The right support, at the right time

Staff Disciplinary and Grievance Policy

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This policy sets out the responsibilities and procedures for staff disciplinary and grievance procedures at Leading Futures Alternative Provision.

This policy will be reviewed at least annually and following any concerns and/ or updates to national/ local guidance or procedure.

1. Introduction

The purpose of this policy is to provide clear, consistent, and fair procedures that enable the Directors at Leading Futures to comply with their responsibilities under employment legislation and best practice.

The Directors are committed to ensuring that all staff at the provision should be treated in a consistent, fair, and sensitive manner. This approach requires that the Directors should specify those aspects of misconduct which may warrant consideration under the terms of the provision's disciplinary procedure.

The Directors are committed to ensuring that all learners at the provision are able to meet their potential and that any barriers to learning due to staff conduct are removed using the staff disciplinary and grievance procedures.

At all times the Directors will also have regard for ACAS procedures described in the documents:

- The ACAS guide to Discipline and Grievances at work;
- The ACAS Code of Practice on Discipline and Grievance.

2. Links to other Leading Futures Policies and Practices

- Safeguarding and Child Protection Policy;
- Management of Allegations Against Staff Policy;
- Equality, Diversity and Inclusion Policy;
- Health and Safety Policy;
- Staff Code of Conduct Policy;
- Complaints Policy.

3. Conduct

Staff are expected to demonstrate consistently high standards of personal and professional conduct as described in the DfE document, Teachers' Standards:

- Guidance for school leaders, school staff and governing bodies,
- Leading Futures Staff Code of Conduct Policy

Misconduct is defined as behaviour or conduct by an employee falling short of the provision's standards.

Gross Misconduct is behaviour or conduct that falls so far below the standards required that it can be considered as a fundamental breach of contract. Acts of gross misconduct can lead to a dismissal for a first offence.

4. Principles

It is expected that, wherever possible, problems of indiscipline will initially be dealt with through informal discussion. Where such advice has not led to the desired improvement, or the matter is sufficiently serious to warrant immediate formal action, the disciplinary procedure will be operated.

The Directors have the authority to take disciplinary action short of dismissal.
In the event of the Director being subject to disciplinary action, the other Director(s) will be responsible for administering the procedure.

If there is the possibility of disciplinary action being taken, the employee will be advised in writing to consult with their recognised Trade Union/ Professional Association representative.

In dealing with a breach of discipline under the formal procedure, the same person should not conduct both the detailed investigation and the hearing. The Director(s) and/ or senior member of staff sitting on any appeal panel will not have been involved in the case in any material sense or have acted as a panel member for the disciplinary hearing.

5. Misconduct

For the disciplinary procedure, the terms misconduct and gross misconduct are also taken to include negligence and gross negligence where the occurrence amounts to a breach of contract.

The lists below are not exclusive or exhaustive and there may be other matters which are sufficiently serious to warrant categorisation and consideration as either misconduct or gross misconduct.

Misconduct which may warrant action under the appropriate stage of the disciplinary procedure includes:

- Poor timekeeping or persistent lateness;
- Unauthorised absence from work;
- Unauthorised use of the provision's facilities including the internet;
- Wilful failure to comply with a reasonable instruction from a member of senior management;
- Persistent minor breaches of health and safety requirements;
- Foul or abusive language;
- Inappropriate use of social media, email, messaging applications, online platforms or other digital communication methods which negatively impacts working relationships, professional standards, the learning environment or the reputation of the provision;
- Sexual or racial harassment which is not sufficiently serious to fall into the category of "gross misconduct".

Gross misconduct occurs when the alleged actions are such that it is not feasible to tolerate the continued presence of the employee at the place of work whilst the matter is being investigated. Such actions include:

- Unauthorised removal of Leading Futures property;
- Sexual or racial harassment, discrimination or victimisation relating to any protected characteristic under the Equality Act 2010;
- Offences of dishonesty;
- Serious breaches of health and safety requirements;
- Sexual offences;
- Criminal offences which undermine the employee's ability to perform his/ her job;
- Sexual misconduct at work;

- Persistent wilful failure to comply with a reasonable instruction from a member of senior management;
- Physical assault or threats of such a nature;
- Actions which bring the organisation into serious disrepute;
- being under the influence of alcohol or illegal/non-prescribed substances whilst at work;
- Falsification of documentation including time sheets, signing in sheets, subsistence and expenses claims etc.;
- Theft;
- Serious misuse of social media, email, messaging applications, online platforms or other digital communication methods, including conduct that constitutes bullying, harassment, discrimination, breaches confidentiality, damages the reputation of the provision, places learners at risk, or otherwise amounts to a fundamental breach of trust and confidence;
- Unauthorised electronic communication with learners outside agreed organisational procedures;
- Malicious damage to Leading Futures property.

