

Reference Number: P42

# LEARNER DISCIPLINARY POLICY



Policy Review				
Author/Owner	Position	Approved by SMT	Approval date	Review period
Michelle Joy	Head of Student Experience	Signed: 	07.06.22	2 years 07.06.24

## Document Control – Revision History (Policies only)

Author/Owner	Summary of Changes	Date	Version	Date last reviewed by SED	Recommend to SED Y/N
Michelle Dennett	Amended to reflect updated systems and process	31.05.17		-	Yes
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## Initial Equality Impact Screening

**Who has been consulted on this policy & procedure?**  
SMT and previously SED

**What evidence has been used for this impact screening (e.g. related policies, publications)?**

Legislation Equality Act 2010 this, confiscation, and screening in schools 2022, Keeping Children Safe in Education 2022, Working together to safeguard Children 2018

**Declaration (please tick one statement and indicate any negative impacts)**

- I am satisfied that an initial screening has been carried out on this policy/procedure and a full Equality Impact Assessment is not required. There are no specific negative impacts on any of the Protected Characteristics groups.
- I recommend that an Equality Impact Assessment is required by the Equality and Diversity group, as possible negative impacts have been identified for one or more of the Protected Characteristics groups as follows:
- Age
  - Disability
  - Gender Reassignment
  - Race
  - Religion or belief
  - Sex
  - Sexual orientation
  - Marriage & civil partnership
  - Pregnancy & maternity

**Completed by Author:** Michelle Joy **Position:** Head of Student Experience **Date:** 1.9.22

Reviewed by Equality & Diversity Group **Date:**

I confirm that any recommended amendments have been made

**Amended by Author:** **Position:** **Date:**

**Summary of Comments/Recommendations from Equality & Diversity Group Review:**

**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, taking into account any SEND needs of the learner.
- 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 and apprentices
  - those validated by, or associated with, any other institution
  - onsite or off-site provision, including blended delivery
- 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).

## **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 including when asked for ID to be visible;
- 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.
- 2.7 Comply with COVID-19 guidelines set out by the Government and College procedure. Any breach of protocol, policy or procedure, or any act or omission which puts their own or other people's health and wellbeing at risk in relation to COVID-19, is likely to be considered as gross misconduct.
- 2.8 Follow the learning from home guidelines as part of blended learning. Any acts of misconduct will be acted on as if learners were on site.

## **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; including refusal to wear and show visible ID and refusal to go to reception for a temporary lanyard – in such cases a member of SMT will be called, and the student will be escorted to get ID or escorted off site
- 3.3 any smoking/vaping or preparing to smoke on college sites unless within designated smoking areas
- 3.4 any unruly behaviour, including spitting or the use of foul or abusive, racially aggravated or hate 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, use of banter to cause distress, verbal abuse or the use of any violence or threat of violence towards any person; including inciting hatred and extremist views;
- 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 including the threat of use of a weapon or the carrying of weapons.
- 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, supply or intent to supply 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 substances, harmful or legal highs, regardless of whether this was off site when taken
- any act or omission which puts their own or other people's health and wellbeing at risk in relation to COVID-19

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 member of CMT pending a disciplinary interview, where that member of staff has reason to believe that the student has committed an act of gross misconduct including the refusal to wear visible ID. The learner should, where possible, be interviewed prior to the suspension and their version of the events shall be recorded and placed on MyConcern.

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 and access set exams under escort.

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, the learner 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 counts as their 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 made 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. This should be logged appropriately.
- 5.3 Once learners have received 2 concern notes, the 3<sup>rd</sup> concern will trigger a 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:
- Go to learner's page on ProMonitor
  - Click on Meetings and Comments on the top ribbon
  - Select Manage Learner Meetings
  - Click on Add New
  - Add meeting date (defaults to the day opened) and time
  - Select meeting category and select Disciplinary
  - Select meeting type and choose appropriate option, then select save
  - Select/Add Attendees as appropriate, then click on send email notification (**must include CAM admin so they can send disciplinary letter home**)
  - Add date to be reviewed
  - Take notes of what is said at the meeting (with admin if needed)
  - Add action plan with SMART targets including review date
  - Click save

Add review date in your Outlook as a **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:
- Go to learner's page on ProMonitor
  - Click on Meetings and Comments on the top ribbon
  - Select Manage Learner Meetings
  - Click on most recent/the relevant meeting
  - 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 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 within their ILP
- 6.5 The process for issuing the second warning is the same as in section 5.4, substituting the words 1<sup>st</sup> stage with 2<sup>nd</sup> 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 – FINAL STAGE

- 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 panel.

