



LINCOLN COLLEGE

LEARNER DISCIPLINARY PROCEDURE

POLICY CQ/PR/17

SPONSOR

Director of Student Services

EQUALITY AND DIVERSITY STATEMENT

Lincoln College strives to treat all its members and visitors fairly and aims to eliminate unjustifiable discrimination on the grounds of gender, race, nationality, ethnic or national origin, political beliefs or practices, disability, marital status, family circumstances, sexual orientation, spent criminal convictions, age or any other inappropriate grounds.

LEARNER DISCIPLINARY PROCEDURE

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LINCOLN COLLEGE

LEARNER DISCIPLINARY PROCEDURE

The Student Union and members of staff in Student Services can help Learners in interpreting the following procedure.

1 PURPOSE

The purpose of the procedure is to promote and maintain high standards of personal conduct amongst Learners and to ensure fair treatment for all Learners in relation to disciplinary action.

2 AIMS

2.1 The procedure aims to give a clear structure that supports staff and Learners in upholding high standards of Learner conduct.

2.2 The procedure applies to all Learners of Lincoln College.

3 GENERAL PRINCIPLES

3.1 The procedure has been approved by the Quality Standards Committee.

3.2 The need to implement the disciplinary procedure should be a rare occurrence in the College and the formal procedure should not be used in circumstances where relatively minor problems can be resolved by a private word with the individual(s) concerned.

3.3 There should be a clear distinction between the implementing of the formal procedure and routine intervention by a Director (or his/her nominee), following reports of Learner indiscipline. It is acceptable for a Director (or his/her nominee) to remove a Learner from the learning environment for reasons of safety (of that individual or others) or to allow for a 'cooling off' period. In both cases, the removal is temporary and the Learner will be instructed to return to college on the next working day unless the Serious Misconduct procedure is invoked. Employers and/or training providers should be notified accordingly. Such removal will not necessarily constitute a suspension and the Learner concerned will not automatically become subject to the formal procedure although this option must be considered in these circumstances.

3.4 The disciplinary procedure relates to any behaviour that is contrary to the maintenance of good order, discipline or safety within any areas of the college's business. It also relates to standards of work and absence.

3.5 Any allegation of a disciplinary offence is to be dealt with as a matter of urgency and no disciplinary action taken until the case has been fully investigated.

3.6 Written records are to be maintained at each stage of the proceedings.

- 3.7 Where a Learner is under the age of eighteen years copies of all correspondence, originating from the College will be sent to the parents or guardians.
- 3.8 Where a Learner is studying at the College via a training provider, or employer, then all copies of correspondence, originating from the College will be sent to the training provider or employer.

4 DEFINITIONS

4.1 Throughout this procedure the following terms are defined as:

4.1.1 Disciplinary Sanction:

A Disciplinary Sanction will be one of the following:

- Stage 1 - Oral Warning
- Stage 2 - Written Warning
- Stage 3 - Final Written Warning
- Stage 4 - Exclusion.

4.1.2 Disciplinary Meeting:

A Disciplinary Meeting will consider issues of standard of work, conduct and repeated unauthorised absence. A Final Written Warning is the **maximum sanction** which can result from a Disciplinary Meeting.

4.1.3 Strategic Safeguarding Panel

Cases of serious misconduct will be considered by the Strategic Safeguarding Panel.

5 FORMAL PROCEDURE FOR UNSATISFACTORY STANDARD OF WORK, CONDUCT AND UNAUTHORISED ABSENCE

5.1 A disciplinary meeting will be held with the Learner to discuss the cause for concern. The Learner will be advised in writing of the nature of the complaint against him or her at least 3 working days before the meeting. In the event that the Learner concerned is under the age of 18 years, the parent/guardian will be informed of the disciplinary meeting and the allegation made against the Learner.

Where performance evidence is discussed within a progress review or individual tutorial and the appropriate outcome is an oral warning, it will not be necessary to hold a further, specific disciplinary meeting. In all cases, the Learner will have the right to appeal a decision (see section 7).

