

LEARNER DISCIPLINARY, GRIEVANCE AND APPEALS POLICY

Date to be implemented from:	September 2026
Date to be reviewed by:	August 2027
Version No:	v13
Lead responsibility:	Directors

Distribution to:

All Staff	☒
SLT only	☐
Teaching Staff/Tutors	☐
Administration Staff	☐
Other (please specify)	☒ Learners

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This Policy supersedes any previous Policy of this name or instructions that pre-date this edition.

LEARNER DISCIPLINARY, GRIEVANCE AND APPEALS POLICY

1 Policy Statement

Barrett-Bell Ltd affirms that individuals are entitled to equal rights, responsibilities and learning opportunities. Barrett-Bell Ltd also recognises that from time to time things may go wrong or expectations are not fully met.

The purpose of the Learner Disciplinary, Grievance and Appeals Policy is to support Learners and management to achieve the aspirations of Learners and the Company Vision. It is aimed at clarifying expectations and processes that will be followed where Learners find they are not capable of meeting the expectations and identifying what the issues are and if they can be resolved in the first instance.

2 Principles

- 2.1 Sometimes barriers to learning are one of a lack of understanding or competency or **Capability** (see **Section 3 A**).
- 2.2 Sometimes they are related to other factors which may be more of a behaviour or attitude nature – not that a Learner can't do the work but won't do the work. This falls under the category of **Disciplinary** (see **Section 4 B**).
- 2.3 Sometimes the Learner considers other people (Staff or peers) are the barriers to their learning and then a Learner may wish to take a **Grievance** out. This will always be taken seriously and Barrett-Bell Ltd work hard to try and resolve the issues amicably. A decision based on the Grievance and the evidence presented will be given (see later **Section 5 C**).
- 2.4 Occasionally a Learner may not be happy with that decision and therefore, they have the right to **Appeal** (see **Section 6 D**). Appeals should always present some new evidence and not just 're-hash' the same arguments.
- 2.5 Hence, this Policy is complex and covers a number of scenarios but its main aim is to clarify the expectations of Learners and what the routes to solving problems are.
- 2.6 The aim of the Policy is to:
 - clarify what Capability Procedures are and when they are needed
 - clarify what Disciplinary Procedures are and when they are needed
 - clarify what the Grievance Procedures are when they are needed

- clarify how to Appeal against a decision

3 A Capability Procedures

Barrett-Bell Ltd does all it can to ensure Learners have the very best chance of success.

- 3.1 There are a number of reasons why sometimes Learners find them 'falling behind' with work or unable to cope with the demands of the curriculum.
- 3.2 Some of these reasons are short term but some indicate an underlying issue with the capacity to cope with the curriculum. Barrett-Bell Ltd tries hard to indicate the level of study needed at Recruitment, Induction and during the review sessions. In most cases problems are solved but occasionally, by mutual consent, it is better for the Learner to be sign-posted to alternative provision or pathways.
- 3.3 The main reasons for underachievement may be:
 - A change in personal circumstances (new family, additional caring responsibilities, health issues or family issues, home eviction)
 - A change in location (moved further away from centre and/or transport issues)
 - Time spent in employment outside of course increases and impacts on learning
 - A realisation that gas engineering is not the prime choice of employment
 - Changes in behaviour (poor attendance, lack of motivation, behaviour issues)
- 3.4 The Process for dealing with this situation will be:
 - If Barrett-Bell Ltd has general concerns about a Learner's ability to complete the course at any point, Staff will raise these issues with them. We ensure that all Learners understand the level of performance expected at the start of the course at Induction and we will gauge whether the issue is a short-term issue or more deep-seated.
 - All Learners receive adequate training and support whilst on programme with Barrett-Bell Ltd. Concerns regarding capability will normally first be discussed as part of the review process and Learners will be given an opportunity to reflect on their performance and given time to improve by additional target setting. Usually this will solve the problem but where there are still concerns this may be logged as a verbal warning.

