinary issues in a fair and effective way and will ensure that this policy is applied consistently, whilst taking into account exceptional, individual circumstances when appropriate (in line with Equality, Diversity and Inclusion best practice).

L&F will aim to deal with the disciplinary issues promptly and will not unreasonably delay meetings, decisions or confirmation of those decisions and L&F expects the same consideration from any staff member involved in the disciplinary process. All proceedings, whether formal or informal, as far as practicable, will remain confidential. Where time limits are referred to in this procedure, they may be varied by agreement between L&F and the individual.

L&F's disciplinary procedure aims to be an effective method of addressing misconduct, by helping and encouraging staff to improve, rather than just a way of imposing penalties. Throughout the disciplinary procedure your manager will support you by working with you to identify obstacles to improvement and to meet the standard of conduct, attendance or performance expected of you.

L&F Training will ensure that managers who are involved in the disciplinary procedure receive appropriate training.

2. Objectives

This policy sets out a clear and fair framework of how L&F will manage cases of misconduct. It also sets out clear guidance on what types of behaviours are considered unacceptable and would be treated as misconduct or gross misconduct and what disciplinary action could follow.

3. Scope

This policy applies to all L&F employees and staff (including freelance staff) who have successfully passed their probationary period. Although our Probation Policy will be followed for employees in their probationary period, the standards of conduct outlined in this policy still need to be adhered to by all staff (employed and self-employed), including those still within their probationary period.

4. What Behaviour Amounts to Disciplinary Offence

a) Behaviours expected of all employees and staff

We expect all employees/staff to behave in a professional, courteous manner, to comply with their contract of employment, our policies and procedures; including the Equality, Diversity and Inclusion Policy.

Below we give you examples of behaviours that are unacceptable and could warrant disciplinary action. The examples are not exhaustive or exclusive and offences of a similar nature will be dealt with under this procedure.

b) Misconduct

These are behaviours that are unacceptable and could normally warrant disciplinary action up to final written warning. However in the cases of persistent repetition of minor misconduct, whether of the same or a different nature, we will consider dismissal.

Below are examples of behaviours that we consider as misconduct (but are not limited to):

- Poor timekeeping;
- Unauthorised absence;
- Failure to observe our policies and procedures;
- Abusive or disruptive behaviour;
- Poor attendance;
- Minor complaints received from learners and clients;
- Failure to carry out duties or comply with reasonable management request.

c) Gross Misconduct

This is a misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee/staff member and L&F Training. Such cases warrant instant dismissal of the employee without notice or pay in lieu of notice.

The following are examples of gross misconduct (but are not limited to):

- Conduct that brings L&F's name into disrepute;
- Consistent poor work performance;
- Persistent unauthorised absence from work;
- Gross negligence;
- Breach of trust and confidentiality;
- Theft;
- Serious breach of the L&F Training policies and procedures, including, but not restricted to, health and safety rules and rules on computer use;
- Falsification of signatures, candidate/learner files, exams, reports, accounts, expense

- claims or self-certification forms;
- Falsification of a qualification that is a stated requirement of employment;
- Actual or threatened violence;
- Deliberate damage or misuse of L&F Training property;
- Being under the influence of alcohol or illegal drugs while at work;
- Conviction of a criminal offence that is relevant to the employee's employment;
- Discrimination or harassment of employees, customers or any other third parties on grounds of one of the nine protected characteristics (Equality Act 2010): Age, Disability, Sex, Gender reassignment, Pregnancy/maternity, Race (which includes colour, nationality and ethnic or national origins), Sexual orientation, Religion or belief; Marriage/civil partnership.

5. Disciplinary Procedure

Whenever dealing with issues of under-performance L&F will determine whether it is due to misconduct or capability. If L&F establish that this was due to carelessness, negligence or lack of effort, then disciplinary procedures will be followed. If L&F find that a member of staff cannot achieve the required standard, due to lack of skills, training, support or resources then we will use and follow our Performance Appraisal System and procedures to address this.

