



**LINCOLN COLLEGE**

**LEARNER CONDUCT PROCEDURE**

**POLICY CQ/PR/17**

**SPONSOR**

Head of Student Services and Foundations

## **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 CONDUCT PROCEDURE

## CONTENTS

<b>Paragraph</b>	<b>Content</b>	<b>Page Number</b>
1	Purpose	1
2	Aims	1
3	General Principles	1
4	Definitions	2
5	Formal procedure for unacceptable professional conduct in personal behaviour, progress and attendance	3
6	Formal procedure for serious misconduct	6
7	Right to appeal	8
8	Administration	8
9	Annual review of Learning Conduct Policy	9
Appendix 1	Procedure for Unacceptable Professional Conduct in Personal Behaviour, Attendance and Progress	10
Appendix 2	Serious Misconduct – Flowchart	11
Appendix 3	Procedure for Learner Conduct Appeal Hearings	12
Appendix 4	Guidance for the Recording of Statements	14

## **LINCOLN COLLEGE**

The Student Union and members of staff, including those in Student Services can help learners in interpreting the following procedure to ensure full understanding.

### **LEARNER CONDUCT PROCEDURE**

#### **1 PURPOSE**

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

#### **2 AIMS**

2.1 The procedure aims to get learners ready for the world of work and to realise what acceptable standards and code of conduct will be expected of them in a working environment.

2.2 The procedure aims to give a clear structure that supports staff and learners in upholding high standards of learner conduct.

2.3 Every effort will be made to avoid the use of conduct sanctions where alternatives are appropriate. However where support has been provided and not worked, the College can progress to make disciplinary sanctions.

2.4 The procedure applies to all learners of Lincoln College.

#### **3 GENERAL PRINCIPLES**

3.1 The procedure has been approved by the Quality Standards Committee and the College's Executive Leadership Team.

3.2 The need to implement the conduct 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 informal communications with the individual(s) concerned.

3.3 There should be a clear distinction between the implementation of the formal procedure and routine intervention by a Director (or his/her nominee), following reports of unacceptable learner conduct. 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 conduct procedure relates to any conduct 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 unacceptable learner conduct is to be dealt with as a matter of urgency, with no disciplinary action taken until the case has been fully investigated and all involved parties have been spoken to.
- 3.6 Written records are to be maintained at each stage of the proceedings.
- 3.7 Where a learner is under the age of 18 years of age or 16-24 with an EHCP, a Looked After Child (LAC) or care leaver, copies of all correspondence, originating from the College will be sent to the parents or carers. Should the learner have opted out of this principle this will be highlighted on ProSolution.
- 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.
- 3.9 To ensure that learners receive the most appropriate support and guidance, this conduct procedure should be used in conjunction with the College's Mental Health and Disability Policy.

## 4 DEFINITIONS

4.1 Throughout this procedure the following terms are defined as:

### 4.1.1 Learner

A learner is considered by the College to be a person who has enrolled on a course or programme of study, irrespective of any defining characteristic (for example, age or length of study) and is registered as 'continuing' on ProSolution. This includes apprentices and Higher Education learners (often referred to 'students').

### 4.1.2 Learner Conduct Sanction:

Following investigation, a learner may be issued with one of the following Learner Conduct Sanctions:

- Stage 1 – Informal notice to improve conduct
- Stage 2 – Written notice to improve conduct
- Stage 3 – Final Written notice to improve conduct
- Stage 4 – Exclusion from the College.

### 4.1.3 Learner Conduct Review Meeting

A learner conduct meeting will consider issues of professional conduct, which may include the standard of learner's work and their progress, personal behaviour and attendance. A Final

Written Warning is the **maximum sanction** which can result from the first learner conduct meeting.

Should a learner be issued with a Learner Conduct Sanction, the resulting GROWTH target(s) will be discussed and reviewed after an agreed and reasonable period of time at a Learner Conduct Review Meeting.

The learner will be given 3 working days' notice of a Learner Conduct Review Meeting.

