

Luton

Adult Learning

Learner Disciplinary Policy and Procedure

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1. Introduction

- 1.1 This 'Learner Disciplinary Policy and Procedures', provides a framework for ensuring that learners behave in accordance with Luton Borough Council Adult Learning Service' (the Service) Code of Conduct and for addressing issues that arise as a result of misconduct as defined in this policy.
- 1.2 The Service has duties and obligations relating to the care of and responsibility for its staff and learners.
- 1.3 The Service is committed to equality in all its activities for those who learn and work here, and for those who we have contact with, and will respect differences in race and ethnic origin, gender, disability, mental health, sexual orientation, transgender identity, age, religion and belief, economic and social need.
- 1.4 Unacceptable or inappropriate behaviour and/or conduct by a learner, as defined in this policy, will not be tolerated.
- 1.5 The Service has a duty to protect its reputation for excellent teaching and learning.
- 1.6 The Service is committed to maintaining its standards and values.

2. Code of Conduct

2.1 Learners will be expected:

- To ensure that the dignity and rights of staff and other learners are recognised and protected at all times
- To respect others and behave courteously, responsibly and safely
- Not to give offence to others by actions, language or behaviour
- Not to bully, harass, discriminate against and/or abuse any member of staff, learner or other persons that the learner comes into contact with whilst involved in an activity associated with the Service
- To provide the Service with accurate information and comply with the Service's academic and administrative procedures
- To pay any tuition and/or accreditation and/or examination fees due to the Service in a timely manner
- To attend, study and complete work on time
- To undertake assessment and/or examination activities as required by their programme of study
- To act within Luton Borough Council policies and the law.

3. Definition of Misconduct

3.1 The general definition of 'misconduct' under this Learner Disciplinary Policy and Procedures is improper interference, in the broadest sense, with the proper functioning or activities of the Service, or those who work or learn with the Service, or action which otherwise damages the Service.

3.2 The following (subject to the above) will constitute misconduct:

- The bullying and/or harassment of a learner or learners, including acts of discrimination against a learner or learners, as defined in the Service's Bullying and Harassment of Learners Policy and Procedure
- The bullying and/or harassment of a member of staff, including acts of discrimination against a member or members of staff, as defined in Luton Borough Council's Harassment of Employees by Members of the Public – Policy and Procedures
- The bullying and/or harassment of any person that the learner comes into contact with on the Service's premises or on any other sites associated with or used by the Service as part of the Service's business
- Emotional, financial, physical, psychological and/or sexual abuse or acts of neglect against another learner, member of staff or any other person that the learner comes into contact with as part of their learning programme. This is of particular relevance with regard to the safeguarding of persons under the age of 18 and persons who are vulnerable adults
- Obstruction of, or improper interference with, the functions, duties, rights or activities of any learner, member of staff or other employee of the Service, Luton Borough Council or any authorised visitor
- Violent, indecent or disorderly behaviour or language whilst engaged in any Service activity
- Threatening or offensive behaviour or language whilst engaged in any Service activity
- Action likely to cause injury or impair safety either on the Service's premises or on any other sites associated with or used by the Service
- Acts of disturbance which threaten the rights and privacy of any member of staff or a learner or group of learners
- Damage, defacement or theft of any property of the Service or Luton Borough Council or of property belonging to a site associated with or used by the Service, or any property of a member of staff or a learner or group of learners, whilst on the Service's premises or on any other sites associated with or used by the Service or whilst engaged in Service activity
- Possession and/or use of and/or under the influence of illegal substances, which constitute an offence at law
- Attending learning sessions under the influence of alcohol

- Smoking in unauthorised locations whilst on the Service's premises or on any other sites associated with or used by the Service or whilst engaged in Service activity
- Disruption of, or improper interference with the academic, administrative or other activities of the Service
- Failure to attend the designated training sessions required by a programme of learning
- Failure to complete and submit compulsory work and/or assessment tasks required as part of a programme of learning within the required timescale
- Cheating, deceit, deception, dishonesty, fraud and/or plagiarism in relation to a learning programme, a learning activity, an assessment activity or task, an examination, the Service or its staff
- Failure to pay tuition and/or accreditation and/or examination fees.

These examples of misconduct, whilst comprehensive, may not cover all circumstances that may arise. In the event of an issue that is not covered in this section, the broader definition, as detailed in Section 3.1, may be applied.