We will deal with cases of minor misconduct informally in the first instance, whenever possible. Our disciplinary procedure will be invoked in situations where matters are more serious or where an informal approach has been tried but has not worked. We will not dismiss you for the first breach of conduct, except in cases of gross misconduct.

a) Investigation

We will investigate any issue that is reasonably suspected or believed to be a disciplinary matter without unreasonable delay. This would be done by your manager and, in misconduct cases, where practicable, different people will carry out the investigation and a disciplinary hearing. You will be informed as soon as possible as to the fact of an investigation; the nature of the complaint and when the investigation will be concluded.

The nature and extent of the investigations will depend on the seriousness of the matter and the more serious it is, then the more thorough the investigation would be.

In some cases investigation will include holding an investigatory meeting with you, before proceeding to any disciplinary hearing. In others, the investigation stage will be the collation of evidence for use at disciplinary meeting. If such an interview is held prior to a disciplinary hearing, you will be informed at the outset that the interview is an investigatory interview.

There is no right for you to be accompanied at a formal investigatory interview.

b) Suspensions

There may be instances where suspension with pay is necessary while an investigation and/or disciplinary procedure is carried out.

This could happen when we have reasonable grounds for concern that evidence may be tampered with or destroyed; witnesses pressurised before the disciplinary hearing; or if there is a potential risk to the business or other employees/staff or third parties in allowing the employee/staff member to remain at work.

Suspensions will normally be up to 4 weeks in line with your contract of employment. Suspension is not a presumption of wrong doing or a disciplinary action.

c) Notification of Disciplinary Meeting

If after investigation we consider there are reasonable grounds to believe that you have committed misconduct, we will invite you in writing to attend a disciplinary meeting. We will give you a minimum of 2 days' notice of the meeting and will also let you know of the following:

- Details of the alleged misconduct;
- Where appropriate, any supporting written evidence, which may include witness statements;
- Explanation that it will be held under our Disciplinary Policy;
- That you may be accompanied by a work colleague;
- That during the meeting you will be given opportunity to respond to the allegations;
- That you may call witnesses or submit witness statements;
- Names of witnesses that we may call during the meeting;
- Possible disciplinary action;
- Details of the disciplinary panel.

d) Disciplinary Hearing

A disciplinary meeting will normally be conducted by your manager and a member of the HR team (the panel). Hearings where the potential outcome could be dismissal can be conducted only by Senior Managers and where possible, the Head of Human Resources. If the Head of Human Resources is not available, then another member of the HR team will attend. In misconduct cases, where practicable, different managers will carry out the investigation and disciplinary hearing, although they may present any supporting facts and material during the disciplinary hearing.

During the meeting you will be given a full explanation of the case against you and will be given a reasonable opportunity to ask questions, present your own case, any evidence and call relevant witnesses. You will also be given the opportunity to raise points about any information provided by witnesses.

The panel will adjourn before a decision is taken as to whether disciplinary action is appropriate. This allows time for reflection and proper consideration. It also allows for any further checking of any matters raised, particularly if there is any dispute over the facts.

The panel may also adjourn the disciplinary proceedings to confer or when it appears necessary or desirable to do so (including for the purpose of gathering further information). You will be informed of the period of any adjournment. If further information is gathered, you will be allowed a reasonable period of time to consider the new information prior to the reconvening of the disciplinary proceedings.

As soon as possible after the conclusion of the disciplinary meeting, the panel will inform you about their decision and what disciplinary action, if any, will be taken. The decision will be confirmed in writing within 5 working days from reaching the decision. You will also be notified of your right of appeal.

e) Right to be accompanied

You are entitled to be accompanied at the disciplinary meeting by a work colleague of your choice, a trade union representative, or an official employed by a trade union. Although your companion will be entitled to take a reasonable amount of time away from their normal duties, this will have to be balanced with operational pressures. You must notify your manager of the name of the person whom you wish to accompany you, before the hearing.

The person who accompanies you may address the meeting on your behalf to put your case, sum up the case and to respond on your behalf to any views expressed at the hearing. They may also confer with you during the hearing.

They may not, however, answer questions on your behalf.

f) If you or your companion cannot attend

You must take all reasonable steps to attend disciplinary meetings. Failure to attend a disciplinary meeting without good reason may be treated as misconduct.