- If after target setting and support, the standard of performance is still not adequate, a Learner would be asked to meet with Staff and they would receive a formal, written capability warning and made aware of the consequences (which could include withdrawal from the course) of their actions. We will also consider the possibility of a transfer to a different group/tutor if we feel this may help to improve performance. Learners will be set targets for improvement and monitored through our review process.
- If there is still no obvious improvement by an agreed deadline (and transfer to another group/tutor is not an option) or if the level of performance has a serious or substantial effect on the learning of others and/or the organisation's reputation, then a final warning will be issued. The final warning again gives an opportunity for a Learner to improve and clearly states the consequences of non-compliance or failure to improve.
- If, having received final warning, improvement is not evident within the agreed time frame, the Learner will be withdrawn from the course.

3.5 Mitigation - there are certain extenuating circumstance where Barrett-Bell may take specific conditions into consideration:

- Personal circumstances may arise which do not prevent a Learner from attending the course but which prevent them from carrying out relevant tasks (e.g. a lack of dexterity or general ill health). If such a situation arises, Barrett-Bell Ltd will normally need to have details of any medical diagnosis and prognosis so that we have the benefit of expert advice. Under normal circumstances this can be most easily obtained by asking their own doctor for a Medical Report. A Learner's permission is needed before we can obtain such a Report and we will expect Learners to co-operate in this matter should the need arise. When we have obtained as much information as possible regarding any condition that affects learning and after consultation with a Learner, a decision will be made about their ability to continue on the course at that time
- There may also be personal or family circumstances that prevent Learners

from attending the course, either for a prolonged period(s) or for frequent short absences. Under these circumstances Barrett-Bell Ltd will need to know when we can expect the attendance record to reach an acceptable level. When we have obtained as much information as possible regarding any condition and after consultation with you, a decision will be made about your ability to continue on the course at that time

- We retain discretion in respect of the Capability Procedures to take account of any specific circumstances and to be flexible accordingly. Depending on the individual circumstances of a given case, a Learner may not be in receipt of any formal warnings before being withdrawn from the course but they will retain the right to a right to Appeal and Hearing

4 B Disciplinary Procedures

Barrett-Bell Ltd recognises that sometimes we get things wrong. When a Learner is struggling because s/he cannot understand the work or make progress, then this is part of the Capability Section 3 A above as it is about the competency or understanding of the Learner and with support, should be able to be solved in a satisfactory way.

Where a Learner can improve but chooses not to or exhibits behaviours that knowingly stop the learning of others or themselves, then the Disciplinary section will be invoked.

- 4.1 The aim of the disciplinary rules and procedures is to ensure Learners understand the consequences of their actions and make more informed, and therefore better, choices. It is there to encourage improvement in individual conduct or performance and if there is no willingness to improve, then the penalties for this will be available to Barrett-Bell Ltd and its partners.
- 4.2 Barrett-Bell Ltd reserves the right to amend these rules and procedures in the light of any incident or behaviours that emerge as being detrimental to learning and the company.
- 4.3 Barrett-Bell Ltd reserves the right to use an external, independent Panel or Appeals Panel Chair if necessary.

4.4 The Process for dealing with this situation will be:

- 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 and correctly investigated. On some occasions temporary suspension from the course may be necessary in order that an uninterrupted investigation can take place. This must not be regarded as disciplinary action or a penalty of any kind but is a neutral act
- Initial exploration of the issue will be undertaken by the Tutor in the first instance and then, should it be deemed necessary, by a senior leader who is not directly involved in the incident. The evidence will be presented to the appropriate senior leader. A decision will be made as to whether a verbal and/or written formal warning would suffice or whether a Disciplinary Hearing is required
- If a verbal or formal warning is offered and accepted by the Learner, then it will be put on file and monitored. If attitudes and behaviours improve then no further action will be taken. If at any time the Learner reverts to unacceptable behaviours, then the file will be re-opened and continued
- If the case is serious, unacceptable behaviours escalate or the Learner does not take responsibility for their actions, then a Disciplinary Hearing will be convened. Learners will be informed in writing of what is alleged and will be given the opportunity to state their case at the Disciplinary Hearing. Other than for an 'off the record' informal reprimand, Learners have the statutory right to be accompanied at all stages of the formal disciplinary process, including Appeals, by a fellow Learner or nominated adult, however, solicitors or legal representation are not permitted for the internal process
- Both sides will put their evidence forward. All documentation related to the issues should be made available prior to the Hearing to both sides. Failure to share any information may render the process invalid and create a further formal Grievance

