

## LT2 Disciplinary Policy and Procedure

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## Our Learning Today Leading Tomorrow Multi-Academy Trust Vision

### Vision

Vision is to build a group of outstanding schools across phases, including specialist provision, to become (a mid-size) Trust that provides vibrant and inclusive learning environments in which every member of the learning community is passionate about learning. The Trust is led by a CEO who works closely with Headteachers who lead the two schools supported by a central team to support finance, HR, estates and governance.

### Mission

LT2 Trust and schools will have a relentless focus on high achievement, supported by robust organisational structures and governance. We aim to give children and young people in our care the knowledge, skills and experiences to expand their minds and world view to enable them to develop a naturally inquisitive approach to learning and life, fit for an ever-changing world.

Ultimately, we will educate and support all children attending LT2 schools to grow into capable and contributing citizens who have developed the personal attributes and characteristics that will enable them to become considerate, self-reliant and confident young people who are ready for the next stage of their lives.

### Values

The Trust Values underpin the mission and provide the basis on which LT2 schools can articulate the key behavioural characteristics that promote a positive philosophy. Our six values are unseen drivers of our behaviour as experienced by others and are designed to create a shared organisational culture:

**Kindness** – The quality of friendliness, generosity, and consideration

**Collaboration** – The belief that working and learning with others will lead to greater success

**Curiosity** – A strong desire to know and to learn

**Resilience** – The ability to recover quickly and learn from the difficulties we face

**Respect** – To appreciate the importance of understanding and admiration for others and self, honesty

**Endeavour** – The belief that hard work is needed to achieve something of which we can be proud

### Definitions

- Where the word 'Trust' is used in this document it refers to The Learning Today Leading Tomorrow Trust.
- Where the words 'Trust Board' are used it refers to the board of Trustees who set the vision for the Trust and hold the executive leadership team to account for delivering the Trust's strategic plan.

## 1. Organisation and Responsibilities

### 1.1 Introduction

This Policy and procedure applies to all employees of the trust except for those serving their formal probation period. It does not form part of the terms and conditions of any employee's employment with the trust and is not intended to have contractual effect. However, it reflects the trust's current practices and employees are strongly encouraged to familiarise themselves with its content.

The trust reserves the right to vary or amend its disciplinary policy and procedure depending on the particular circumstances of the case. The trust also reserves the right not to follow the Disciplinary Policy and Procedure in respect of employees with less than two year's continuous service.

The Learning Today, Leading Tomorrow trust (LT2) is committed to ensuring formal policies and established workplace procedures are in place for dealing with staff conduct and discipline. This policy is written in line with the trust's statutory responsibilities and the ACAS Code of Practice.

High standards of staff behaviour, conduct and discipline are essential for the effective and efficient management of schools and the safety and wellbeing of all staff and pupils in the trust.

This policy is designed to help and encourage all employees to understand, achieve and maintain appropriate standards of behaviour and conduct. It also aims to ensure that LT2 employees are treated fairly and consistently when allegations of misconduct have been raised and that proper and adequate procedures are observed before any decision is taken, particularly when an employee's job is at risk. No-one will be treated less favourably on the grounds of their gender, disability, age, race, creed, colour, religion, nationality, ethnic or national origin, sexual orientation, gender reassignment, medical condition, marital status or trade union membership or activity.

The following principles will be adhered to when following the disciplinary process:

- All employees are made fully aware of the standards of performance, action and behaviour required of them;
- Disciplinary action, where necessary, will be taken without unreasonable delay and in a fair, uniform and consistent manner;
- An employee will only be subject to disciplinary action once there has been a reasonable investigation of the facts;
- All employees will have the right to be accompanied by a fellow employee or an accredited trade union official at any disciplinary or appeal hearing. Please note that an investigatory interview prior to a disciplinary hearing is not a formal stage in the disciplinary process;
- The employee will have a full and fair opportunity to state his or her case and answer any allegations that have been made at a formal disciplinary hearing convened under this policy and procedure
- During any hearing, the employee will also be allowed to ask questions, present evidence, and be given an opportunity to raise points about any information provided by witnesses or relevant documentation;

