



Title:	Disciplinary Policy
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Disciplinary Policy

1. Introduction

Learning4life-GY (L4L) is committed to providing the highest quality service to its learners and to ensuring that they have every opportunity to achieve their learning goals.

2. Aims of the Policy

- a) To ensure that all at L4L are valued and treated with respect
- b) To ensure that all learners/trainees are treated fairly
- c) To identify and offer support to ensure that learners are successful
- d) To identify appropriate support strategies through an agreed written action plan
- e) To safeguard the property of L4L
- f) To ensure the health and safety of learners, trainees, staff and visitors
- g) To enable L4L to suspend and or exclude learners whose behaviour is consistently unacceptable and/or which is negatively affecting the ability of other learners to learn regardless of location, for example, trips, visits.
- h) To safeguard all students within L4L

3. Procedure

L4L recognises the importance of monitoring learner performance and learner conduct. The following procedure involves taking appropriate action where a learner's conduct falls below that expected by the Behaviour and Attendance Policy (2019) or where the academic performance of a learner fails to meet the standards, targets, and deadlines required. L4L recognises that poor behaviour is usually a symptom of social, emotional or mental health distress and as such the first response to any behaviour issues will be a supportive one. At times, however, it will be necessary to apply the disciplinary Policy in order to Safeguard all learners engaged with Learning4life-GY.

Procedural Steps:

- a) Where there is any concern for a young learner the concerns must first be raised with the Principal. These young learners are covered by additional duties of care and possible safeguarding arrangements
- b) The procedure is binding on all learners who are enrolled on a course of study at L4L, regardless of location, including all activities and levels of programme. This procedure should be applied according to the requirements accepted by learners at enrolment and must where necessary cross refer to course regulations. Persistent misconduct or gross misconduct may lead to the exclusion of the learner
- c) Learners may enlist the help of a Pastoral Lead to support them in putting forward their case if they are unable to do so themselves. Throughout the procedure the use of the phrase 'the learner' should be read as including this support.
- d) If a learner needs assistance with physical support or other adaptations to use this policy (eg: holding a meeting on the ground floor) they should ask their teacher, or a Pastoral Lead to arrange this.
- e) For the purposes of this procedure, and in relation to learner conduct, the following four categories of inappropriate behaviour are defined.

4. Behaviour Leading to Disciplinary Action

a) Misconduct

In all cases of misconduct, monitoring and recording arrangements must be in place with agreed timescales attached. Examples of offences which would be defined as misconduct are as follows (this list is not exhaustive and L4L retains absolute discretion on the interpretation of these regulations):

- Minor damages to any L4L property
- Offensiveness to others e.g. abusive language
- Antisocial behaviour e.g. obscene gestures
- Failure to comply with any of the learner's obligations under the Learner Charter
- Minor breaches of health and safety requirements

b) Gross Misconduct

Examples of offences which would be defined as Gross Misconduct are as follows (this list is not prescriptive and L4L retains absolute discretion on the interpretation of these regulations):

- Serious breaches of health and safety regulations and requirements
- Any deliberate (or by gross negligence) damage to L4L property or the property or work of other learners
- Possession of any weapons
- Theft or any other dishonest acts
- Bullying, intimidating or harassing any person
- Threatening behaviour
- Violence to persons, property or premises
- Supply, possession or use of illegal drugs (including bringing alcohol onto the premises and supplying this to another learner/s)
- Being drunk or under the influence of illegal drugs while on the premises
- Acting in a manner (including through the use of information technology) which would bring L4L into disrepute
- Unlawful behaviour which interferes with the legitimate freedom of speech, ideas or action of any other learner or member of staff
- The possession of any obscene material on L4L premises or the use of L4L resources to access or distribute the same
- Serious antisocial behaviour (eg acts of indecency)
- Plagiarism i.e copying part or whole of someone else's work and claiming it as your own

c) Safeguarding Concerns

Any behaviour or activity that is deemed to be high risk, and/or a risk that cannot be controlled by practices, policies, and risk assessments undertaken by L4L that may lead to abuse of self or others.

d) Poor Academic Performance

Learners who do not meet L4L requirements for attendance, punctuality or completing coursework and assignments on time can be brought to a hearing under this procedure, and receive any of the sanctions available to a disciplinary hearing. This course of action should normally be followed only when all other support available to the learner has been offered and does not lead to the desired improvement. All strategies and targets to improve must be recorded within a Behaviour and Attendance Support Plan (ref Behaviour and Attendance Policy, 2019)

5. Fixed term exclusion before an investigation

If a learner has been accused of Misconduct or Gross Misconduct, or if there is some other good and urgent cause (for example a Safeguarding concern), the learner may be suspended by a Director pending an investigation. The person suspending the learner will identify a colleague who will conduct the investigation. Where there is a need to suspend a young learner, parents carers/social worker must be contacted prior to carrying out the fixed term exclusion so that arrangements can be made for the young person/s getting home safely and to the care of a responsible adult (in the case of a looked after child this should be the named carer).