4. Disciplinary Procedures

4.1 Introduction

- 4.1.1 Where an incident of misconduct is deemed to represent a serious breach of the Service's Code of Conduct, the Service Manager will be informed and reserves the right to suspend a learner immediately from their learning programme and from attending any premises used by the Service, pending the outcome of an investigation and any associated Disciplinary Proceedings.
- 4.1.2 Any incident of bullying, harassment or discrimination against another learner or group of learners should be investigated through the Service's 'Bullying and Harassment of Learners Policy and Procedure'. Where Disciplinary Proceedings are necessary as a result of this investigation, the matter will be referred directly to a Disciplinary Hearing before the Service's Disciplinary Committee, as outlined in this Policy and Procedure.
- 4.1.3 Any incident of bullying, harassment or discrimination against a member of staff, will be investigated through Luton Borough Council's 'Harassment of employees by Members of the Public – Policy and Procedure'. Where Disciplinary Proceedings are necessary as a result of this investigation, the matter will be referred directly to a Disciplinary Hearing before the Service's Disciplinary Committee, as outlined in this Policy and Procedure.
- 4.1.4 Any incident of abuse or neglect by a learner against a person under the age of 18 or a vulnerable adult will be referred immediately to the

appropriate Team Lead for Safeguarding, who will refer the matter immediately to the appropriate agency, as detailed in the Service's Safeguarding Children, Young People and Vulnerable Adults Policy. The Service Manager reserves the right to suspend the learner immediately from their learning programme and from attending any premises used by the Service, pending the outcome of any investigation and any associated Disciplinary Proceedings.

- 4.1.5 In the event of an act of misconduct that is likely to lead to criminal or legal proceedings, the Service Manager reserves the right to suspend the learner immediately from their learning programme and from attending any premises used by the Service, pending the outcome of the criminal or legal proceedings. Where Disciplinary Proceedings are necessary as a result of the criminal or legal proceedings, the matter will be referred directly to a Disciplinary Hearing before the Service's Disciplinary Committee, as outlined in this Policy and Procedure.

4.2 Management of Disciplinary Proceedings

4.2.1 During disciplinary proceedings the following must be adhered to:

- The Service should consider, prior to the commencement of any disciplinary proceedings, the needs of the learner and any other persons likely to be involved in the proceedings, in terms of their access and support needs
- The learner must be given at least two weeks' written notice of any formal Disciplinary Hearing. However, if the act of misconduct is serious the Service reserves the right to hold any Disciplinary Hearing within a shorter timescale
- The learner has the right to be accompanied and/or represented by a friend, family member or legal representative
- The learner must be given full details, in writing, of the nature of the act of misconduct and be given the opportunity to respond
- Strict confidentiality must be maintained
- Where it is necessary to interview third parties the importance of confidentiality and the integrity of the process must be emphasised
- In the event of an incident of bullying, harassment, discrimination and/or abuse, under no circumstances should the person affected by the incident or the complainant and the alleged perpetrator be expected or required to face each other at the same meeting
- All parties providing a statement or evidence should be advised that their statement or evidence may be shared with other parties. Any individual who withholds consent must provide justifiable reasons for doing so. If they are unable to do so, the Service will not be in a position to use their statement or evidence as part of the disciplinary proceedings
- The disciplinary procedure must focus on the facts, drawing evidence from all available and appropriate sources.

4.3 Informal Disciplinary Procedure

- 4.3.1 Where an act of misconduct is of a minor nature, an informal disciplinary meeting will be arranged, with the learner, the learner's tutor and the Manager responsible for the learner's learning programme in attendance
- 4.3.2 The purpose of this meeting is to explore the act of misconduct with the learner and to find a way forward so as to avoid any repetition of the act of misconduct so that the learner is able to successfully complete their learning programme
- 4.3.3 The learner will be given two weeks' written notice of the meeting and advised of the purpose of the meeting
- 4.3.4 If the learner fails to attend the meeting without providing an acceptable explanation, and has not requested an alternative date and time for the meeting, the meeting will go ahead in the learner's absence
- 4.3.5 If the learner requests and is given the opportunity of an alternative date and time to attend the meeting and fails to attend the second appointment without providing an acceptable explanation, the Service will proceed with the meeting in their absence
- 4.3.6 If the act of misconduct is proven, the learner will be cautioned by the Curriculum Faculty Manager and offered advice on how to avoid a repetition of the act of misconduct
- 4.3.7 The learner will also be advised that if the act of misconduct is repeated, the matter could be referred to a formal Disciplinary Hearing before the Service's Disciplinary Committee
- 4.3.8 A written record of the meeting will be produced. A copy will be kept in the Curriculum Faculty Manager's file and a further copy will be sent to the learner.

4.4 Formal Disciplinary Procedure

- 4.4.1 Cases which involve serious misconduct or repeated instances of minor acts of misconduct, will be referred to the Service's Formal Disciplinary Procedure
- 4.4.2 All incidences of bullying, harassment, discrimination, abuse and acts resulting in criminal damage or legal proceedings will automatically be considered as acts of serious misconduct. Where criminal or legal proceedings have resulted from the act of misconduct, the Disciplinary Hearing will take place once the outcome of these proceedings is known
- 4.4.3 With regard to other acts of misconduct, the severity of the act and/or the impact on the Service will be considered when deciding whether the incident should be referred directly to the formal procedure. The Senior Manager responsible for the learner's learning programme will make the decision in these cases
- 4.4.4 Formal Disciplinary Proceedings will be held before the Service's Disciplinary Committee, which will be appointed by the Service Manager
- 4.4.5 The composition of the Disciplinary Committee will be as follows:
 - Service Manager
 - One Manager