- Both sides have the right to question the other side. Those in hearing the arguments may ask questions but must remain impartial and not display any obvious opinion on the evidence during the meeting. When the two sides have finished giving evidence and questioning, then the Panel should withdraw and make its decision as soon as practicably possible
- The discussion should be documented with the decision and the reasons for it. This is not a Court of Law (which requires proof beyond doubt) and so the decision(s) are made on the balance of probability. The decision may be given verbally if convenient (this is not a time for any debate but just a relaying of the decision) but in any case, a formal written letter must be sent within 48 hours and delivered to the Learner. Where the letter is delivered by email, then the Learner must acknowledge its receipt

5 C Grievance

Whilst on a course delivered by Barrett-Bell and partners it is important that Learners have the best chance of making progress. If a Learner feels dissatisfied with any matter relating to the course or with an individual, it is important that such complaints can be aired without fear of recriminations and solved quickly in a way that is acceptable to all parties.

- 5.1 Nothing in this procedure is intended to prevent anyone from informally raising any matter regarding the course and/or the learning environment.
- 5.2 Informal discussion can frequently solve problems without the need for a formal process. However, if a Learner wishes to raise a Formal Grievance it must be in writing from the outset giving a clear message in the title 'Formal Grievance', the date submitted and by whom – with the clear grievances or complaints listed.
- 5.3 It should be clear to all Learners that the Whistleblowing Policy may be used in exceptional circumstances and that the Whistleblowing Policy supersedes and has precedence over this Policy and processes.
- 5.4 The Process for dealing with this situation will be:
 - Where any Learner feels aggrieved about any matter relating to the course, they should first raise the matter with their Tutor, either verbally or in writing, explaining fully the nature and extent of the concern. If the concern is related

to the Tutor, then the Learner should inform a Senior Leader. If an informal conversation with the Tutor resolves the situation, then the Tutor should make a note of this in case should it be challenged subsequently

- If the issue cannot be resolved informally and the Learner proceeds with a Formal Grievance, the Learner will then be invited to a meeting at which the issues will be investigated fully
- The Grievance will be heard and both those alleging the complaint and those against whom it is targeted have the right to present information and question the other party. The Learner calling for the Grievance will be notified of the decision, in writing, normally within ten working days of the Grievance being lodged formally. The Learner will be told the decision and the reasons for it and their rights to an Appeal under this Policy
- If the Learner pursues the Appeal, then they must inform a Senior Leader in writing, within five working days of receipt of the Appeal outcome
- The Appeals process will be followed (see 6 D below). Where the Grievance is found to be vexatious, malicious or frivolous, then the Appeal Panel can recommend further Disciplinary action

6 D Appeals

All Learners have the right to Appeal against a decision but it cannot be a re-run of the original Hearing.

- 6.1 There must be some element of either new information or grounds for an Appeal to undertaken. This would be:
 - New evidence to be presented
 - Evidence that the process was flawed
 - A view that the penalty or sanction is inappropriate for the allegation
 - A view that the penalty or sanction is too severe for the allegation
- 6.2 An Appeals Panel must have at least two members. The Appeals Panel may uphold the original outcome fully, partially or quash the decision.
- 6.3 Learners have the right to appeal against either the Formal Disciplinary or Capability decisions or the outcome of a Grievance concern. Where a Learner wishes to exercise this right they should apply, normally in writing within 5 working days of the Disciplinary or Capability or Grievance outcome. It should be

addressed to a Senior Leader, giving details of why the penalty imposed is either based on incorrect factually information, inappropriate or unfair in the circumstances, the penalty is not commensurate with the unacceptable behaviours, there is additional new evidence or any evidence of Panel bias or irregularity of the process (as listed in 6.1).