If you are unable to attend a disciplinary hearing and provide a good reason for failing to attend it and it is due to circumstances outside your control, the hearing will be adjourned to another day. If you are unable to attend the rearranged hearing, unless there are special mitigating circumstances, the rearranged hearing will take place in your absence. In such circumstances your companion may attend and will be allowed the opportunity to present your case. Alternatively you may provide us with written submissions.

Where the chosen companion is unavailable on the proposed day of the meeting, it will be rescheduled provided that he or she proposes an alternative time within 5 working days of the original date and the alternative time is reasonable (bearing in mind the availability of the relevant manager).

6. Disciplinary Sanction

If misconduct is confirmed following a disciplinary hearing, you would be given an appropriate disciplinary sanction up to and including dismissal.

When reaching the decision about the level of sanction, the panel will consider the severity and/or re-occurrence of misconduct; any 'live' warnings and the impact on learners, colleagues and company reputation.

The panel will also take into account extenuating circumstances.

a) Written Warning

First acts of misconduct would normally warrant written warning that would be held on the individual's personal file and remain 'live' for 6 months.

This period could be extended to up to 12 months if the circumstances warrant this.

Any further misconduct or unsatisfactory behaviour, during this time period, may lead to a final written warning or dismissal in case of gross misconduct.

b) Final Written Warning

A further act of misconduct, or failure to improve within a set period would normally result in a final written warning.

This may also be the case of 'first offence' misconduct, if it is sufficiently serious but does not justify dismissal.

This might occur where your actions have had or are likely to have a serious harmful impact on L&F Training.

A final written warning will remain 'live' for 12 months.

Any further misconduct or unsatisfactory behaviour during this time may lead to dismissal.

c) Dismissal with Notice

If despite warnings, your conduct or performance does not improve to the required level within the specified period, you may be dismissed with notice.

In such cases you would receive a period of notice or a payment in lieu of notice, in line with your contract of employment.

d) Dismissal without Notice

If you have committed a serious disciplinary offence, amounting to gross misconduct, you may be summarily dismissed, without notice.

e) Length of Time the Warning will remain 'Live'

Where a Warning has been issued, they will remain 'live' on your personal file for different lengths of time; as outlined above.

This means that, except in agreed special circumstances, any disciplinary sanction will be disregarded for disciplinary purposes, after the specified period of satisfactory conduct or performance has passed.

There may be occasions where conduct is satisfactory throughout the period the warning is in force, only to lapse very soon thereafter. Where a pattern emerges and/or there is evidence of abuse, the past disciplinary record would be taken into consideration, when deciding how long any warning would last.

A decision to dismiss will not be based on an expired warning. However, the fact that there is an expired warning may explain why the panel does not substitute a lesser sanction, in a situation where a member repeats an offence previously committed.

f) Confirmation of Disciplinary Sanctions

The warnings will be confirmed to you in writing within 5 working days of the disciplinary panel reaching decision and will also:

- Set out the nature of the misconduct and the required change in the behaviour.
- Any support or action plan with timescales agreed during the disciplinary meeting.
- Specify the period for which the warning will remain 'live'.
- Specify the consequences under the disciplinary procedure, of further misconduct or failure to improve.
- Inform that you can appeal against the warning.

In cases of dismissal the decision will also be confirmed in writing within 5 working days of the disciplinary panel reaching its decision; in which L&F will set out the reasons for the dismissal and your right to appeal.

7. Appeal

You may appeal against any formal disciplinary action within 5 working days of the date of the notification letter. When lodging an appeal you should state the grounds of appeal and whether you are appealing against the finding that you have committed the alleged misconduct, or against the level of disciplinary action imposed.

Appeal hearings will normally take place within 10 working days of the receipt of your written notice of appeal. The appeal will be heard by a senior manager who has not been involved in the original decision.

The hearing will normally be a review of the decision rather than a re-hearing of the evidence, however any new evidence that you may wish to present will be considered.

Upon completion of the appeal, the senior manager conducting the hearing will convey his/her decision to the employee. The decision will be confirmed in writing within 5 working days. The decision at the appeal is final.

When you appeal against a dismissal, the panel's decision to dismiss will have had immediate effect.

