

People Management Policy
Disciplinary Policy

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1) Purpose

The purpose of this procedure is to support you to achieve and maintain satisfactory standards of behaviour and conduct, in accordance with our **Code of Conduct Policy**, as well as ensuring fairness and consistency is applied in all aspects of disciplinary proceedings.

Managers are responsible for ensuring staff are aware of the standards of required conduct and behaviour and ensuring that breaches of these are dealt with promptly and consistently.

2) Scope

This policy applies to all employees, except employees during their probation period, where conduct issues will be dealt with under the **Probation Policy**.

This policy applies in relation to behaviour or conduct that falls below the standard required of you, or breaches of our policies and practices, copies of which can be found on the Intranet.

Where you do not reach or maintain the required standards of job performance through a lack of knowledge, skill or ability, the **Capability Policy** will apply.

You need to know and understand the standards expected of you and the possible consequences of breaking disciplinary rules or failing to meet conduct standards. Examples of misconduct, serious misconduct and gross misconduct can be found in **Appendix 1**.

Where the disciplinary leads to another formal procedure such as sickness absence, grievance or capability, in this case, it may be appropriate to temporarily suspend the disciplinary or where the disciplinary and other formal procedure are related, to deal with these concurrently.

This policy does not form part of employees' terms and conditions of employment and we may amend it at any time.

3) Roles and Responsibilities

Line Managers:

- Provide a fair and reasonable approach
- Act as quickly as possible
- Promote and support an attempt at informal resolution wherever possible before the formal process
- Remain objective when/if investigating or chairing a hearing or appeal
- Maintain confidentiality
- Seek advice from the POD team if appropriate/necessary
- Always act in a manner that is consistent with our culture and values

People and Organisational Development (POD) role and responsibilities:

- Provide advice, guidance in relation to the application of this procedure
- Provide training to build the confidence and capability of line managers to manage concerns
- Maintain confidentiality
- Always act in a manner that is consistent with our culture and values

Employees:

- Make all reasonable attempts to attend meetings on the dates agreed as part of the informal and formal process
- Maintain confidentiality
- Always act in a manner that is consistent with our culture and values

4) Informal Process and Procedure

Where appropriate, your line manager should in the first instance deal with any minor misconduct issues informally through the course of day-to-day management, before resorting to the formal procedure.

Your line manager should arrange an informal meeting with you to make you aware of the conduct concerns or issues identified. The discussion should:

- Outline the conduct issue
- Explain why this is considered unacceptable or inappropriate
- Set out the expectations and standards required
- Confirm a timescale for improvement, where applicable
- Confirm when this will be reviewed, if appropriate
- Explain that formal disciplinary action may be taken if improvement is not achieved or sustained.

Although the discussion is informal, your line manager should set a date to review your progress and keep a note of the meeting. Your line manager should send a follow up email or note to you confirming their discussions.

If, during the discussion, it becomes clear that the matter may be more serious, the meeting should be adjourned. You should be informed whether the matter will be considered under the Formal Disciplinary procedure instead, to protect your rights, such as the right to be represented.

5) Formal Process and Procedure

The formal procedure will be used when:

- a) Informal action has failed to bring about improvement,
- b) the matter is too serious to be dealt with by informal action, or
- c) in any case of alleged gross misconduct.

5.1. Representation

You are entitled to bring a companion to all formal stages of the procedure. This can be a fellow employee work colleague, or a trade union representative. You are expected to notify the manager conducting the meeting or hearing who their chosen companion is, in advance of the meeting, a minimum of 48 hours before the meeting.

Your companion may make representations, ask questions, and sum up their case, but will not be allowed to answer questions on your behalf. You may confer privately with their companion at any time during the meeting.

You and your companion are not permitted to make electronic recordings of any meetings or hearings conducted under this procedure.

If you or your companion cannot attend the meeting or hearing, you should inform the POD Team as soon as possible and request a postponement (once) to a time that is convenient to all within a reasonable timescale, of at least five working days. This five-day time limit may be extended by mutual agreement.

