



## Learning Link Multi-Academy Trust (LLMAT)

### Disciplinary Policy

(January 2019)

Policy: Disciplinary

Version: 1

*Author: JM*

*Date drafted: January 2019*

*Date approved: February 2019*

*Approved by: LLMAT Trustees*

*Date for renewal: January 2020*

## **Disciplinary procedure**

### **1. About this procedure**

- 1.1 The aims of this Disciplinary Procedure are to provide a framework within which the academies can work with staff members to maintain satisfactory standards of conduct and to encourage improvement where necessary. The standards of conduct expected of all employees are set out in the LLMAT Disciplinary Rules.
- 1.2 This procedure is intended to be applied to cases of alleged misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases reference should be made to the appropriate policy or procedure.
- 1.3 This procedure is intended for guidance only. It does not form part of any employee's contract of employment and it may be amended at any time. LLMAT expressly reserves the right to amend, modify or dis-apply the procedure at its sole discretion. We may also vary this procedure, including any time limits, as appropriate in any case.

### **2. Minor conduct issues**

- 2.1 Minor conduct issues can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future disciplinary hearings. In some cases an informal verbal warning may be given, which will not form part of your disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 2.2 If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with your line manager as soon as possible.

### **3. Confidentiality**

- 3.1 Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 3.2 You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 3.3 You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless we believe that a witness's identity should remain confidential.

### **4. Investigations**

- 4.1 The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. 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 you and any witnesses, and/or reviewing relevant documents.
- 4.2 Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

4.3 You do not normally have the right to bring a companion to an informal fact finding meeting. However, we may allow you to bring a companion if it helps you to overcome any disability, or any difficulty in understanding English.

4.4 You must co-operate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

## **5. Criminal allegations**

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

5.2 We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. 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.

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

## **6. Suspension**

6.1 In some circumstances we may need to suspend you from work. The suspension will be for no longer than is necessary to investigate the allegations and we will confirm the arrangements to you in writing. While suspended you should not visit any of the LLMAT academies or contact any of our pupils, parents, suppliers, contractors or staff, unless you have been authorised to do so by the Headteacher.

6.2 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.

## **7. Notification of a hearing**

7.1 Following any investigation, if we consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. We will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are true. We will also include the following where appropriate:

- (a) a summary of relevant information gathered during the investigation;
- (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
- (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

7.2 We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time to prepare your case based on the information we have given you.

## **8. The right to be accompanied**

- 8.1 You may bring a companion to any formal disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. You must notify us who your chosen companion is, in good time before the hearing.
- 8.2 A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.
- 8.3 If your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, we may ask you to choose someone else.
- 8.4 We may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) if this will help overcome a disability, or if you have difficulty understanding English.

## **9. Procedure at disciplinary hearings**

- 9.1 If you or your companion cannot attend the hearing you should inform us immediately and we will arrange an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason, or are persistently unable to do so (for example for health reasons), we may have to take a decision based on the available evidence.
- 9.2 At the disciplinary hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your companion may make representations to us and ask questions, but should not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.
- 9.3 You may ask relevant witnesses to appear at the hearing, provided you give us sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. However, you will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, we decide that a fair hearing could not be held otherwise.
- 9.4 We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 9.5 We will inform you in writing of our decision and our reasons for it, usually within one week of the disciplinary hearing.

## **10. Disciplinary penalties**

- 10.1 The usual penalties for misconduct are set out below. We aim to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.
- 10.2 You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or you have not yet completed your probationary period.

- 10.3 Stage 1 - First written warning.** A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.
- 10.4 Stage 2 - Final written warning.** A final written warning will usually be appropriate for:
- (a) misconduct where there is already an active written warning on your record; or
  - (b) misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.
- 10.5 Stage 3 - Dismissal.** Dismissal will usually only be appropriate for:
- (a) misconduct during your probationary period;
  - (b) further misconduct where there is an active final written warning on your record; or
  - (c) any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out in our Disciplinary Rules.
- 10.6 Alternatives to dismissal.** In some cases we may at our discretion consider alternatives to dismissal. These will usually be accompanied by a final written warning. Examples include:
- (a) Demotion.
  - (b) Transfer to another job within LLMAT.
  - (c) A period of suspension without pay.
  - (d) Loss of seniority.
  - (e) Reduction in pay.
  - (f) Loss of future pay increment or bonus.
- 11. The effect of a warning**
- 11.1** Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 11.2** A written warning will usually remain active for twelve months. In exceptional cases verging on gross misconduct, a final written warning may state that it will remain active indefinitely. Your conduct may be reviewed at the end of a warning's active period and if it has not improved sufficiently we may decide to extend the active period.
- 11.3** After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.
- 12. Appeals**
- 12.1** If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal within one week of the date on which you were informed of the decision.
- 12.2** If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay.

- 12.3 If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing, and you or your companion may comment on any new evidence arising during the appeal before any decision is taken.
- 12.4 We will give you written notice of the date, time and place of the appeal hearing.
- 12.5 The appeal hearing may be a complete re-hearing of the matter or it may 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. This will be at our discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.
- 12.6 Where possible, the appeal hearing will be chaired impartially by an individual who has not been previously involved in the case. You may bring a companion with you to the appeal hearing (see paragraph 8).
- 12.7 We may adjourn the appeal hearing if we need to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 12.8 Following the appeal hearing we may:
- (a) confirm the original decision;
  - (b) revoke the original decision; or
  - (c) substitute a different penalty.
- 12.9 We will inform you in writing of our final decision as soon as possible, usually within one week of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.