5.2 At any disciplinary meeting, the Learner will be given an opportunity to state his or her case and will have the right to be accompanied and represented by a fellow Learner of Lincoln College or Learner Executive official or parent/guardian/next of kin.

Failure of the Learner to attend the meeting will not delay or affect the discussion of the case.

Stage 1 – Oral warning

- 5.3 If the standard of work or conduct does not meet acceptable standards or if short-term absence is of concern, the Learner will normally be given a formal ORAL WARNING.

The ORAL WARNING will:

- Be given by his or her Personal Tutor or equivalent, copy to the Learning/Training and Skills Lead and Head of Learning/Training and Skills.
- Advise the Learner in writing of the reason for the warning, the improvement required and the time limit within which such improvement must be achieved, that it is the first stage of the formal disciplinary procedure and that he or she has a right to appeal.
- Be placed on the Learner's file.
- Be removed from the Learner's personal file after 6 months, subject to the Learner's standard of work, conduct and attendance having been satisfactory throughout that period.

Stage 2 - Written Warning

- 5.4 If, despite having been given a formal oral warning the Learner commits a further offence of misconduct or his or her work performance remains unsatisfactory, or he or she continues to have a poor attendance record, the Learner will be given A WRITTEN WARNING.

The WRITTEN WARNING will:

- Be given by his or her Learning/Training and Skills Lead (or a member of staff nominated by the Director or Head where appropriate), copy to the Head of Quality Improvement, the Director and Head.
- Give details of the complaint against the Learner, the improvement required and the time limit within which such improvement must be achieved.
- Advise the Learner of the right to appeal.
- Be placed on the Learner's personal file.
- Be removed from the Learner's personal file after 12 months, subject to the Learner's standard of work, conduct and attendance levels having being satisfactory throughout that period.

Note: If a Learner's unsatisfactory work standard, conduct or attendance is considered sufficiently serious, a Learner can be issued with a written warning ***without previously having been given an oral warning.***

Stage 3 - Final Written Warning

5.5 If, despite having been given a written warning the Learner commits a further offence of misconduct or his or her work performance remains unsatisfactory, or he or she continues to have a poor attendance record, the Learner will be given A FINAL WRITTEN WARNING.

The FINAL WRITTEN WARNING will:

- Be given to the Learner by his or her Head of Learning/Training and Skills or equivalent, copy to the Head of Quality Improvement.
- Give details of the complaint against the Learner, the improvement required and the time limit within which such improvement must be achieved.
- Advise the Learner of the right to appeal.
- Be placed on the Learner's personal file.
- Be removed from the Learner's personal file, after 18 months, subject to the Learner's standard of work, conduct and attendance having been satisfactory throughout that period.

Note: If a Learner's unsatisfactory work standard, conduct or attendance, is considered sufficiently serious, a Learner can be issued with a final written warning ***without previously having been given a written warning or an oral warning.***

Stage 4 – Exclusion

5.6 If, despite having been given a final written warning the Learner commits a further offence of misconduct or his or her work performance remains unsatisfactory, or he or she continues to have a poor attendance record, the learner will be given A NOTICE OF PROPOSED EXCLUSION.

The NOTICE OF PROPOSED EXCLUSION will:

- Be given to the Learner by his or her Director or equivalent and copied to the Director of Planning and Performance.
- Be in writing, will specify the reasons for the proposed exclusion and the date until which the proposed exclusion will be effective.

Upon being given a notice of proposed exclusion, the Learner shall have the right to make representations to the college in mitigation. This mitigation can be made to the Director of Planning and Performance in writing. The Director of Planning and Performance will either make the decision to uphold the exclusion or make recommendations to the Director of the Academic area.

The Director may suspend the learner for the period between the notice of proposed exclusion and the decision being heard by the Director of Performance and Planning.