6. Suspension

An employee may be suspended from duty on full pay at any time in cases of gross misconduct, or where there is a risk to the safety of colleagues, learners or to the employee themselves or a risk to the contamination of evidence. Suspension is not a disciplinary penalty and is a neutral act. Suspension will not be automatic, and consideration will be given to alternatives to remove an individual from the workplace.

In some cases, it may be appropriate for the employee to take a short period of management leave on full pay (i.e., being asked to remain at home with no work having been allocated). Any period of management leave will not be recorded on file as part of any disciplinary record. This may include prior to an investigatory interview being held. It is important to understand that management leave and suspension from duty are not disciplinary sanctions.

7. Disciplinary Procedures

This procedure sets out the action which will be taken when disciplinary rules are breached.

The procedure is designed to establish the facts quickly and to deal consistently with disciplinary issues. No disciplinary action will be taken until the matter has been fully investigated by the Directors.

At every stage the employee will have the opportunity to state their case and be represented or accompanied by a fellow employee should they wish. The employee will have the right to appeal against any disciplinary action.

Stage 1 – Verbal Warning

If the conduct or performance is unsatisfactory, the employee will be given a verbal warning which will be recorded in their individual staff file. The warning will be disregarded after six months of satisfactory service.

Stage 2 – Written Warning

If the offence is serious and there is no improvement in the employee's standards, or, if a further offence occurs, a Written Warning will be issued. This will include the reason for the warning and a note that if there is no improvement after three months a Final Written Warning will be given.

Stage 3- Final Written Warning

If the conduct or performance is still unsatisfactory, a Final Written Warning will be given making it clear that any recurrence of the offence or other serious misconduct within a period of three months will result in dismissal.

Stage 4 – Dismissal

If there is no satisfactory improvement or if further serious misconduct occurs, the employee may be dismissed, with notice where appropriate, depending on the circumstances and seriousness of the misconduct. Gross misconduct may result in dismissal without notice.

Appeals

If the employee wishes to appeal against any disciplinary decision, they must do so within five working days. The Directors will hear the appeal and decide the case as impartially as possible.

8. Grievance

Grievances are concerns, problems, or complaints that staff raise in writing with the Director(s). It is hoped that grievances can be resolved promptly through effective communication and discussion. Informal discussions between staff and the Director(s) are key to this, and most employee grievances can and should be resolved in this way. This approach prevents undue delay, lessens distress to the parties involved and it encourages good working relationships.

9. Mediation

Mediation may be considered at any stage of a grievance procedure, depending on the nature of the grievance. A Director may recommend it as a means of finding a resolution and will encourage all involved to agree to this.

Mediation involves the appointment of a third-party mediator, who will discuss the issues raised by the grievance with all of those involved and seek to facilitate a resolution. Mediation will be used only where all parties involved in the grievance agree.

10. Discrimination, Harassment and Bullying

Leading Futures is committed to creating a work environment free of discrimination, harassment and bullying, where everyone is treated with dignity and respect. The harmful effects of discrimination harassment and bullying are recognised, and the provision will not tolerate discrimination, harassment and bullying of any kind.

Allegations of discrimination, harassment and bullying will be investigated and, if appropriate, disciplinary action will be taken. Any complaints of discrimination, harassment or bullying should be raised by using this Staff Disciplinary and Grievance Policy and in relation to the Zero Tolerance and Equality, Diversity and Inclusion Policies.

We will not tolerate victimisation of a person for making allegations of discrimination, harassment and bullying in good faith or supporting someone to make such a complaint. Victimisation is a disciplinary offence.

These provisions apply not only at the workplace during working hours but at other work-related activities during and outside of working hours, e.g., training courses, conferences, and social functions.

11. Informal Resolution

Employees should bring to the attention of the Directors as soon as possible issues about which they feel aggrieved to request support in finding a resolution. Meetings concerning issues or concerns at this stage will normally involve the employee and line manager only. In many cases, the employee may use their one-to-one or supervision meetings as an opportunity to discuss issues or concerns with their line manager.

In circumstances where management determines that an investigation into concerns raised is required, the Director will advise the employee of this and carry out an appropriate investigation or arrange for someone to do this on their behalf.

