

LEARNER DISCIPLINARY PROCEDURE (CONDUCT)



The flowchart (attached at Appendix 1) explains the procedures diagrammatically

1 SCOPE AND PURPOSE

- 1.1 This document sets out the code of conduct to which learners are expected to adhere in return for being admitted to the college and being provided with educational and other facilities. It also sets out the procedure which should be followed where the code of conduct is breached.
- 1.2 Breach of the code of conduct may lead to disciplinary action being taken against a learner and repeated breaches or a single very serious breach may result in a learner being excluded from the college.
- 1.3 This code applies to all learners of the college who are part of any college delivery at any time of the year including:
 - full-time or part-time
 - those validated by, or associated with, any other institution
 - at onsite or offsite provision
- 1.4 There is a separate “academic misconduct procedure” which deals with study and progress matters. If action is taken against a learner under both codes, the two elements will be treated together under the Learner Disciplinary Procedure (Conduct).

For Higher Education learners studying programmes approved by UK universities the relevant Academic Misconduct Procedures apply.

2 OBLIGATIONS OF LEARNERS

Learners must:

- 2.1 use college facilities and behave in a way which respects the needs and aspirations of others to learn, teach and work within the community of the college;
- 2.2 respect other learners, staff and visitors to the college;
- 2.3 familiarise themselves with the college’s health and safety and other regulations, comply with those regulations and act at all times with due regard for their own safety and that of others;
- 2.4 respect the property of the college, and of its staff, other learners and visitors;
- 2.5 support staff and other learners in the maintenance of a clean and tidy environment throughout the college.

3 MISCONDUCT

The following are examples of misconduct which may result in disciplinary action being taken against learners:

- 3.1 any breach of any of the learners' obligations set out above;
- 3.2 any failure to follow the reasonable instructions of a member of staff;
- 3.3 any smoking/vaping or preparing to smoke on college sites unless within designated smoking areas
- 3.4 any unruly behaviour or the use of foul or abusive language;
- 3.5 disrupting any class or any other college activity, whether or not involving staff or other learners;
- 3.6 deliberately or by gross negligence causing damage to any college buildings, equipment, books or furnishings or any property of others;
- 3.7 any deliberate transgression of the college ILT Use Policy;
- 3.8 any unauthorised interference with software or data belonging to or used by the college;
- 3.9 any theft of property or any other dishonest acts;
- 3.10 any bullying, including cyber/online bullying, intimidation, taunting, verbal abuse or the use of any violence or threat of violence towards any person;
- 3.11 any behaviour which is offensive in relation to the identified protected characteristics listed in the Equality Act 2010; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation;
- 3.12 any behaviour which could bring the college into disrepute whether on site, in transit or offsite
- 3.13 any illegal act which may have an adverse effect on the work of the college or on other learners;
- 3.14 academic misconduct as identified under the Academic Misconduct Procedure and/or the relevant Academic Misconduct Procedures of the awarding university.

4 GROSS MISCONDUCT

- 4.1 Any particularly serious cases of misconduct may be treated by the college as gross misconduct. These include:
 - any misconduct involving violence or a serious threat of violence
 - academic misconduct as identified under the Academic Misconduct Procedure
 - deliberate damage to property
 - endangering the health or safety of others
 - any criminal activities affecting the college or other students (or which could bring the college into disrepute)
 - any drunkenness or the use, possession or supply of any illegal or harmful substances on college premises, on any activity associated with the college

- any intention of being onsite or under the influence of alcohol, illegal, harmful or legal highs whether this was off site when taken

It is emphasised that this is not an exhaustive list of the types of case which the college may treat as gross misconduct

- 4.2 A learner may be suspended from the college immediately by a Curriculum Area Manager, Director of Curriculum or the Head of Student Experience pending a disciplinary interview, where that member of staff has reason to believe that the student has committed an act of gross misconduct. The learner should normally be interviewed prior to the suspension and their version of the events shall be recorded.
- 4.3 Any such suspension will be confirmed in writing within 2 days of its occurrence and that learner will be invited to a Disciplinary Panel with the relevant Curriculum Area manager and/or the Head of Student Experience. Such a panel to be convened within 5 days of the suspension.
- 4.4 During the period of suspension a full investigation will be carried out with statements taken from all persons who witnessed the alleged gross misconduct.

During the period of suspension if appropriate the learner may continue to work off site via the VLE to continue with work/assessments
- 4.5 If a learner under the age of 18 is suspended from the college the parent/guardian will be informed by phone as soon as practicable and will be informed in writing within 2 days.
- 4.6 In the event of the suspension of a learner who is being sponsored by an employer or an apprentice, the employer will be informed wherever practicable.
- 4.7 Where a disciplinary panel is adjourned pending further investigation, learner who has been suspended under this provision will remain on suspension until the panel is reconvened.