- Requests to call witnesses or cross examine witnesses will be considered and accommodated where reasonable, practicable and proportionate in the circumstances of the case and where this does not conflict with any overriding duty the trust may owe to another employee;
- Normally, no employee will be dismissed for a first breach of discipline except for in the case of gross misconduct;
- If an employee is subject to the disciplinary process, they will receive both an explanation of the penalty imposed and will be entitled to appeal against the penalty in accordance with the appeals process set out in this policy and procedure.

## 1.2 Guidance under this Policy

Head of HR is responsible for providing advice and guidance under this policy and reviewing and updating the policy as required.

## 1.3 Board of Trustees

**The Board of Trustees, as a corporate body, has the responsibility to set the strategic direction and objectives of all matters across the Trust.**

The Board of Trustees is responsible for ensuring that high standards of corporate governance are maintained

The Chair of the Trust is responsible for managing the CEO, Trustees and Governors under this policy.

## 1.4 The Chief Executive Officer (CEO)

The CEO of Learning Today leading Tomorrow Trust (LT2):

- Takes overall responsibility for the implementation of policies and procedures
- Must provide reports as appropriate to Trustees in relation to this policy
- Ensure that sufficient resources are allocated and authorised within the organisations budget to meet statutory procedures and standards across the Trust
- Is responsible for managing the Headteachers and centrally appointed staff under this policy

## 1.5 Headteachers

Headteachers of LT2 schools are responsible for:

- The implementation of and compliance with this policy within their school ensuring competence in those staff who are responsible for and involved in the operation of this policy and associated guidance
- Identifying training needs
- Communicating this policy to all relevant people within the school
- Managing school-based teaching and associate staff under this policy

## 1.6 Senior and Middle Leaders (and other Supervisory Roles)

Although the Headteacher is responsible overall for the implementation of this policy in their school, managers have some specific responsibilities:

- Applying this policy within their own department and area of work
- Resolving any issues members of staff refer to them, informing the Headteacher of any issues to which they cannot achieve a satisfactory solution with the resources available to them
- Where required, conduct formal meetings, undertake relevant training in relation to this policy and ensure effective and competent operation of this policy

### 1.7 Other Employee Duties

All employees have a responsibility to:

- Comply with this policy and to co-operate with the schools' leadership and management on all matters relating to it
- Undertake any training recommended by their line manager

### 1.8 Related Policies and Procedures

- LT2 Grievance Policy
- LT2 Code of Conduct

### 1.9 Review

This policy will be reviewed annually subject to statutory updates.

These procedures have been agreed by the board of trustees, who will approve them whenever reviewed.

## 2. Suspension

It may be necessary for the trust to suspend an employee whilst an investigation is taking place. Any suspension will be no longer than is reasonably necessary and will be on full pay.

Suspension should be considered when the employee's continued presence:

- Constitutes a potential risk to other staff, pupils, themselves or to the property
- Would potentially impede or prevent a full and proper investigation;
- Seriously undermines the reputation of the academy or LT2;
- Constitutes a risk of a repetition of any serious alleged misconduct, or;
- When the allegation, if proven, may constitute gross misconduct leading to dismissal.

Alternative actions to suspension if necessary could be a temporary change to duties, working arrangements or a transfer of workplace.

Suspension does not in itself constitute disciplinary action or imply any decision or judgment as to guilt

If the decision is taken to suspend an employee, the employee will be informed by the Headteacher or CEO in person where possible. Written confirmation of the suspension will be provided at the point of suspension or sent as soon as possible afterwards and no later than within two working days.

The employee being suspended will be expected to maintain confidentiality in relation to the process and must not discuss the matter with colleagues, pupils or parents, other than those specified at the time of the suspension or subsequently agreed by the Investigating Officer;

### 3. Investigation

The aim of a disciplinary investigation is to gather and record the facts necessary to determine whether there is a case to answer or not.