If the Learner wishes to exercise the right to make mitigations then he or she will have 5 working days from the date of the notice of proposed exclusion to inform the Director of Performance and Planning

If the Learner does not make contact within the 5 working days, the exclusion will be confirmed in writing by the Director.

On receipt of an appeal the Director of Planning and Performance shall make a decision within 7 days and inform the Learner of the decision.

- 5.7 A flowchart of the Unsatisfactory Standard of Work, Conduct and Unauthorised Absence procedure is provided as Appendix 1.
- 5.8 Where a member of staff submits a request for a disciplinary sanction to be issued, and the Personal Tutor/Head of Learning/Training and Skills /Learning/Training and Skills Lead or Director considers it inappropriate, the reason for not issuing the sanction will be communicated to the member of staff within 5 working days of the request.

6 FORMAL PROCEDURE FOR SERIOUS MISCONDUCT

- 6.1 Any allegation of serious misconduct is to be immediately reported to the Director of the Academic area responsible for that Learner or a member of staff nominated by them. They will assess the information available to them at that time and make a decision as to whether there is a necessity to suspend the Learner in order to safeguard them and others. This will be an ongoing decision making process which will be subject to review as further information comes to light.

The Director, or appointee, will request that an Investigating Officer is assigned to enquire into the facts of the case as soon as is reasonably practicable. The request for an Investigating Officer will be made to the Director of Student Services or a member of staff nominated by them who will direct the Investigating Officer to enquire into the matter. The Investigating Officer will not subsequently be either wholly or partly responsible for determining the disciplinary sanction.

The Learner will be contacted in writing making them aware that a formal investigation is taking place and the process involved. The parent/guardian will also be advised in writing if the Learner is under the age of eighteen. It will also advise the Learner as to whether they are suspended from attending College or not.

- 6.2 If the allegation involves a criminal offence (e.g. theft; assault; harassment, including racist or homophobic abuse; sexual assault) the Director for the relevant academic area will instruct the member of staff reporting the incident to advise the complainant of his or her right to contact the police. In addition the College may feel that the nature of any incident may require the Police to be contacted in any case to safeguard Learners.

- 6.3 The Investigating Officer may decide there is no need to resort to a formal disciplinary procedure and that it is sufficient to talk the matter over with the Learner or simply issue a reprimand. This should be done in consultation with the relevant academic area. The Investigating Officer will determine whether the allegations potentially constitute serious misconduct. If the Investigating Officer decides that the formal procedure is required the matter will be referred to the Strategic Safeguarding Panel.

The Investigating Officer may discuss the matter with the Director of the academic area responsible for the Learner, or nominee, to decide on the most reasonable and proportional course of action. This may be to deal with the matter through stages 1 – 3 of the disciplinary procedure and a disciplinary meeting.

- 6.4 In cases of serious misconduct, the Investigating Officer may, on behalf of the Director of the relevant academic area, suspend a Learner in the initial stages of the investigation but must consult with the Director of that academic area, or their nominated deputy, at the earliest opportunity to review the suspension.

Any suspension will be reported to the Director of Planning and Performance. In such cases suspension will not, in itself, be regarded as a disciplinary sanction.

- 6.5 If the matter might result in the permanent exclusion of a Learner then this will normally be referred to the Strategic Safeguarding Panel within 14 working days of suspension. This may be extended dependant on the Investigating Officers ability to collate the necessary evidence but should not be unduly delayed.

The Strategic Safeguarding Panel will be chaired by the Director of Student Services or his/her nominee and be attended by the Investigating Officer who will set out the findings of the investigation including any explanation or account from the Learner subject to the investigation.

The Learner can be supported by the College's Student Services team to provide the necessary evidence for consideration by the panel if required and can be accompanied by a parent or other suitable person at any meeting with the Investigating Officer.

- 6.6 The Strategic Safeguarding Panel will have the right to impose a period of suspension, issue a disciplinary sanction or exclude the Learner from the College. The decision of the Strategic Safeguarding Panel will be made in writing to the Learner within seven working days of the panel making a decision.