The fixed term exclusion will allow for a full investigation to take place. It may not be appropriate for the learner to be present on site. During the fixed term exclusion a formal meeting may be arranged to allow the learner to explain their involvement and to provide the names of any witnesses or give information that maybe relevant to the investigation.

All fixed term exclusions will only be imposed after careful consideration. Where applicable the learner will forfeit any bursary etc funding if suspended. Learners will be provided with work that they can carry out away from L4L so that they can keep up with their studies. If following investigation it is found that the learner had no involvement in the complaint, payments for bursary will be reinstated and the learner asked to return to their course as soon as possible.

In the case of a fixed term exclusion the learner will meet with the Principal and will be told clearly that they are suspended from their course. The fixed term exclusion will be confirmed in writing within 24 hours with the letter (Appendix 1) clarifying the reason for fixed term exclusion. The investigating officer will inform the learner of the date of the investigatory meeting.

In the interests of all concerned the period of fixed term exclusion should be kept to a minimum and the investigation will usually be completed within five working days. In some cases where multi-agency discussions are required this may not occur within timescale. To ensure no impact on the Learners educational progression is encountered, suitable work will be provided to enable them to continue their studies outside of L4L.

If the outcome of the investigation is to proceed to a disciplinary hearing the date of the formal disciplinary hearing will be communicated to the learner in writing after the conclusion of the investigation. (See Appendix 2 for sample letter. Notice of disciplinary hearing after fixed term exclusion).

There is no right of appeal against a fixed term exclusion (however if there are concerns the complaints procedure can be used).

6. Investigation

- Allegations of poor academic performance, Misconduct or Gross Misconduct will be investigated by the Principal
- Any learners or staff involved in the conduct being investigated should be interviewed, full notes made, and statements taken wherever possible.
- These should be agreed, signed and dated by the person making them (this includes all people involved including any witnesses).
- The learner can request that specific learners are interviewed as part of the investigation, and every effort should be made to investigate the allegation thoroughly.
- Investigations should be completed as quickly as possible, and within five working days. If this is a concern that requires multi-agency discussion, this may take longer. The learner will be notified of this.
- The Principal carrying out the investigation must decide whether the alleged behaviour can be proved, and whether it should receive the sanctions only available to the disciplinary procedure.
- If the alleged behaviour can be proved, the Principal will provide a written report to the disciplinary hearing and present the case against the learner.
- Learners who refuse to co-operate with an investigation may be judged on the evidence available.

7. Informal Warning

Informal attempts to resolve a difficulty in respect of learner conduct may result in an informal warning. This will normally be conducted by the Pastoral Lead and will be recorded on the learner's file and where suitable in alignment with the Safeguarding Policy.

8. Disciplinary Hearing

Disciplinary hearings will take place and there will be an agreed chair person, the Principal.

Where the disciplinary hearing is heard on the grounds of Gross Misconduct, a panel will be established and a chair person appointed. This panel will be formed from appropriate people from different areas and not where the learner concerned is studying.

A learner invited to attend a disciplinary hearing will be given at least 5 working days written notice stating (See Appendix 3 sample letter notice of disciplinary hearing):

- the nature of the conduct complained of and a summary of the evidence used to support the complaint
- the learner's entitlement to be accompanied
- confirmation of the time and place of the hearing
- a copy of the Learner Disciplinary Procedure

Evidence to be used at the hearing must be given in writing to the learner at least two working days before such a hearing.

If the learner intends to use evidence from any learner, staff etc they should inform the person chairing the hearing at least one day before the hearing is due.

Parents/guardians of learners who are under 18 will be invited to attend any disciplinary hearing. If the learner is a Looked after Child, then the learner's social worker or appropriate carer will be informed and asked to attend.

The learner is entitled to be accompanied by a friend, learner representative or relative (but not by a legal or professional adviser) at the hearing. The person chairing the hearing will not have had prior involvement in any previous stage of the disciplinary process relating to the complaint.