A senior member of staff will be nominated to conduct the investigation (Investigating Officer). The Investigating Officer will have received appropriate training and/or guidance and will be supported by the Head of HR. In serious cases or where it is necessary to secure impartiality, an external Investigating Officer may be appointed.

The Investigating Officer will write to the employee at the earliest opportunity to request their attendance at an investigation meeting providing at least 5 working days' notice of the meeting (unless otherwise agreed between the parties) and notifying the employee of:

- details of the allegation/s;
- time and date of an investigation meeting;
- confirmation of their right to representation by a trade union representative or work colleague, at all meetings;

If the employee or their trade union representative is unable to attend the meeting for a valid reason, they should confirm this to the person conducting the meeting at the earliest opportunity and an alternative date should be arranged. This will normally be within five working days of the original date proposed by the employer.

The Investigating Officer will promptly carry out a full and thorough investigation into the allegations in as timely manner as the circumstances will allow. Normally investigations will be completed within 20 working days, except for exceptional circumstances. Care will be taken to ensure that all relevant evidence is gathered from the relevant parties, including from the employee who is the subject of the investigation.

The investigation may require employees and witnesses to be interviewed to establish the facts. If this is the case, the importance of confidentiality will be emphasised to them. Any staff member who deliberately provides false information or otherwise acts in bad faith as part of an investigation may themselves be subject to action under this policy. Witnesses should be given sufficient notice of any investigation meetings/interviews and offered the opportunity to be accompanied by a trade union representative or workplace colleague. In circumstances in which both the employee subject to the disciplinary process and a witness are members of the same trade union, they must be supported by different representatives.

Minutes of the investigation meeting will be taken and a copy provided to the employee and their representative where appropriate, with a view to agreeing them as an accurate record.

It may be necessary for the Investigating Officer to pursue further lines of enquiry before being able to conclude their investigation. If this is the case, the Investigating Officer should give an indication of what further steps are necessary and when the investigation is likely to be completed.



On conclusion of their investigation, the Investigating Officer will prepare a report summarising their investigation and make a recommendation to the Disciplinary Officer as to whether there is a case to answer or not. The conclusion will be confirmed to the employee in writing.

If there is deemed to be a case to answer, the matter will normally progress to a disciplinary hearing.

If it is determined that there is no case to answer, no further formal action will be taken and the matter will be closed and all documentation removed from the employee's file. However, the Investigating Officer may make recommendations and should consider the need for any other supportive mechanisms such as additional training or counselling which may be appropriate.

#### **4. Duty of Care**

LT2 recognises that employees subject to allegations relating to their behaviour or conduct may find the process outlined in this policy difficult or stressful. Those leading any such process will be expected to take active steps to ensure that support mechanisms are identified and offered as appropriate on a case by case basis, including encouraging the employee to seek advice and support from their trade union, nominating a senior member of staff to act as a pastoral contact and providing details of the trust's employee wellbeing support package provider.

#### **5. Disciplinary Procedure**

If the trust decides to involve the formal disciplinary procedure it will adhere to the following procedure:

1. The trust will write to the employee inviting them to attend a disciplinary hearing.
2. In the invitation letter the trust will set out the issues or allegations that are to be considered, the basis for them, indicate how seriously these are being viewed, the potential consequences and detail any intention to call witnesses.
3. The trust will attach any relevant documentation including any relevant witness statements to the invitation letter.
4. The letter will also detail the employee's statutory right to be accompanied by either a work colleague or a trade union representative and confirm how this right can be exercised.
5. The trust will give the employee reasonable notice of the requirement to attend the disciplinary hearing in order to allow them a reasonable period of time to prepare their case.
6. Disciplinary hearings where dismissal is not contemplated as a potential disciplinary sanction should the allegation(s) be proved will usually be conducted and determined by a member of the Senior Executive Team or the Headteacher, or in the case of disciplinary proceedings involving the Headteacher, a member of the trust Executive team.
7. Disciplinary hearings where dismissal is considered a potential outcome will usually be conducted and determined by three Senior Executive of the trust or a panel of three trustees determined by the trust alongside an HR advisor who will be present to advise the disciplinary panel.