- One other Officer or Manager
- 4.4.6 The members of the Disciplinary Committee should not have had any previous involvement in the case
- 4.4.7 The Manager responsible for the learner's learning programme will submit a report to the Disciplinary Committee, outlining the circumstances of the act of misconduct, and forward any statements of evidence, within two weeks of the date of the incident. However, if the act of misconduct is serious the Service reserves the right to hold any Disciplinary Hearing within a shorter timescale and the Curriculum Faculty Manager will be asked to submit a report within a shorter timescale
- 4.4.8 The Disciplinary Committee may request further statements of evidence as appropriate, indicating the timescale for submission
- 4.4.9 The learner will be given at least two weeks' written notice of the date, time and place of the Disciplinary Hearing (Hearing). If the act of misconduct is serious the Service reserves the right to hold any Disciplinary Hearing within a shorter timescale The learner will also be sent, at the same time, copies of the Manager's report and any statements of evidence that the Service intends to use at the Hearing, a copy of this Policy and Procedure, as well as details of the members of the Disciplinary Committee and the contact details of the Chair of the Disciplinary Committee
- 4.4.10 The Disciplinary Committee will decide which other persons they wish to call to give evidence at the Hearing and give those persons two weeks' written notice of the date, time and place of the Hearing, enclosing a copy of this Policy and Procedure.
- 4.4.11 The learner will be informed of their right to be accompanied and/or represented by a friend, family member or legal representative
- 4.4.12 If the learner fails to attend the Hearing without providing an acceptable explanation, and has not requested an alternative date and time for the Hearing, the Hearing will go ahead in the learner's absence
- 4.4.13 If the learner requests and is given the opportunity of an alternative date and time to attend the Hearing and fails to attend the second appointment without providing an acceptable explanation, the Service will proceed with the Hearing in their absence
- 4.4.14 The learner has the right, not less than three working days before the meeting, to forward to the Chair of the Disciplinary Committee, a statement containing any grounds for mitigation or challenge to the case under consideration
- 4.4.15 At the Hearing, the Disciplinary Committee will interview the learner and the other persons that they have called to give evidence and then determine, in the light of the evidence, whether a breach of the Service's Code of Conduct has been committed and, if appropriate, the sanction that the Service will impose
- 4.4.16 The Disciplinary Committee has the following options:
- To rule that no action be taken
 - To issue a written warning to the learner, indicating the consequences of future misconduct

- To require the learner, within a period to be specified, to pay the owner of any property damaged in consequence of the act of misconduct, compensation to the extent of the estimated cost of making good that damage
 - To require the learner to apologise to persons affected by the act of misconduct
 - To remove the learner from their programme of learning, with no refund of any fees or other expenses that the learner has incurred. The Service will require the learner to settle any and all outstanding course-related fees
 - To require that the learner requests and obtains prior approval from the Service Manager prior to joining any future learning programme with the Service
- 4.4.17 The Disciplinary Committee will consider the evidence and communicate their decision in writing to the learner and the Service Manager within one week of the date of the Hearing
- 4.4.18 The written notification will state the outcome of the Hearing, the nature of the disciplinary action if action is to be taken, the reasons for the action, together with a summary of the alleged facts on which any disciplinary action is based and a clear statement of the right and method of appeal
- 4.4.19 The decision of the Disciplinary Committee will be binding.

4.5 Appeals Procedure

- 4.5.1 A learner may appeal to the Service Manager against a penalty imposed by the Disciplinary Committee in relation to an act of misconduct
- 4.5.2 Such an appeal must be submitted in writing to the Service Manager within two weeks of the date of the written notification of the outcome of the Hearing and shall state the grounds for the appeal
- 4.5.3 If the Disciplinary Committee has ruled that a learner should be removed from their programme of learning, the learner will be suspended from their programme of learning pending the outcome of the appeal
- 4.5.4 The Service Manager will review the evidence from the Hearing and the grounds that the learner has provided for an appeal
- 4.5.5 The Service Manager will meet with the Disciplinary Committee to review their decision, within one week of receipt of the learner's request for an appeal
- 4.5.6 The Service Manager will arrange a meeting with the learner, within two weeks of the date of the learner's request for an appeal
- 4.5.7 The learner will be informed of their right to be accompanied and/or represented by a friend, family member or legal representative
- 4.5.8 If the learner fails to attend the meeting without providing an acceptable explanation, and has not requested an alternative date and time for the meeting, the Service Manager will reach a decision in the absence of the learner
- 4.5.9 If the learner requests and is given the opportunity of an alternative date and time to attend the meeting and fails to attend the second

- appointment without providing an acceptable explanation, the Service Manager will reach a decision in the absence of the learner
- 4.5.10 The Service Manager will confirm, reduce, set aside, amend or otherwise vary the penalty imposed by the Disciplinary Committee
- 4.5.11 The decision of the Service Manager will be final and binding.