STAGE 1

5 FIRST WRITTEN WARNING

Note: if a learner is already on an initial contract from interview or from progression that is the first warning and the next stage is a second written warning.

- 5.1 Warnings are intended to help learners understand the consequences of misconduct. They should be viewed as a means of helping a learner concentrate on improving behaviour rather than as a punishment. An action plan with SMART targets should be developed to support the learner to improve and change behaviour and outcomes. Parents should be aware of concerns through a phone call or email to ensure good lines of communication and support.
- 5.2 Cases of petty misconduct may be treated informally by any member of staff and should not result in a concern note being issued.
- 5.3 Once learners have received 3 concern notes, the 3rd concern will trigger Stage 1 written warning, to be issued by the Tutor or Programme Manager for apprentices and part time students.

5.4 The process for issuing the first warning is as follows:

- Click on Learner Comments
- Select comment type and choose appropriate option
- Select Staff to include as appropriate
- Add action plan with SMART targets including review date
- Click save
- **Email the relevant Curriculum Administrator with the comment 1st stage warning issued to ... (add learners name), standard letter to be sent**

Add review date in Outlook as a **calendar reminder**.

5.5 The reason for the warning and the consequences of further misconduct should be clearly explained to the learner.

5.6 For learners under the age of 18 the Curriculum Administrator will send a covering letter to parents/carers and/or employers/sponsors where appropriate.

5.7 Review date:

- Click Learner Comments and click add
- Choose appropriate comment
- Add in comments regarding review and set new SMART targets as appropriate
- Alter the at risk status if appropriate

Liaise with Lead Tutor/CAM if learner has not met the target set

5.8 **NB.** A learner can be issued with a first written warning for an incident of misconduct

STAGE 2

6 SECOND WRITTEN WARNING

6.1 Where misconduct is further repeated (for example if further Concern Notes are received regarding either the same type of misconduct or other misconduct) or they have been issued an initial contract at interview or as part of progression and there are concerns with conduct it is then considered to warrant more formal treatment, the relevant Area Lead Tutor/Study Programme Manager or Assessor/Programme Manager for apprentices should become involved. **(If the Lead Tutor is also the Personal Tutor then it is advised that another Lead Tutor from a different CAM area carries out the meeting).**

6.2 A meeting must be arranged between the Area Lead Tutor (or Alternative Lead Tutor as appropriate)/Study Programme Manager or Assessor/Programme Manager for apprentices and the learner, as soon as practicable. Other relevant staff will also be invited where appropriate. The purpose of the meeting is to explore the nature and seriousness of the concerns.

6.3 The Curriculum Administrator should be informed and will send a letter to the parent/guardian, employer as appropriate inviting them to attend the meeting

6.4 An agreement between the learner and Area the Lead Tutor/Study Programme Manager or Assessor/Programme Manager for apprentices will be drawn up, detailing what each will do to improve the situation as an action plan with SMART targets.

6.5 The process for issuing the second warning is the same as in section 5.4, substituting the words 1st stage with 2nd stage.

- 6.6 Within one month of the second warning a review should take place using the same process as in 5.7.
- 6.7 Alternatively if the Area Lead Tutor/Study Programme Manager or Assessor/Programme Manager for apprentices does not believe that such an informal agreement will result in improvement, a recommendation will be made to the Curriculum Area Manager/Head of Student Experience that the student be invited to attend a Disciplinary Panel.

STAGE 3

7 DISCIPLINARY PANEL

- 7.1 A disciplinary panel chaired by the Curriculum Area Manager/Head of Student Experience as appropriate will be arranged, by letter, giving at least 5 days' notice and stating:
- the reason for the panel
 - the student's entitlement to accompaniment (detailed below);
 - confirmation of the time and place of the interview.

copies of any documentary evidence, together with copies of any written statements will be provided to the learner ahead of the hearing.

The member of staff chairing the panel will not have had prior involvement in any previous stage of the process.

- 7.2 The panel will consist of the Curriculum Area Manager/Head of Student Experience where appropriate and relevant staff.
- 7.3 The learner will be entitled to be accompanied by a friend, student representative or relative (but not by a legal or other professional adviser) at the panel and will be entitled to state his or her case (including any mitigating factors) before any decision is taken. If a learner is sponsored by an employer, a representative of the employer may be invited to attend.
- 7.4 After hearing the learner's case, the panel may decide:
- To draw up a further Disciplinary Agreement
 - To take no further disciplinary action
 - Temporarily or permanently exclude the learner
- 7.5 If a Disciplinary Agreement is the outcome of the hearing it will be recorded as a 3rd stage warning on Pro-monitor on the learners ILP using the same process as in section 5.4
- 7.6 In the event of the learner being permanently excluded they will be provided with written notification of the main findings on which the recommendation for exclusion has been made and given details in writing of the right of appeal within 5 days of the date of the disciplinary hearing.
- 7.7 If the learner disputes material facts relating to the complaints, he/she have a right of Appeal (see section 8).
- #### **8 APPEAL AGAINST SUSPENSION OR EXCLUSION**
- 8.1 The learner will have a right of appeal to the Vice Principal Curriculum & Quality against any recommendation for permanent exclusion or formal suspension.