8. Save for exceptional circumstances, the Investigating Officer will be asked to attend the hearing to present their report
9. If the employee fails to attend the hearing, the case will be heard in their absence, unless acceptable reasons have been presented in advance and it has been agreed to postpone the hearing to a later date.

Any disciplinary hearing will be conducted in a manner to ensure that:

10. No member of the disciplinary panel will have previously been involved in the investigation stage.
11. The employee will be given a full and fair opportunity to answer any allegations against them and to present their case and any relevant evidence they wish to be considered and on which they would like to rely.
12. The hearing will be minuted by a note taker and the employee will be supplied with a copy of the minutes as soon as is reasonably practicable after the hearing.
13. No decisions will be reached during the hearing itself. The disciplinary panel will need to consider all the evidence together with the representations the employee has made and decide whether in their genuine belief and on the balance of probability if the allegation is substantiated or not. In some cases the panel may need to carry out further investigations before a decision can be reached.
14. Once a decision has been reached, the employee will be issued a letter to confirm the outcome of the hearing.
15. Where the decision has been to take formal disciplinary against an employee, they will be informed of the nature of the disciplinary sanction, the reasons behind the decision and any other conditions that they may be required to satisfy as a result of the disciplinary process. Where a disciplinary sanction has been imposed, they will also be informed of their right to appeal and the process to be followed should the employee wish to exercise this right in relation to the disciplinary decision reached.

## **6. Severity of Disciplinary Action**

The severity of disciplinary action (if any) will be determined by the severity of the offence and any prior “live” disciplinary sanctions in the employee’s history. Due consideration will be given to any bona fide mitigating circumstances raised during the disciplinary process and whether the sanction falls within the reasonable range of responses. The following is provided as guidance only.

## **7. First Written Warning**

This will generally be applied as the first step of formal corrective action following unsatisfactory performance or misconduct offences.

A first written warning imposed as an outcome to the disciplinary process will be placed on the employee’s personnel file for a specified period of time which will be notified to the employee in the disciplinary outcome letter.

The trust will also specify, in the case of performance issues, reasonable and clear targets for improvement that the employee is required to attain within a reasonable review period.

## 8. Final Written Warnings and Dismissals

For more serious first offences, such as serious misconduct, the trust may impose a final written warning.

Alternatively, where an employee persists with an offence in relation to which they have a current and active first written warning or where an employee fails to achieve the required improvements within the review period specified in a previous disciplinary outcome, the trust may impose a final written warning having followed the disciplinary procedure in respect of any persisting or additional offences.

Continued failure to improve or repeat offences during an active period of a current final written warning may result in dismissal with notice or payment in lieu of notice.

## 9. Alternative Disciplinary Sanctions

The trust may also consider and impose, having followed the Disciplinary Procedure in each case, additional or alternative sanctions including, but not limited to, demotion, disciplinary transfer, loss of seniority/pay or suspension without pay, as an alternative to dismissal.

## 10. Gross Misconduct

An employee may be liable to summary dismissal if they are found guilty of gross misconduct. Where an allegation of gross misconduct is upheld the trust will normally dismiss summarily i.e. without notice or payment in lieu of notice.

The following are examples of issues which might constitute gross misconduct. These are illustrative only and do not constitute an exhaustive list.