- 6.7 The Learner will have the right to appeal (section 7).

- 6.8 The following offences are examples which are normally regarded as grounds for exclusion:

- Assault on a Learner or member of staff

- Bringing illegal substances onto the premises
- Abusive behaviour
- Vandalism
- Theft of College or personal property
- Behaviour which infringes the college Equality and Diversity Policy
- Behaviour that contravenes fundamental British values
- Continual refusal to carry out reasonable instructions or to comply with College rules
- Behaviour considered to be damaging to the College's reputation, occurring either on or off College premises.

6.9 The examples above are not exhaustive or exclusive and offences of a similar nature will be dealt with under this procedure.

6.10 A flowchart of the serious misconduct procedure is provided as Appendix 2.

7 RIGHT TO APPEAL

7.1 The Learner will have the right to appeal at each stage of the formal procedure. Appeals against stages 1 – 3 must be made to the Director of Planning and Performance in writing stating the grounds for the appeal and received within 10 working days of the formal warning.

Appeals against exclusion (stage 4) decided by the Strategic Safeguarding Panel must be made in writing to the Managing Director for Education and Training Delivery stating the grounds for the appeal and received within 10 working days of the date of exclusion.

Appeals against exclusion (Stage 4) as a result of unsatisfactory performance, attendance or other academic reason should be made in writing to the Director of Planning and Performance stating the grounds for the appeal and received within 10 working days of the date of exclusion.

The support of Student Services can be made to a student wishing to make such an appeal.

7.2 Any appeal will be decided upon within 14 working days of the receipt of the appeal.

7.3 At appeal, the decision of the Managing Director of Education and Training or the Director of Planning and Performance will be final.

8 ADMINISTRATION

8.1 Stages 1-3 of the Disciplinary Process lie within the responsibility of the relevant academic area.

Correspondence related to disciplinary meetings, notification of sanction etc. will be the responsibility of the administration for the academic area responsible for the Learner involved.

The recording of the outcome of any disciplinary meeting on ProMonitor and elsewhere will be the responsibility of the administration area, or the academic member of staff dealing with the matter, in the relevant academic area for that Learner.

- 8.2 Stage 4 of the disciplinary process can be initiated within the academic area or as part of the serious misconduct process.

Administrative matters related to stage 4 arising outside the serious misconduct process should be dealt with by the administration area for the academic area responsible for the Learner involved.

Matters related to serious misconduct will be dealt with by the administration area within Student Services other than the initial suspension of a Learner. The suspension of a Learner is normally a decision made the Director for the academic area of that Learner. The administration for that Director's academic area will be responsible for writing to the Learner and advising them of the suspension.

Any decision made by the Investigating Officer or the Strategic Safeguarding Panel will be advised to the Learner in writing by Student Services.

Student Services will update ProMonitor with the outcome of any Strategic Safeguarding Panel meeting if relevant.