- 8.2 Appeals must be lodged with the Vice Principal's Personal Assistant within 10 days of the date of the recommendation for exclusion or suspension and must give the grounds and brief particulars of the appeal.
- 8.3 If an appeal is lodged within the 10 days, an appeal interview with the Vice Principal Curriculum & Quality will be arranged to take place within 21 days of the notice of appeal being lodged. The learner will be given at least 5 days' notice of the time and place of the appeal interview and will be entitled to be accompanied by a friend, learner representative or relative (but not by a legal or other professional adviser unless the college otherwise agrees to this). Any documents considered at the disciplinary panel will be available for the purposes of the appeal.
- 8.4 At the appeal interview, the learner will be invited to explain the grounds of the appeal and to state his or her case.
- 8.5 The Curriculum Area Manager or Head of Student Experience who made the recommendation to exclude or suspend will be asked to respond to the appeal and explain the reasons for the recommendation.
- 8.6 The Vice Principal may ask questions of the learner and the college representatives before considering whether or not to uphold the appeal. Witnesses will not normally be asked to attend except in relation to any relevant new evidence which has come to light since the disciplinary panel.
- 8.7 If the appeal is upheld, the Vice Principal will decide on any further action if appropriate.
- 8.8 If the appeal is not upheld the Vice Principal will normally confirm the original decision of the Disciplinary Hearing.
- 8.9 Within 5 days of the appeal interview, the final decision of the Vice Principal will be confirmed in writing to the learner.

9 CRIMINAL OFFENCES

- 9.1 Where any member of staff has reason to believe that a learner may have committed a criminal offence, the college will refer the matter to the police and 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.

10 CONDUCT OF INTERVIEWS

- 10.1 The member of staff conducting interviews will be accompanied by another member of staff who will take notes.
- 10.2 The member of staff conducting the interview will give instructions to the learner in relation to the conduct of the interview, learners must have the opportunity to question the evidence and state his or her case.
- 10.3 The member of staff conducting the interview may exclude from the proceedings any person who behaves unreasonably or who disregards the instructions of the member of staff with regard to the interview. If the learner leaves or is excluded from the interview before its conclusion the disciplinary process will proceed.

11 TIME PERIODS

- 11.1 With the exception of the time allowed for lodging an appeal, time periods stated in this procedure are for guidance and may be varied by the college if it is not practicable to adhere to them (such as end of term holiday periods or parent/guardian not able to attend within the stated timeframe). Written notice of any such variation will be given.
- 11.2 Periods of days in this procedure are calendar working days.