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 you summarily without notice, we are under no obligation to reinstate or pay 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 panel's decision to dismiss is overturned, you will be reinstated with immediate effect and paid for any period between the date of the original dismissal and the successful appeal decision. In such a situation, your continuous service will not be affected.

8. Becoming Unwell during the Disciplinary Process

We aim to ensure that all matters relating to discipline are dealt with fairly and promptly and will, wherever possible, follow the principles set out in the disciplinary procedure.

However, circumstances may arise when the ill health of a staff member, prevents the disciplinary procedure from being followed because you are too ill to participate in the

investigation; adequately prepare for a hearing or attend the hearing itself.

Where this is the case, we will act consistently following the principles outlined in Appendix 1.

9. Additional Support

If you require any additional support or advice, please contact a member of the HR Team at hr@landftraining.com.

Further information can be found from the following sources: <https://www.acas.org.uk/> or <https://www.gov.uk/>

10. Associated Policies

- Equality, Diversity and Inclusion policy
- GDPR Privacy Policy
- Professional Development of Employees Policy
- Safeguarding and Child Protection Policy
- Prevent Policy

11. Appendix 1 - If you become unwell during the Disciplinary Process

a) Basic Principles L&F will follow

In circumstances when ill health prevents the disciplinary procedure from being followed, because you are too ill to participate in the investigation; adequately prepare for a hearing or attend the hearing itself; L&F will follow principles outlined below:

- The ill health will not usually be grounds for abandoning any ongoing disciplinary procedures.
- Where the absence is likely to be short, we will usually wait until you recover and are able to take a full part in the process.
- When the absence is ongoing and it appears to us that you are likely to remain off sick for an extended period, we may require you to see a doctor to determine whether or not you are sufficiently fit to take part in the disciplinary process.
- If you are signed off as sick during a period of suspension, your suspension will be rescinded until such time as you become fit for work.
- If, following consultation with the doctor, it appears that you are fit to take part in the disciplinary process, it will continue.
- Where it appears that you are not fit to take a full part in the standard disciplinary procedure, we will consider taking any of the special measures set out below in order to enable you to participate effectively.

b) Special measures

At our discretion, we may propose adjusting the standard disciplinary procedure by taking any or all of the measures set out below with a view to ensuring your effective participation in the disciplinary process:

- **Venue.** We will consider holding the disciplinary hearing at a venue other than our premises, either to reduce the stress caused by attending the hearing or to accommodate any physical needs that you may have.
- **Representation.** If it appears to us that the illness may affect your ability to explain your case, we will consider any request that you may have to be represented in the process by a work colleague or other person as we may specify. The representative may be allowed an expanded role in the process where this would assist you in ensuring that your case is fully explained.
- **Written representations.** Where you may have difficulty in explaining the case, consideration will be given to allowing you to rely on written representations, which may be prepared by a representative.
- **Documentation.** We will take particular care to ensure that you receive all documentation relating to the disciplinary process sufficiently in advance to allow you to prepare fully, taking into account any effect that your health may have on your ability to analyse the information and prepare a response.
- **Timings.** While being committed to the principle that matters should be dealt with promptly, we may allow extra time for any stage of the disciplinary process to ensure that you can participate effectively. Particular attention will be given to the duration of any disciplinary hearing and its impact on you and the need to take appropriate breaks.

c) Holding the hearing in your absence

We believe that, in the vast majority of cases, it should be possible; by using any or all of the measures outlined above, to conduct a fair disciplinary process in which you can fully participate.

However, there may be exceptional circumstances when you will not be able to attend a disciplinary hearing, whatever measures are taken.

In such circumstances, we reserve the right to proceed with a disciplinary hearing in your absence, although full consideration will be given as to whether or not this is necessary in the circumstances.

Where this is the case, you and your representative will be informed of the time and location of the hearing and will remain free to attend. The representative will be free to attend, even if you are not present.

The outcome of the hearing will be communicated in writing to you, paying particular attention to the need to explain the details of any factual findings made and the basis of the decision reached.

You will also be given full opportunity to appeal against any decision, in accordance with the disciplinary procedure. We will consider taking the special measures outlined above, in relation to any appeal.