Disciplinary hearings and appeals under this Procedure will be conducted fairly and firmly by the chairperson. A note taker may also be present to ensure an adequate record of the hearing is made.

The chairperson can exclude any person (including the learner or the learner's friend, representative or relative) who behaves unreasonably or who disregards the instructions of the chairperson with regard to the hearing.

The chairperson will take the learner through the allegations which have led to the complaint of misconduct. The learner will be given the opportunity to state his or her case (including any mitigating factors) and asked to state whether the alleged facts are disputed and, if so, which facts. If material facts are disputed, the learner will be asked to identify any sources of evidence supporting his or her case.

Witnesses may be present to give evidence. The learner will have the right to question any evidence presented in the form of a written statement. Written statements which do not reveal the name of the witness will not be considered, other than in the most exceptional circumstances.

If the learner disputes material facts relating to the allegation, the Chair of the hearing may adjourn the hearing for a future date to allow relevant evidence (including from sources identified by the learner) to be made available. The Chair of the hearing may arrange for

witnesses to be available in person for the reconvened hearing or (where in the view of the Chair of the hearing that is not practicable) for written statements to be taken by another member of staff.

After full consideration of the evidence and circumstances, the chairperson will decide what sanction is appropriate before concluding the hearing whenever possible. If the chairperson needs time before making a decision they should make every effort to see the learner in person and explain the reasons for the decision made, and what improvements are required in the learner's behaviour.

9. Disciplinary Sanctions

Normally, the formal sanctions will be followed in the order set out below. However, offences of a more serious nature may start at any stage. All sanctions will be kept within the Learner files for the duration of a calendar year (12 months). In the case of a learner progressing to another programme within L4L, the Sanction will remain for the agreed period of 12 months and will be considered if there are any further breaches within that timescale.

Verbal Warning

This is the lightest sanction for the least serious misdemeanours and will be recorded on the learner ILP with improvement targets and timescales agreed between the learner and teacher.

Formal Written Warning

- a. The chairperson will tell the learner they have been given a Formal Written Warning to be confirmed by the Principal and of the improvement targets and timescales required from the learner.
- b. The Principal will be tasked with monitoring the timescale and targets. All activity will be recorded on the ILP.
- c. The learner has a right to appeal. (See Appeals section)

Permanent Exclusion

Following a review of evidence by the Principal, a recommendation may be made that a learner should be PERMANENTLY EXCLUDED. The decision to exclude a learner is made by the principal on the following grounds:

- the learner fails to comply with a Final Written Warning
- despite having been given a Final Written Warning the learner commits a further offence of Misconduct
- the learner's misconduct is considered to be Gross Misconduct and to be serious enough to justify immediate permanent exclusion

The learner has a right to appeal to the Principal against the decision to exclude.

10. Appeals

A learner who wishes to appeal against a Written Warning, a Final Written Warning or recommendation to exclude should inform L4L in writing of the grounds of their appeal within 7 working days of receiving written confirmation of the decision. Any appeal will be on one of the following grounds:

- Procedural error(s) which fundamentally* undermined the application of the Disciplinary Procedure;
- Disciplinary sanction applied is inequitable against similar cases in the organisation;
- New evidence relating to the allegation(s) has come to light, which would fundamentally* affect the outcome of the original disciplinary hearing.

**fundamentally – an action or evidence which would have had a significant effect on the outcome of the original decision.*

Appeal against Exclusion

A learner who wishes to appeal against exclusion should inform the Directors in writing stating clearly the grounds for their appeal.

A panel comprising of the Directors will hear the appeal. The appeal will take place as soon as possible and normally no later than fifteen working days after receiving the notice of appeal. The hearing will be conducted in accordance with L4L procedures. The decision of the appeal panel will be notified to the learner in writing within five working days of the appeal hearing and will be final and binding.

11. Criminal Offences

Where a member of staff has reason to believe that a learner may have committed a criminal offence, L4L may refer the matter to the police and/or Professional, Statutory and Regulatory Body (PSRB). L4L may continue disciplinary proceedings under this procedure, or suspend the learner pending the outcome of police enquiries and any charges which may be brought against the learner.

In the case of a learner being suspended under this provision, when the results of those enquiries and any criminal proceedings are known, L4L reserves the right to recommence proceedings under this procedure in relation to the matter.

Any disciplinary action relating to alleged criminal offences will be based on the genuine belief of the member of staff taking the action after a proper investigation, and need not wait for court proceedings. It is emphasised that in relation to the application of this procedure L4L is not bound by the results of any criminal proceedings against learners.