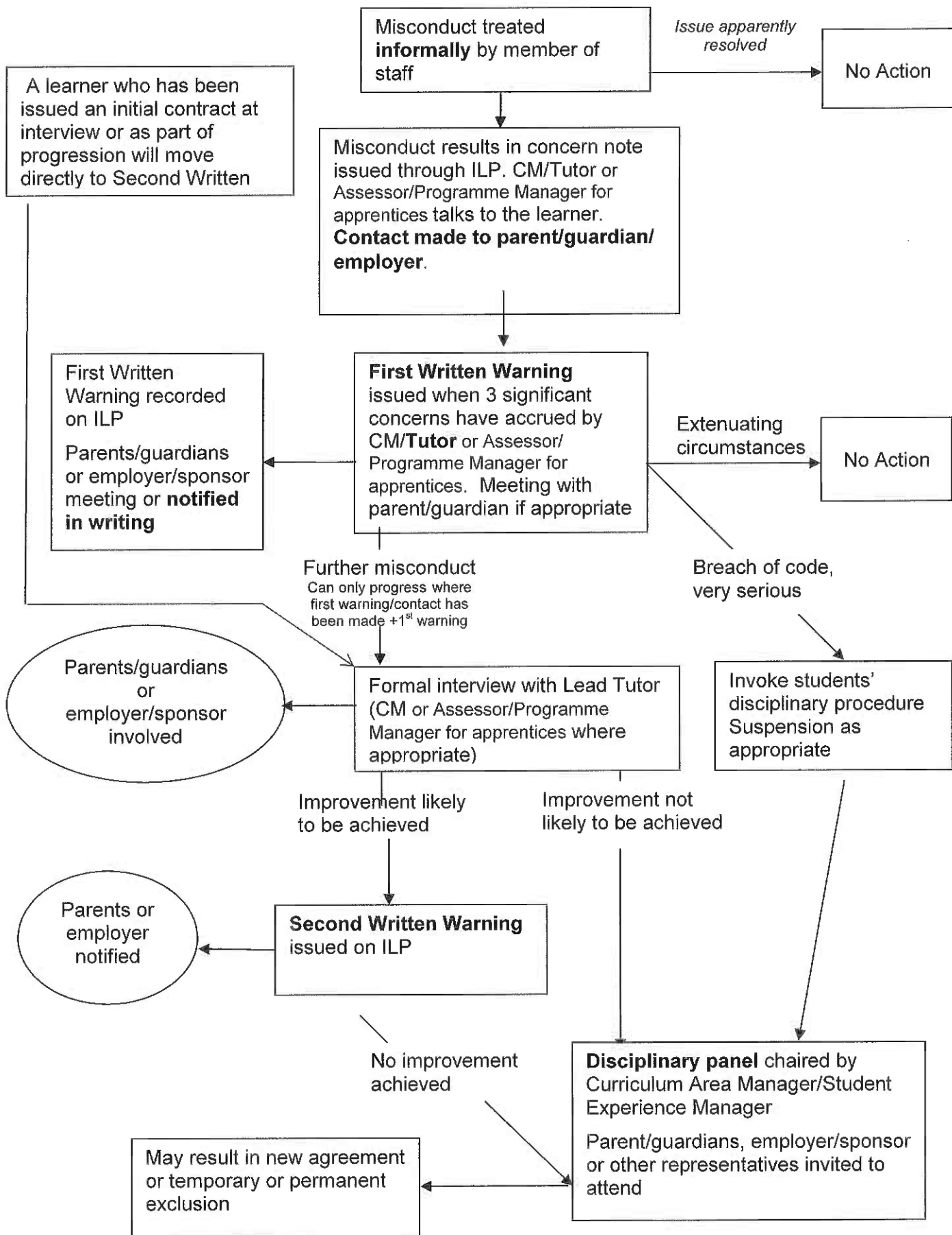
12 VARIATIONS AND AMENDMENTS TO THIS PROCEDURE

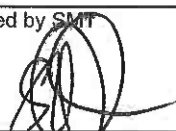
- 12.1 In exceptional cases it may be necessary to vary aspects of this procedure.

RELATED POLICIES, PROCEDURES, DOCUMENTS, DEFINITIONS

Academic Misconduct Procedure
Drug, Alcohol and Substance Misuse Policy and Procedure
Health and Wellbeing Policy
Student Code of Conduct

DISCIPLINARY PROCEDURE



Policy Review				
Author/Owner	Position	Approved by SMR Signed: 	Approval date	Review date
Michelle Dennett	Head of Student Experience		06.02.18	June 2019

Document Control – Revision History (Policies only)

Author/Owner	Summary of Changes	Date	Date last reviewed by SED	Recommend to SED Y/N
Michelle Dennett	Amended to reflect updated systems and process	31.05.17	-	Yes
Michelle Dennett	Amended to reflect updated systems and process	31.01.18		

Initial Equality Impact Screening			
Have you consulted on this procedure? <input checked="" type="checkbox"/> Yes Details: Director of Employer Engagement, Vice Principal Curriculum and Quality, Student Union			
What evidence has been used for this assessment? Equality Act 2010			
Could a particular group be affected differently in either a negative or positive way? Indicate Y where applicable			
Group	Negative impact	Positive impact	Evidence
Age Disability Gender (incl. Transgender) Race (incl. Gypsy & Traveller) Religion or belief Sex Sexual orientation Marriage & civil partnership Pregnancy & maternity Other groups (see guidance)			
Please give details:			
If any negative impacts are identified, are there any related policies, services, strategies, procedures or functions that need to be assessed alongside this screening? If yes, please detail below:			
Should the procedure proceed to a full Equality Impact Assessment? No If no, please give reasons: This procedure supports all students and links with the Health and Wellbeing Policy and Fitness to Study Procedure for equality and is an update of systems and process not a change in procedure.			
Declaration We are satisfied that an initial screening has been carried out on this procedure and a full Equality Impact Assessment is not required. We understand that the Equality Impact Assessment is required by the College and that we take responsibility for the completion and quality of this assessment			
Completed by Author: Michelle Dennett		Position: Head of Student Experience	Date: 31.05.17
Reviewed by Safeguarding, Equality & Diversity Group:			Date: 14.06.17
Comments from Safeguarding, Equality & Diversity Group Review:			