- A fundamental and/or wilful breach of the trust rules, regulations and policies;
- Gross negligence or dangerous behaviour, which causes or might cause unacceptable loss, damage or injury;
- Grossly indecent or immoral behaviour;
- Threatening or violent behaviour, fighting or physical assault;
- Deliberate falsification of any records (e.g. Sickness Self-Certification Form and time-sheets) in respect of the employee or any fellow employee;
- Undertaking private work on the premises and/or during working hours and wilful disregard of duties or of instructions;
- Deliberate and serious breach of confidence relating to the trust's or its students' affairs;
- Theft or misappropriation of money or property whether belonging to the trust, another employee or a third party;
- Unauthorised consumption of alcohol on the premises, or reporting for work under the influence of alcohol or controlled drugs;
- Any taking or possession of controlled drugs or stimulants, which have not been prescribed by a registered medical practitioner;
- Destruction/sabotage of trust property or any other property on the premises;
- Serious Health and Safety breaches;
- Gross insubordination and/or refusal to obey legitimate instructions given by any members of the Senior Leadership Group;

- Any breach of a legal statute, which has a direct effect on the employee's ability to undertake stated duties and/or on the desired characteristics of his or her position;
- Allowing or assisting any unauthorised person to gain entry to the premises;
- Repeated absences from duty without authorisation;
- Any fundamental and/or substantial breach of trust or unauthorised disclosure of information relating to the trust's affairs to third parties.
- A substantial failure to meet expected standards of work and/or behaviour amounting to serious neglect of duty;
- Deliberately driving on trust business without an appropriate licence and/or the appropriate insurance;
- Discrimination or harassment or other breach of the trust's Equal Opportunities and Diversity Policy;
- Failure to inform the Senior Leadership Group of any criminal charges/convictions or police cautions that are relevant to the employee's employment;
- Serious breaches of the trust's safeguarding and Child Protection Policies and Procedure;
- Serious breaches of the LT2 Code of Conduct
- Serious breaches of the trust's Electronic Communications Policy;
- In respect of teaching staff, serious breach of the standards of professional conduct as set out in the Teacher's Standards.

### **11. Behaviour Outside Working Hours**

The trust demands employees of the highest integrity and expects all employees to maintain high standards outside working hours. Any outside activities, which could reasonably be regarded as detrimental to the reputation of the trust, may lead to dismissal.

As a condition of employment, employees are required to notify the trust immediately of any criminal charges, cautions or conviction, plea of guilty or not guilty in respect of a criminal offence.

### **12. Grievances Raised During Disciplinary Process**

When an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. If the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently. A discussion will therefore take place between the senior leader, the Head of HR and the employee (normally through their trade union representative or directly if they are not represented) about whether or not the disciplinary procedure should be suspended so that the grievance issues can be dealt with separately under the Grievance Policy or whether the grievance should be raised by the employee at relevant disciplinary interviews, hearing and/or appeal.

### **13. Disciplinary Appeal Procedure**

The Disciplinary Rules and Procedures, incorporate an employee's right to lodge an appeal in respect of any disciplinary action taken against them.

If an employee wishes to exercise this right of appeal, they should write in the first instance to the trust board via the trust clerk within 10 working days of the decision they are complaining against, setting out the grounds and basis for the appeal.

Disciplinary appeals will usually be conducted and determined by a panel of three members of the trust board.

The employee will receive written notice of the date, time and place of the appeal hearing which will normally be held within ten working days of the notice of appeal. The employee has the right to be accompanied by a work colleague or an accredited trade union official at any disciplinary appeal meeting and will be given a full opportunity to state his or her case and put forward his or her version of events.

The appeal hearing will be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. The employee will be given a full and fair opportunity to put forward his or her grounds for appeal together with any supporting evidence.

The hearing may be adjourned if the trust needs to gather any further information or give consideration to matters discussed at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

The outcome of the appeal hearing may be to:

- confirm the original decision;
- revoke the original decision; or
- substitute a different penalty.

The appeal hearing will be minuted by a note taker and the employee will be supplied with a copy of the minutes as soon as is reasonably practicable after the hearing.

The employee will be notified of the result of the appeal in writing without unreasonable delay.

If an employee appeals against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful the employee will be reinstated with no loss of continuity or pay.

The appeal decision is the final stage of the trust's disciplinary appeal procedure.