**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 their 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 with set targets
  - To take no further disciplinary action
  - Temporarily or permanently exclude the learner
  - Exclude learner from site but enable their education to continue via distance learning and escorted on site to support set exams and/or practical elements.
- 7.5 If a Disciplinary Agreement is the outcome of the hearing it will be recorded as a 3<sup>rd</sup> 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, they 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 Quality of Education 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 Quality of Education 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 their 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 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 (Appendix 2)  
SEND Policy  
Safeguarding and Prevent policy  
Equality and Diversity Policy  
Learning from home guidance



# DISCIPLINARY PROCEDURE

## **Respect at College**

Yeovil College is committed to creating a modern environment in which all members of the community are treated with dignity, respect and equality regardless of their of race, ethnic or national origin, gender, gender re-assignment, disability sexual orientation, religion or belief, age, marital status, family responsibility, pregnancy or maternity, or unrelated criminal convictions.

We acknowledge that everyone has a responsibility to discourage all types of harassment by making it clear that they find such behaviour unacceptable and treating their colleagues and peers with dignity and respect.

## **SCOPE**

This policy covers bullying and harassment and is designed to ensure that staff and students are able to work productively in a safe and stress-free atmosphere at all times.

## **DEFINITIONS**

### ***Bullying***

Bullying is defined as offensive, intimidating, malicious or insulting behaviour or an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the individual.

Bullying can take place between staff, students, managers, visitors or contractors of the College.

Bullying can become a hate crime\* where it is motivated by prejudice against a person because of their protected characteristic and can include the following behaviour:

- A physical attack such as assault or spitting
- Name calling, verbal abuse or rude gestures.
- Threats, harassment or intimidation.
- Humiliation or degradation.
- Vandalism or criminal damage to a person's property
- Abusive letters, phone calls, leaflets posters, graffiti, emails, social media or texts

### ***Harassment***

Harassment is unwanted conduct relating to gender, gender reassignment, race or ethnic or national origins, disability, sexual orientation, religion or belief, age or any other personal characteristics which:

- has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or
- is reasonably considered by that person to have the effect of violating his or her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him or her, even if this effect was not intended by the person responsible for the conduct.

Harassment and bullying can have serious consequences for individuals and the College. Such behaviour may cause stress or affect health, family and social relationships. Anyone found guilty of

harassment or bullying may face disciplinary penalties, which may include suspension, permanent exclusion or dismissal.

All allegations of bullying and harassment will be investigated and, if appropriate, disciplinary action will be taken. The purpose of the policy is to support the development of an environment and culture in which harassment, intimidation and bullying is known to be unacceptable and where individuals have the confidence to report such behaviour ensuring that no victimisation of complainants will occur.

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The following examples are not exhaustive but are included to indicate what bullying and harassing behaviour may involve. These are behaviours which should not be tolerated by anyone:

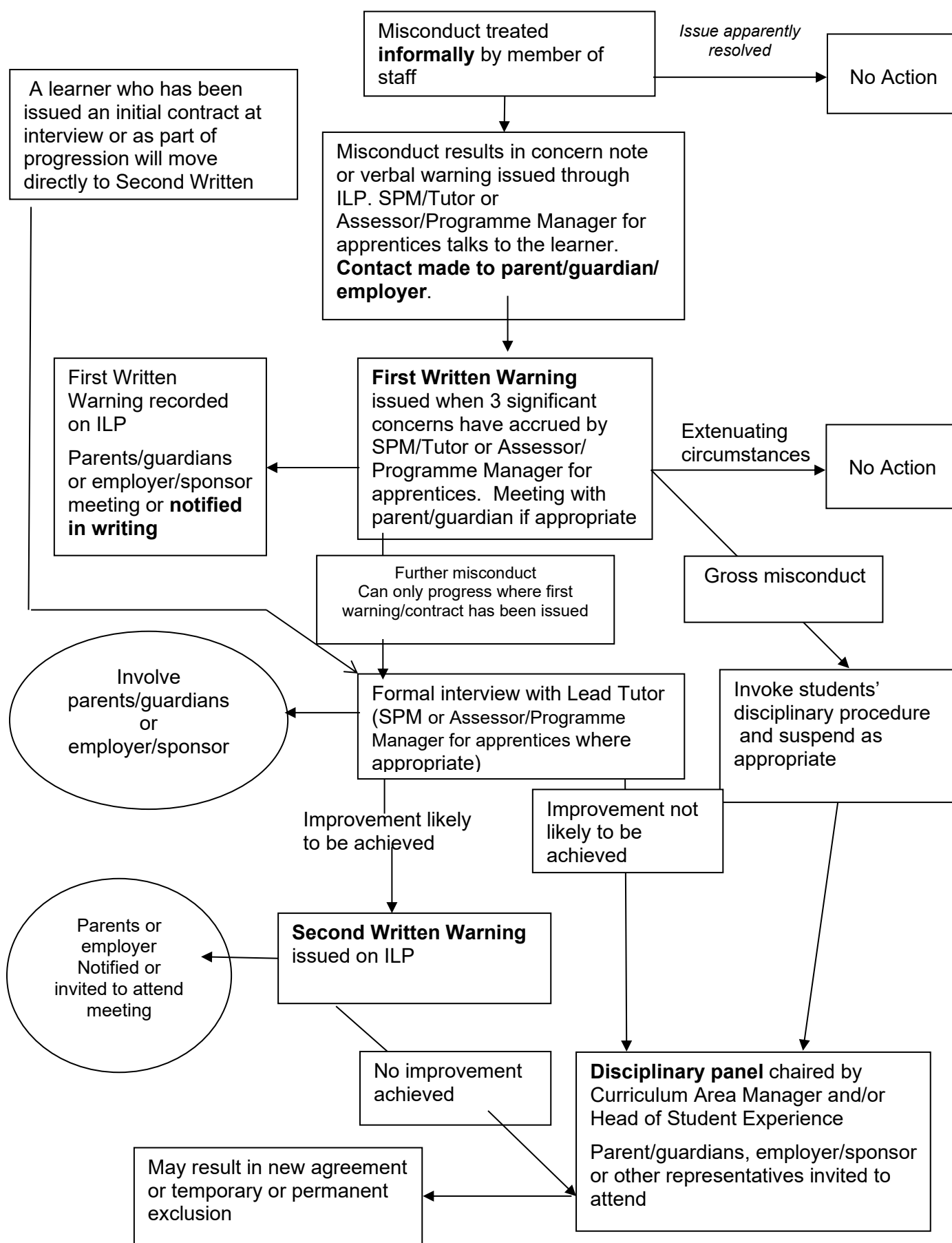
- Abuse of power
- Ridiculing or demeaning someone
- Setting someone up to fail
- Humiliation
- Aggressive behaviour
- Making threats
- Practical jokes that make others feel uncomfortable
- Misuse of access/denial of access to premises and facilities without due cause
- Undermining a person's position by constant criticism
- Unwanted physical contact
- Spreading malicious rumours
- Verbal abuse including offensive language and personal insult
- Victimisation
- Inappropriate use of communications systems including e-mail, text, social networking, mobile and land line telephones, fax and written word and pictures.
- Social isolation/exclusion
- Unwelcome sexual advances – touching, display of offensive materials, pressure for sexual favours, 'sexting', suggestive comments
- Inappropriate phone calls made to personal numbers
- Stalking

### ***Victimisation***

Victimisation is treating someone less favourably than others because he or she has, in good faith, complained (whether formally or otherwise) about the behaviour of another person. Making a complaint which a person knows to be untrue, or giving evidence which, they know to be untrue, may lead to disciplinary action being taken.

\*Throughout this document bullying also includes hate crime.

## DISCIPLINARY PROCEDURE



**STUDENT CODE OF CONDUCT**



Policy Review				
Author/Owner	Position	Approved by SMT	Approval date	Review period
Michelle Joy	Head of Student Experience	Signed:	07.06.22	2 years

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<input type="checkbox"/> Y I am satisfied that an initial screening has been carried out on this policy/procedure and a full Equality Impact Assessment is not required. There are no specific negative impacts on any of the Protected Characteristics groups.					
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<b>Completed by Author:</b>	Michelle Joy	<b>Position:</b>	Head of Student Experience	<b>Date:</b>	1.9.22
<input type="checkbox"/> Reviewed by Equality & Diversity Group                      Date:					
<input type="checkbox"/> I confirm that any recommended amendments have been made					
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