All attempts to find a resolution will be explored, and the employee will be supported. Whilst these are informal discussions, the Director will keep a record of the conversation, the issues raised, and actions taken to resolve the matter.

12. Grievance Procedure

The first step of the formal grievance procedure is for the employee to put their complaint in writing to the Director. This written statement will form the basis of any subsequent meetings and any investigations. It is therefore important that it clearly sets out the nature of the grievance, dates and times of relevant events, names of any witnesses, the actions taken to date and to indicate the outcome(s) the employee is seeking to resolve the grievance. If the grievance is unclear, employees may be asked to clarify the issues before any meetings take place.

Where a grievance cannot be resolved to the employee's satisfaction, they can raise it formally. In a small setting such as Leading Futures with few management levels, it may be necessary for the Directors who dealt with the matter informally, to also undertake the formal stage.

The Director will arrange a grievance meeting to take place, as soon as is reasonably practical, with a minimum of five working days' notice, where possible, to seek a resolution to the matter. The Director may also request a note taker to attend.

At the meeting, the employee will be asked to explain their grievance and discuss all the relevant facts concerning the matter, so the Director fully understands the issues raised. Any subsequent meetings

arranged to discuss the matter, will include providing all those present copies of any relevant documentation.

The Director will hold as many meetings as necessary to fully consider and investigate, where relevant, the grievance. Where appropriate, the Director may appoint an independent investigator to gather facts and information, including interviewing witnesses. In cases where a grievance is raised against other employees, it is important that all involved are provided with the opportunity to fully respond to the issues raised. The Director will deal with the matter in a supportive and timely manner, to find resolutions for those involved.

Following full consideration of the matters raised, the outcome will be communicated by the Directors in writing within five working days. If the grievance is upheld, and where the Director deems it appropriate, a meeting may take place to discuss any actions.

These findings and actions will be confirmed in writing within five working days. It is important to note that if because of a grievance, disciplinary action or other action is being considered towards other employees, the individual who raised the grievance will not be advised of the outcome of those proceedings which are confidential and private to the employees involved.

The outcomes of the grievance may be:

- To uphold, fully the grievance;
- To uphold, in part, the grievance;
- To not uphold the grievance.

The Director will also:

- Where the grievance is either fully or partially upheld, the Director will describe action(s) that will be taken to resolve the grievance or because of the grievance;
- Advise of the right of appeal.

13. Grievance Appeal

If the employee is dissatisfied with the outcome or in cases where mediation has not secured agreement by all parties, the employee has a right of appeal. The employee will need to clearly state the grounds of the appeal, including the basis on which the employee believes that the result of the grievance was wrong or that the action taken as a result was inappropriate.

The request for an appeal should be in writing and submitted to the Director within 10 working days of receipt of the outcome notification.

A grievance appeal will be heard by, where possible, a panel of three individuals. Where this is not practicable due to the size of the organisation, an impartial manager, director or external HR adviser who has had no prior involvement may hear the appeal.

The employee will be given a minimum of seven working days notice of the appeal hearing and will be reminded of their right to be accompanied.

Leading Futures may also invite an HR Advisor to be present, and a note-taker.

The Director who heard the formal grievance will also be required to attend, to describe the investigations and considerations they made, and the reasons for the decisions they reached. The appeal meeting is not intended for the purpose of re-hearing the entire grievance or raising any new issues.

The appeal panel will consider the grounds the employee has put forward for the appeal and discuss the resolution the employee seeks. They will assess whether the conclusion reached in the formal stage of the grievance was appropriate and communicate their decision.

The outcome of the hearing may be communicated to the employee at the end of the hearing, following an adjournment, or will be confirmed as soon as is reasonably possible in writing within five working days.

The decision, together with the reasons and the right of appeal, will be confirmed in writing to the employee as soon as reasonably practical.

This decision is final and marks the end of the grievance procedure.

14. Grievance against the Director(s)

Where a grievance is against a Director, the employee will raise the matter with the other Director(s), who will first attempt to resolve the matter informally with the employee and Director.

If this is not possible or appropriate, the investigating Director will be required to consider the matter in line with the formal stages of the Grievance Procedure.

Full and accurate records are maintained throughout all disciplinary and grievance procedures.

15. Data Protection and Record Keeping

Records relating to disciplinary and grievance matters will be retained, processed and disposed of in accordance with the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018 and the organisation's Data Protection Policy. Access to such records will be restricted to those who have a legitimate business need and will be handled confidentially wherever possible.