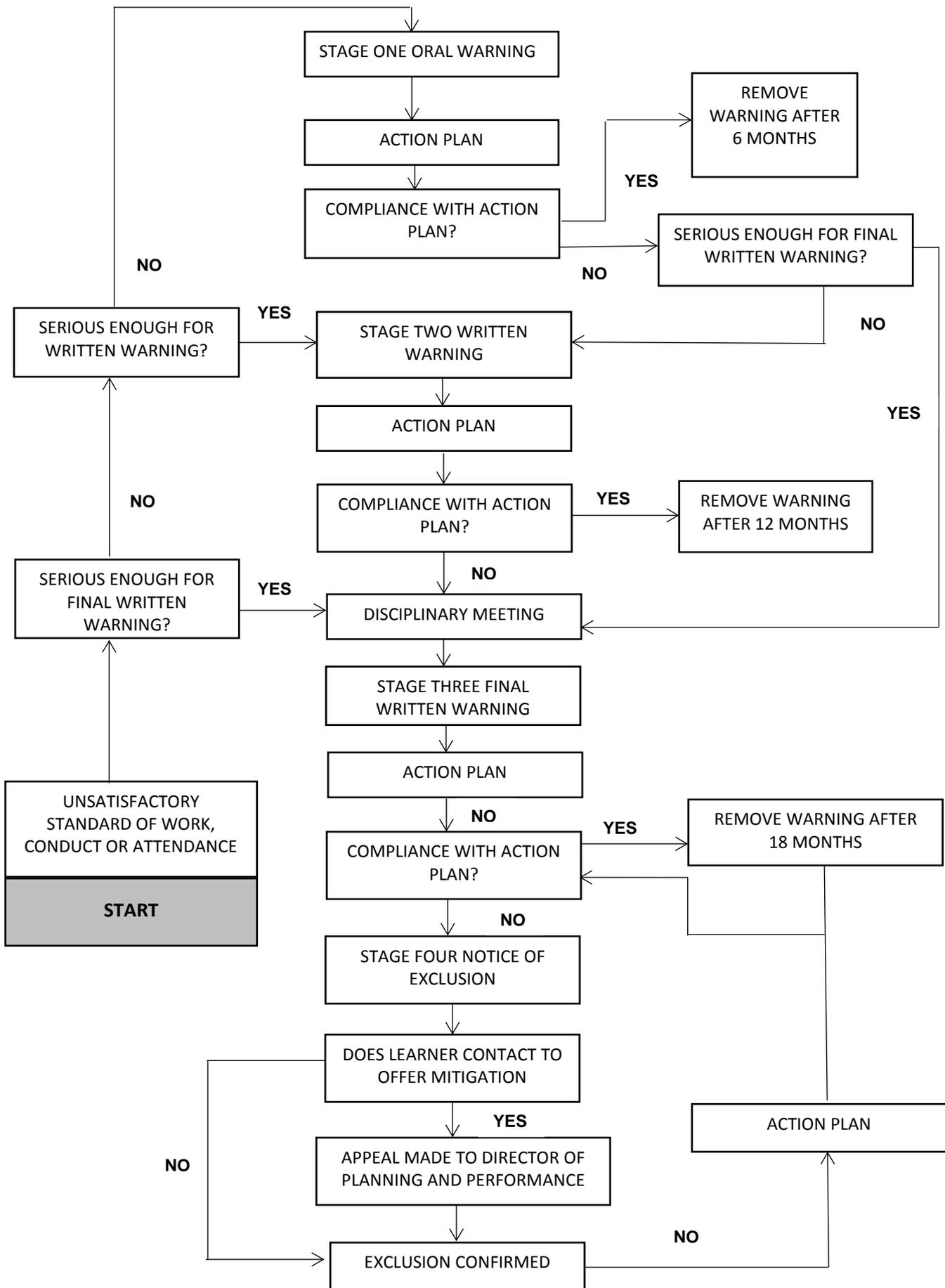
- 8.3 Any correspondence issued to Learners aged 16-18 years should be copied to parents, guardian or carers.

9 ANNUAL REVIEW OF THE LEARNER DISCIPLINARY PROCEDURE

The Strategic Safeguarding Panel and the Quality Standards Committee will review the Learner Disciplinary Procedure on an annual basis and make recommendations for its development.