You must make every effort to attend the meeting or hearing, and failure to attend without good reason may be treated as misconduct. If you fail to attend without good reason or postpone the meeting more than once, we may take a decision in your absence, based on the available evidence.

5.2. Suspension

In some circumstances it may be necessary to suspend you from work. The suspension will be no longer than is necessary to investigate the allegation and the arrangements will be confirmed in writing to you, as below.

Suspension should only be considered in exceptional circumstances, where there is a serious allegation of misconduct and:

- You have been accused of bullying or harassment, or where we have Health and Safety concerns
- Working relationships have broken down to the point there is a risk to colleagues, customers, or physical or intellectual property.
- There are reasonable grounds to believe that you might seek to tamper with or destroy evidence, influence witnesses, and/or sway an investigation into the disciplinary allegation
- You are the subject of criminal proceedings which may affect whether you can do your job.
- You might present a risk if you were allowed to remain in the workplace

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full salary and benefits during the period of suspension.

5.3. Investigation

Alleged or suspected misconduct which cannot be deemed as a minor matter will usually be dealt with by your manager, who should inform the POD Team. A relevant manager will then be appointed as Investigating Officer. They must be impartial and not have had any material involvement in the conduct or behaviour that gave rise to the allegations.

You should be made aware that an allegation of misconduct has been made, or a failure to improve conduct following informal action, has led to formal procedures and that an investigation will take place as soon as possible.

The nature and extent of the investigation will depend on the seriousness of the matter. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the you and witnesses and/or reviewing relevant documents. You must make all relevant documents available to the Investigating Officer. Investigative interviews are solely for the purposes of fact finding and no decision on formal disciplinary action will be taken until after a Disciplinary Hearing has been held. You are expected to co-operate with any investigations. If you are called to an investigation meeting, you have the right to representation (**see section 5.1 on representation**).

Notes of the discussions will be made and a written statement agreed with the individual as a record of the meeting.

The Investigating Officer will collate the findings from the investigation into a formal investigation report and provide you with a copy in advance of a formal Disciplinary Hearing, usually 5 working days prior to the hearing.

5.3.1. Case to answer

Following the investigation, if the Investigating Officer concludes that there is a case to answer, a manager will be appointed to chair the Disciplinary Hearing. This would usually be a relevant manager at the same level or more senior than the Investigating Officer and will have had no previous involvement in the case.

Where the investigating officer concludes that formal disciplinary action is not appropriate and therefore no hearing is required, you should be informed of this in writing.

5.4. Disciplinary Hearing

You will be informed in writing about a Disciplinary Hearing, giving you reasonable notice, usually 5 working days. Your invite letter will also include the following where appropriate:

- Details of date, time and venue
- State that you are required to attend
- Who will be in attendance
- Your right to representation (**see section 5.1 on representation**).
- The allegations or accusations against you and the case you will be expected to answer
- Provide a copy of the documentation that will be presented at the hearing, for example, an investigation report, witness statements and any appendices, where appropriate.
- State the potential outcomes of the alleged behaviour could be disciplinary action, or dismissal, as appropriate.

The Disciplinary Hearing provides the opportunity for the Chair to speak to you about the matter in question and gain relevant input about the evidence that has been gathered.

A formal record of the hearing will be taken and will usually be circulated within **five working days** of the hearing.

The Chair of the Disciplinary Hearing may adjourn the Disciplinary Hearing if any further investigation is required, in the light of any new points raised at the hearing.

5.4.1. Disciplinary Action

The decision about whether or not to impose a disciplinary sanction and level will not be made until the Disciplinary Hearing has been concluded. You will be informed of the decision and the reasons for this verbally, wherever possible. The decision will also be confirmed in writing, usually within **five working days** of the Disciplinary Hearing

In some circumstances, it will be appropriate to decide that no disciplinary sanction should be imposed. You should be informed of this in writing as soon as reasonably practicable after the hearing.