In any cases of allegations management involving Learners following programmes that include work experience or placement, it may be necessary for the learner/s to be suspended from the work placement or practice element of the programme while external agencies investigate (Police and/ or Local Authority Designated Officer (LADO)). This will not necessarily mean that the learner is suspended from the academic study elements of the programme and will be determined on an individual basis.

12. Sponsored Learners

Where a learner/trainee who is sponsored by an employer is suspended or subject to formal procedure, the employer will be informed as soon as practicable

13. Examination fees/ bursary

Learners who are excluded will be expected to pay for their examination fees.

MIS/finance should be informed so that they can inform the appropriate authority and stop any further bursary payments.

Appendix 1> Fixed term exclusion Letter example

FIXED TERM EXCLUSION LETTER EXAMPLE
(on L4L Letter Head)

Dear

Re: Fixed term exclusion pending investigation*/as a disciplinary sanction*

I am writing to confirm that you are suspended as of (date).

This fixed term exclusion is pending investigation into an incident on (date and details)*.

I will write to you again with the outcome of my investigation. Until then you are not permitted on L4L premises, your course or onto any other course-related activity.

There is no right of appeal against fixed term exclusion.

Yours sincerely

(Name)

Copies Learner ILP
 Principal
 Parent/Guardian (if under 18)
 Social Worker/Carer (if Looked After Child)

NOTICE OF DISCIPLINARY HEARING AFTER FIXED TERM EXCLUSION EXAMPLE
(on L4L Letter headed paper)

Re: Disciplinary Hearing

I am writing to confirm that you were subject to a fixed term exclusion on (date). This was pending investigation into an incident where the following allegations were made.

1. ***
2. ***
3. ***

As an outcome of the investigation it has been decided to hold a disciplinary hearing.

You are required to attend a disciplinary hearing on (date) at time. Until then you are not permitted to attend your course or to any course-related activity.

You are entitled to be accompanied at the disciplinary hearing by an advocate
Parent/Carer/Friend.

You may call any relevant witnesses to the hearing. If you intend to call anyone please let me know at least one day before the hearing date.

Enclosed with this letter are: a copy of the disciplinary procedure and any statements and supporting evidence which will be used.

L4L will not allow a Legal Representative to represent you at this hearing.

Yours sincerely

(Chairperson for the Disciplinary Hearing)

Copies Learner ILP
 Principal
 Parent/Guardian (if under 18)
 Social Worker/Carer (if Looked After Child)

NOTICE OF DISCIPLINARY HEARING EXAMPLE
(on L4L Letterhead)

Re: Disciplinary Hearing

I am writing to inform you that as an outcome of the investigation it has been decided to hold a disciplinary hearing to consider the following allegation(s)

- 1.
- 2.
- 3.

You are required to attend a disciplinary hearing on (date) at time. Until then you are not permitted to attend your course or to any course-related activity.

You are entitled to be accompanied at the disciplinary hearing by an advocate Parent/Carer/Friend.

You may call any relevant witnesses to the hearing. If you intend to call anyone please let me know at least one day before the hearing date.

L4L will not allow a Legal Representative to represent you at this hearing.

Yours sincerely

(Chairperson for the Disciplinary Hearing)

Copies Learner ILP
 Principal
 Parent/Guardian (if under 18)
 Social Worker/Carer (if Looked After Child)

FINAL WRITTEN WARNING EXAMPLE
(on L4L Letterhead)

ISSUED TO: (Name, Course)

ON: (Date)

In accordance with the L4L Disciplinary Procedure, I am issuing you with a Final Written Warning. This is in respect of [space for details].

As a consequence of this [name of learner] must:

1. _____ by/on _____
2. _____ by/on _____

and attend a review meeting on _____

With _____

You are reminded that further breaches of discipline or unsatisfactory academic performance may result in you being permanently exL4Luded from your course.

You have the right of appeal against this decision and must notify the Principal – Skills, writing within seven working days of receiving this warning if you wish to exercise this right.

This warning remains in place for the period of 12 months.

Signed _____
(Member of staff)

Signed _____
(Learner)

(Note: This warning is still valid without the learner’s signature and there will be a record kept within the ILP where a learner refuses to sign. This may lead to further action)

Copies: Learner ILP
 Principal

If under 18 - Parent/Guardian
Social Worker (if Looked After Child)

Further copies to: _____