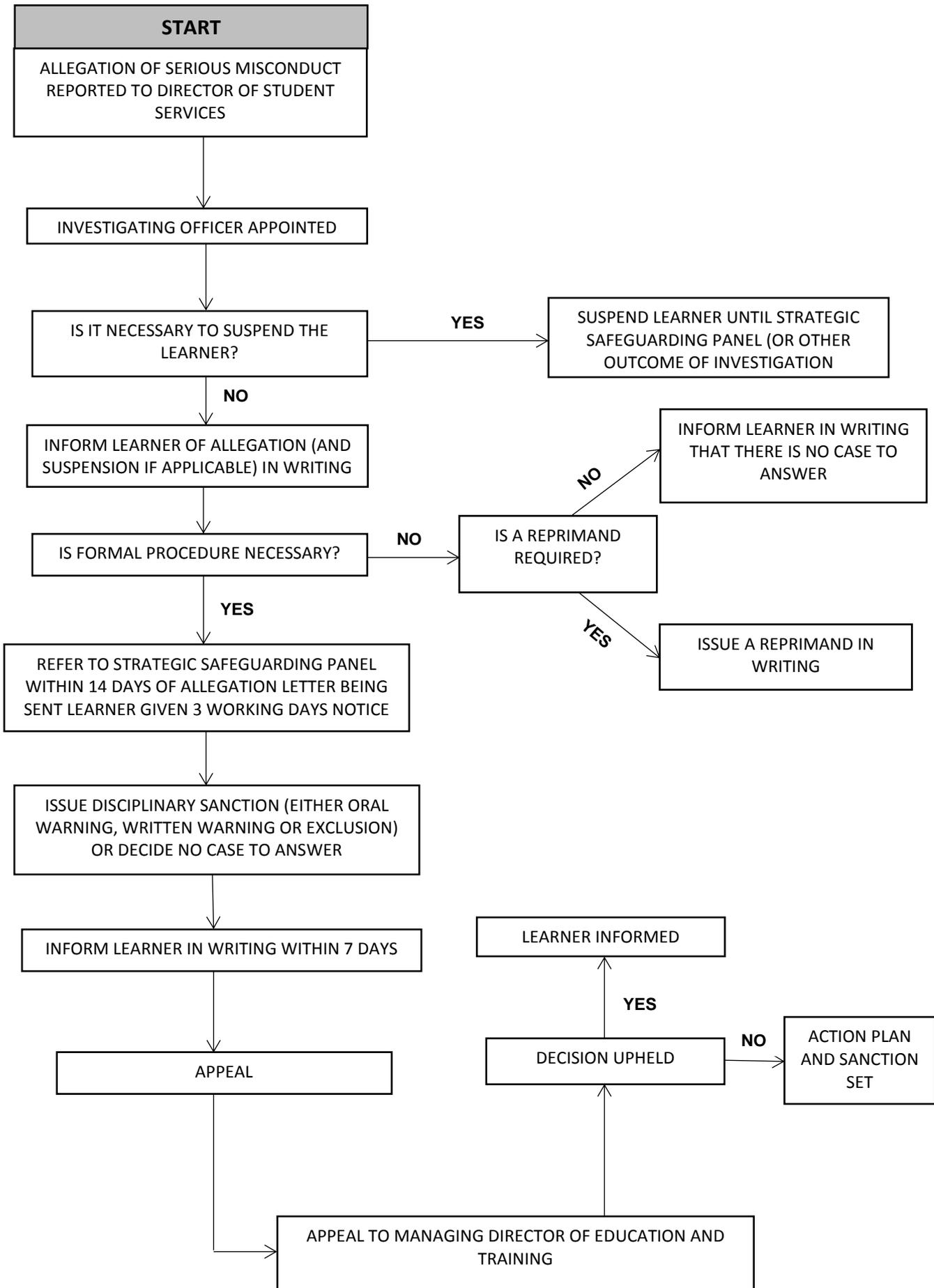
APPENDIX 1

STANDARD OF WORK, CONDUCT OR ATTENDANCE – FLOWCHART (LEARNERS HAVE A RIGHT TO APPEAL AT EACH STAGE IN ACCORDANCE WITH SECTION 6)



APPENDIX 2

SERIOUS MISCONDUCT - FLOWCHART



APPENDIX 3

GUIDANCE FOR THE RECORDING OF STATEMENTS

This guidance is intended to support College staff who may need to record a statement from learners as part of an ongoing investigation. It is to be noted however that the principles outlined in this guidance may be applied in any situation that information needs to be obtained by College staff from those involved in an incident. This guidance is not intended to be used in situations that are subject to investigation by Police and/or Social Care e.g. criminal offences committed on College site or child protection investigations.