Any mitigating factors raised by you during the Disciplinary Hearing will be considered when deciding whether to impose a disciplinary sanction.

If formal disciplinary action is taken, the Chair of the Disciplinary Hearing will inform you in writing of the following:

- The nature of the misconduct
- Any recommendations or actions, if relevant
- Timescales for improvement and the improvement expected, if relevant
- The decision in relation to each allegation
- The reason for the decision
- The disciplinary sanction and where appropriate how long it will last
- The likely consequences of further misconduct
- If the sanction is dismissal, the effective date of the dismissal and whether the dismissal is summary (without pay) or whether pay in lieu of notice will be given.
- The right to appeal against the decision

5.4.2. Disciplinary Sanctions

Where formal action is required, what action is reasonable or justified will depend on all the circumstances of the case. We aim to treat all employees fairly and consistently, however, each case will be assessed on its own merits. The usual sanctions for misconduct are set out below.

5.4.2.1. First written warning

This will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.

A first written warning will remain on your file for up to **six months**.

An improvement in conduct is required and you are informed that if any further misconduct occurs during a live warning or if the misconduct is more serious, a final written warning may be issued, following a further disciplinary process.

5.4.2.2. Final written warning

This will usually be issued where further misconduct occurs during the period that a written warning is live, following a further disciplinary process, or if the misconduct is sufficiently serious to warrant this sanction.

A final written warning will remain on your file for up to **12 months**.

You will be informed if further misconduct occurs or the misconduct is more serious, this could lead to dismissal, following a further disciplinary process.

5.4.2.3. Dismissal

It will usually only be appropriate for:

- i. further misconduct where there is an active final written warning on your record; or
- ii. any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct (**see glossary**) will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).

5.4.2.4. Dismissal with payment in lieu of notice

Pay in lieu of notice can be given, so long as the amount of pay in lieu is sufficient to compensate you for all the contractual benefits you would have accrued if you had worked normally during the notice period. When pay in lieu of notice is given, this means your employment ends immediately.

5.4.2.5. Summary Dismissal

Summary dismissal is dismissal without notice or pay in lieu of notice. This means that once the decision to terminate your employment has been communicated to you, your employment will end immediately, at the end of that day. Salary and other entitlements up to and including that last day will be paid, but no notice or pay in lieu of notice given.

5.4.2.6. Alternatives to dismissal

While it is normal practice to implement a traditional disciplinary sanction at the conclusion of a hearing, there may be circumstances where the use of an alternative sanction is more appropriate.

As an alternative to dismissal or issuing a formal warning, the Chair of the Disciplinary Hearing may consider imposing a sanction such as demotion, transfer to some other place or type of work, or loss of certain privileges, such as incremental pay. A decision to issue an alternative sanction should only happen following advice and guidance from a member of the POD team.

5.5. Appeal

Any appeal should be made in writing, stating the full grounds of appeal, to the People Operations Team within **five working days** of the date on which you were informed in writing of the decision.

You may appeal on the following grounds:

- New evidence has come to light
- Procedural errors
- Undue severity of the action
- Whether the decision is fair, equitable and reasonable

If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal.

We will give you written notice of the date, time and place of the Appeal Hearing. We will arrange a date for an Appeal Hearing as soon as reasonably practicable. Arrangements for this will normally be made within 10 working days after you have submitted your appeal.

The Appeal Hearing will not be a complete re-hearing of the original matter, but to consider the grounds of appeal. The Chair of the Appeal Hearing will usually be a relevant manager at the same level or more senior than the Chair of the Disciplinary Hearing, and will have had no previous involvement in the case.

A hearing may be adjourned if we need to gather any further information or consider matters discussed at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the Appeal Hearing we may:

- confirm the original decision
- revoke the original decision and substitute a different decision

You will be informed in writing of the final decision, as soon as reasonably practicable, and usually within **five working days** of the Appeal Hearing. Where possible, we will also explain this you in person. There will be no further right of appeal.