- 6.4 A new Appeals Panel will be convened (not those who were involved in the first meeting). The same process for the meeting (see above under 4 B) will be made emphasising the new information or circumstances. The Panel may ask questions about the first meeting for clarification.
- 6.5 During the deliberations – the same record of discussion and voting by the Panel will be recorded and as to whether they uphold the original decision fully, partially or not at all. Again, this is not a Court of Law (which requires proof beyond doubt) and so the decision(s) are made on the balance of probability. If the Panel chooses to partially uphold the decision they must make clear which of the aspects or allegations are upheld and which are not. If they do not uphold the original decision they must clarify why not.
- 6.6 The Appeals Panel may direct additional outcomes to the original decision eg. more time allowed to show improvement, further training or education, signposting to other organisations and, in the case of the original outcome being overturned because of any violation of the Policy or by Panel members – further Disciplinary recommendations.
- 6.7 The result of the Appeal will be conveyed to the Learner in writing, within 5 working days after the Appeals Hearing.
- 6.8 This is the final stage of the internal Appeals process. There is no further internal route and complaints about the Appeal must be to external bodies and meet their criteria for an Appeal.

Appendix I

Examples of unsatisfactory conduct or misconduct

(These are examples only and not an exhaustive list.)

Learners will be liable to disciplinary action if found to have acted in any of the following ways:

- a. failure to abide by the company Policies
- b. failure to carry out all reasonable instructions or follow the company rules and procedures
- c. failure to comply with Health and Safety/Safeguarding rules and procedures
- d. unacceptable behaviours including rudeness towards other Learners, Staff, visitors or members of the public; objectionable or insulting behaviour, harassment, bullying or bad language, racist, homophobic or sexist behaviour; incitement to hatred on grounds of faith, ethnicity, age, disability, sexual orientation or race; failure to follow the Law on matters regarding equalities
- e. unsatisfactory standards or output of work, plagiarism
- f. persistent absenteeism and/or lateness
- g. failure to devote the whole of your time, attention and abilities to your course during your normal classroom hours
- h. unacceptable or unauthorised use of E-mail, Internet, social media web sites
- i. smoking/vaping in designated non-smoking areas
- j. consumption of alcohol on the premises or displaying signs of inappropriate alcohol consumption or abuse (this includes 'smelling of drink')
- k. consumption of illegal substances on the premises or displaying signs of inappropriate substance abuse
- l. unauthorised use or negligent damage or loss of company property or materials
- m. failure to report immediately any damage to property or premises caused by your actions

Serious Misconduct:

Where one of the unsatisfactory conduct or misconduct rules has been broken and if, upon investigation, it is shown to be due to a Learner's extreme carelessness or has a serious or substantial effect upon others learning and/or Barrett-Bell Ltd's operation or reputation, a Learner may be issued with a final written warning in the first instance and removed from the premises and access rights to the premises and company internet.

Gross Misconduct:

Occurrences of gross misconduct are very rare because the penalty is course withdrawal without notice and without any previous warning being issued. It is not possible to provide an exhaustive list of examples of gross misconduct. However, any behaviour or negligence resulting in a fundamental breach of contractual terms that irrevocably destroys the trust and confidence

necessary to continue the relationship will constitute gross misconduct. Examples of offences that will normally be deemed as gross misconduct include serious instances of:

- a. breach of health and safety rules that endangers the lives of, or may cause serious injury to, employees or any other person, false hoaxes
- b. physical violence or bullying, racist, homophobic or sexist behaviour
- c. deliberate acts of unlawful discrimination, intimidation or harassment
- d. incitement to violence, grooming of young or vulnerable people
- e. theft or fraud, blackmail, setting up or framing someone
- e. deliberate damage to property including all materials and equipment
- f. deliberate damage to the ICT facilities and information systems
- f. trolling, accessing illegal or unacceptable websites, sexting, sharing sexual photographic content, upskirting and downblousing, blackmailing
- e. possession, or being under the influence, of illegal drugs on the premises
- f. carrying offensive or dangerous weapons on the premises
- g. industrial espionage, stealing intellectual property

Appendix II

Disciplinary flowchart

Disciplinary action will normally be based on the following pattern:

OFFENCE	FIRST OCCASION	SECOND OCCASION	THIRD OCCASION	FOURTH OCCASION
UNSATISFACTORY CONDUCT	Formal verbal warning	Formal written warning	Final formal written warning	Course Withdrawal
MISCONDUCT	Formal written warning	Final formal written warning	Course withdrawal	
SERIOUS MISCONDUCT	Final formal written warning	Course withdrawal		
GROSS MISCONDUCT	Course Withdrawal			