It is the intention of this guidance to assist College staff in obtaining and recording an accurate and truthful account of incidents that potentially breach the Colleges' disciplinary policy and that occur under the jurisdiction of the College.

All parties involved should be able to give their own accounts of what has allegedly happened and thus facilitate a measured and considered response from College staff responsible for ensuring discipline at College.

As part of a thorough investigation of incidents, and in consideration of all the evidence, it should be a necessity that the alleged perpetrator and any witnesses give their version of events.

Any physical evidence associated with an alleged incident should, if possible, be retained. If this is not practicable then photographs along with a signed witness statement would be acceptable.

As outlined above, Learner and staff statements are expected to be used as an integral part of investigating incidents in College. Statements should ideally be of such a standard that they demonstrate the professionalism of the staff involved and as if they were to be used in any legal proceedings.

All written statements must be attributed, signed and dated.

TAKING STATEMENTS IN COLLEGE

It is vital that the perpetrator, victim and witnesses make their statements separately as it results in an objective investigation and the question of collusion is negated.

1. REFUSAL TO GIVE A STATEMENT

If the perpetrator refuses to give a statement then the College should document this and ensure that they have tried all means to obtain this information depending on the reason given for refusal. It is important for College staff to be able to make their decision in the full knowledge of any circumstances that the perpetrator may put forward in mitigation.

2. APPROPRIATE PERSON TO TAKE A STATEMENT

The member of staff taking the statement should always be neutral and not have been involved in the incident. It is also best practice that the statement taker and investigator of the case should not be a person involved in the ultimate decision making in relation to possible sanctions.

Learners may, in some circumstances, only divulge information to persons with whom they feel at ease and in whom they can trust. The interviewer should have the skills to put the Learner at their ease at the start of the interview. Consideration should be given to the environment in which a statement is taken.

Following these principles will ensure that fairness is seen to be done and no allegations of undue influence or pressure can be made by Learners/parents.

Best practice would suggest that an appropriate adult is also made available to support Learners particularly if they are distressed or vulnerable. This adult would be there to ensure good communication and the understanding of the process by the Learner but not act as an advocate or interfere in the investigation.

In taking a statement from a Learner, consideration should be given to their age, aptitude and ability in terms of the process and the appropriate format chosen e.g. supporting Learners with special educational needs.

Consideration should be given to Learners for whom English is not their first language – such pupils may express their case more accurately in their first language through an interpreter.

3. SETTING THE GROUND RULES - WITNESS

It is important that the staff member taking the statement outlines the ground rules to ensure the Learner is aware of the procedure.

Witnesses should be informed of the time and place of the alleged incident but given no unnecessary details as their statement needs to reflect their recollection of what occurred.

Reassure the Learner that the investigation will be fully investigated in a fair manner and outline that this is their opportunity to ensure that their voice is heard.

Outline that everyone involved with the incident will be asked to give a statement including the alleged perpetrator/victim and all witnesses (both Learners and staff).

Outline how the statement is to be taken which should be in the form of a free account from the witness followed by clarification through questioning.

Outline that the Learner can take as long as necessary for the statement. There are no time restraints of having to return to class etc.

Outline the importance for honesty and that this statement will be used as part of the investigation. It should be made clear to the Learner that this is not a confidential experience and that the outcome may eventually be shared with others. If appropriate the Learner should be assured that personal information will be

treated with sensitivity and not disclosed to anyone unnecessarily. If during the statement taking process information is disclosed that raises a safeguarding concern then this should be referred to the appropriate agency.

The witness should be informed that their statement may be used as part of the investigation and may contribute to other investigations undertaken by college staff.

The witness should be allowed to correct or add anything to ensure accuracy . To conclude the process both of you will sign it to show that you both agree that it is a true record of what the Learner has stated.

4. SETTING THE GROUND RULES - PERPETRATOR

The alleged perpetrator must be informed of the basis of the case against them and this should include a description of the alleged offending behaviour and the time and the place of the incident.