6) Criminal allegations

Where your conduct is the subject of a criminal investigation, charge or conviction, we will investigate the facts in relation to the criminal investigation before deciding whether to take formal disciplinary action.

We may not always wait for the outcome of any criminal investigation before deciding what action, if any, to take. However, we will work closely with the police, where appropriate, to ensure any internal action does not compromise any criminal investigation or charges. Where you are unable or have been advised not to attend a Disciplinary Hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your continued employment.

7) Glossary

Please see below for a summary of our definitions and abbreviations:

Gross Misconduct - Gross Misconduct/gross incompetence are acts so serious as to justify dismissal.

LLDC/Our/Us/We - refers to London Legacy Development Corporation

Pay in lieu of notice - compensates you for the contractual benefits you would have received if you had worked normally during the notice period. When pay in lieu of notice is given, this means your employment ends immediately and you are not required to work a notice period.

Summary Dismissal - Summary dismissal is dismissal without notice or pay in lieu of notice

You or Employee – people who work for an employer under a contract of employment and are entitled to statutory rights relevant to that employment

8) Document Control

Title	Disciplinary Policy
Organisation	London Legacy Development Corporation
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Version Control

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V.2	1 st July 2014	Amended to reflect changes in legislation & House Style. Full staff consultation was undertaken.	HR Department
V.3	Feb 2017	Amended to reflect changes House Style and ensure the policy is clear and user-friendly. Full staff consultation was undertaken.	HR Department
V.4	Dec 2022	Amended to reflect process changes, in line with best practice	People and Organisational Development Team

Approvals

Job title	Name	Signature	Date
Legal			April 2023
EMT			August 2023

9) Appendices

Appendix 1 – Examples of Misconduct

Examples of Misconduct

- a. Repeated poor timekeeping or failure to comply with core business hours
- b. Failure to follow reasonable management instructions
- c. Misuse of equipment or LLDC property
- d. Unauthorised absence from work
- e. Unacceptable language, conduct or behaviour within the workplace

Examples of Serious Misconduct:

- a. More serious or repeated variations from acceptable standards under misconduct
- b. Refusal to follow reasonable instructions
- c. Disregard of recognised working procedures
- d. Serious misuse of equipment or destruction of LLDC property
- e. Disregard of health and safety rules
- f. Consistently poor timekeeping or failure to comply with core business hours
- g. Continued unauthorised absence of duty

Examples of Gross Misconduct

- a. Physical violence (or threat of) towards colleagues, service users, service providers or other member of the public;
- b. Theft, fraud, bribery (giving or receiving) or other dishonesty, such as falsifying documents;
- c. A serious breach of our rules on email and Internet usage in accordance with our **Acceptable Use of IT Policy**;
- d. Deliberate or reckless damage to our property;
- e. Incapacity at work due to the effect of intoxicating alcohol or drugs;
- f. Continued unauthorised absence from duty;
- g. A serious breach of our safety rules/recognised working procedures or a single error due to negligence which causes or could have caused significant loss, damage or injury to the organisation, the people who work for it, or our key stakeholders;
- h. Wilful failure to carry out reasonable instruction, recognised rules or procedures;
- i. Removal or use of equipment or confidential papers without the appropriate authority;
- j. Disclosure of confidential information, intellectual property or business sensitive information to unauthorised persons;
- k. Falsification or omission of information for personal gain, for example on an application form;
- l. Deliberate acts of bullying, harassment or discrimination;
- m. Deliberate abuse of power, or withholding of a conflict of interest for personal gain;
- n. Conviction of a criminal offence which seriously undermines confidence in your suitability to carry out their duties in the required manner, and/or brings the organisation into disrepute;
- o. Contravention of the rules of appropriate statutory bodies;

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- p. Action by the you, which leads to the bond of trust and confidence between the you and us irretrievably breaking down.
- q. Conduct that brings us into disrepute