The above ground rules for taking statements from witnesses should also be outlined to the alleged perpetrator.

5. THE PRACTICALITIES OF STATEMENT TAKING

A statement should commence with identifying the witness and provide details of their status i.e. Learner studying....., occupation, position held, relationships and so on, as appropriate.

The statement should be in the first person and speech should be direct i.e. The Learner said “I hate the sight of you and I’ll smack you one if you speak to me again”

It is important that locations, damage to property and physical injuries etc. are fully described. If applicable, a person witnessing a physical injury, such as a lecturer or First Aider, can make a statement testifying as to the injury and its description as well as the victim.

Hearsay evidence refers to information that a witness has heard but does not have first-hand knowledge of. It may be useful in eventually establishing facts but must always be treated with caution. As a general rule it is not usually admissible as evidence but if in doubt it should be recorded as this can be redacted later.

The use of jargon or slang should be avoided unless it relates to reporting direct speech. An example would be the use of the term “abusive” language. In this case the direct speech should be used. It is important that the witness’s words or phrases are used.

SURNAMES and PLACE NAMES should be in block capitals.

Exhibits produced in a statement MUST be allocated a unique reference number (URN) and clearly identifiable. Each item referred to must have its own URN.

The URN will be made up of the exhibitors initials and a sequential number i.e. the third exhibit produced by Alexander Graham Bell would be identified as AGB/3.

The continuity of evidence is important and this should be reflected in witness statements.

A practical example of this could be where a Learner hands a member of staff a small amount of cannabis they saw another Learner drop. A statement would be recorded from this Learner setting out the circumstances. The small amount of cannabis would be given an exhibit URN. (The Learner's initials and a sequential number i.e. LCS/1). The statement should record that fact that they passed this item to a member of staff.

The member of staff taking possession of the cannabis would record a statement setting out that they received the small amount of cannabis from the Learner and refer to it within their statement as exhibit LCS/1. In turn they should indicate what has happened to that exhibit i.e. placed in secure cupboard within Student Services.

In the example above a person recording a statement should be mindful that neither they, nor the Learner, can prove that the item is a "small amount of cannabis" and should describe that they believe it to be cannabis and not as a statement of fact.

Whenever identification is an issue (person, vehicle etc) the content of the witness statement should address the issues outlined in R v TURNBULL. This was a stated case where the identity of a suspected burglar was called into question and the presiding judge gave directions in regards to the admissibility of identification evidence. These directions set out that consideration should be given to certain elements when identification was being made. These are set out in the mnemonic ADVOKATE

Amount of time observed – How long in view.

Distance – How far away.

Visibility – Clear unobstructed view, weather etc

Observation impeded – Any obstacles in the way (tree, vehicles, buildings etc)

Known or seen before or how often – Is the person known to the witness

Any special reason for remembering – Special identifying features

Time elapsed between observing and subsequent identification

Error – Discrepancy between description and actual appearance

6. ATTRIBUTING AND ANONIMISING STATEMENTS FOR USE IN EXCLUSIONS

If the College has a good reason for protecting the anonymity of a Learner then the original statement should be available for decision makers to peruse to verify their integrity. In exclusion documentation a photocopy of the original statement may be used with the Learners name deleted and supplemented with 'Learner A', 'Learner B' etc. as appropriate.

It is normal in the case of statements from Learners that exclusion panels rely on these written statements.

An electronic copy of the statement template can be found at:

<T:\Student Services\Public\Witness Statement Form.doc>

Format for taking written statement

RESTRICTED (when complete)



WITNESS STATEMENT			
Statement of:			
Age if under 18:	(if over 18 insert 'over 18')	School and role / occupation:	
This statement (consisting of _____ page(s) each signed by me) is true to the best of my knowledge and belief			
Signature:	(witness)		
Date			

Signature:		Signature witnessed by:	
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RESTRICTED (when complete)