#### 4.1.4 Strategic Safeguarding Panel

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

#### 4.1.5 Learner Conduct Appeal Hearing

A Learner Conduct Appeal Hearing will consider the outcomes of Learner Conduct Meetings, Hearings or the Strategic Safeguarding Panel.

## 5 **PROCEDURE FOR UNACCEPTABLE PROFESSIONAL CONDUCT IN PERSONAL BEHAVIOUR, PROGRESS AND ATTENDANCE**

- 5.1 Where a member of staff feels that a learner's behaviour, progress or attendance is below the standard expected by the College, the member of staff should contact the learner's Progression Coach to discuss the matter and request the conduct procedure be instigated. Whilst usual updates regarding learner conduct should be made by staff members to ProMonitor, requests for conduct sanctions via the learner's eLLP are not appropriate and must be avoided.

Where a member of staff submits a request for a conduct sanction to be issued but the Progression Coach, Learning/Training and Skills Lead, Head of Learning/Training and Skills or Director of Education and Training does not apply a sanction, the reasons for this will be communicated to the member of staff within 5 working days of the request.

- 5.2 Where relevant, Student Services should be included at each stage of the conduct process and the appropriate member of staff contacted as follows:

<b>Learner:</b>	<b>Student Services Contact:</b>
has a EHCP	Sam Rees <a href="mailto:assessmentofficer@lincolncollege.ac.uk">assessmentofficer@lincolncollege.ac.uk</a>
is a Looked After Child (LAC) / is a Care Leavers is 14-16 years old	Donna Stallard-Taylor <a href="mailto:safeguarding@lincolncollege.ac.uk">safeguarding@lincolncollege.ac.uk</a>
has a diagnosed Mental Health Condition	Frances Oxley <a href="mailto:assessmentofficer@lincolncollege.ac.uk">assessmentofficer@lincolncollege.ac.uk</a>

- 5.3 A learner conduct 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 conduct issues at least 3 working days before the meeting. In the event that the learner concerned is under the age of 18 years or 16-24 with an EHCP, LAC or Care Leaver, the parent/carer will be informed of the learner conduct meeting and the allegation made against the learner.
- 5.4 At any learner conduct 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 parent/carer/next of kin (if they are under the age of 18, or 16-24 with an EHCP, LAC or Care Leaver). Learners with learning difficulties or disabilities should be advised of appropriate cross college support services and can be supported by these staff members during a conduct meeting. Failure of the learner to attend the meeting will not delay or affect the discussion of the case.
- 5.5 In exceptional circumstances, if a learner's work standard or their progress, personal behaviour or attendance is considered sufficiently unacceptable, the learner can be issued with a Written or Final Written notice to improve conduct without an informal notice to improve.

### **Stage 1 – Informal notice to improve conduct**

- 5.6 Prior to the issuing of a formal learner conduct sanction, a meeting must take place usually between the relevant Progression Coach and the learner to informally discuss their conduct to highlight how this could impact on their college progress and the likely impact in a professional work environment. The learner should be given three working days' notice of this meeting taking place.
- The informal notice to improve discussion will be recorded on ProMonitor by the Progression Coach. No written confirmation will be issued due to the informal nature of the notice to improve.
  - As part of this discussion, key GROWTH targets will be provided and agreed by the learner, which identify the reasons for the notice to improve conduct and identify exactly how the College would like the learner to improve their conduct.
  - If the learner improves their conduct following the informal discussion, care should be taken to ensure they receive positive feedback and this is logged onto ProMonitor.
  - If the learner's conduct does not improve in line with the expectations of their GROWTH targets, then it is appropriate to formally invite, in writing, the learner to a Learner Conduct Review Meeting with, usually, the relevant Learning/Training and Skills Lead.

## **Stage 2 – Written Notice to Improve Conduct**

5.7 If the Learner Conduct Review Meeting finds that a learner's standard of work or their progress, personal behaviour or attendance has not improved following an informal notice to improve, then the learner will usually be issued with a Written Notice to Improve Conduct.

The Written Notice to Improve Conduct will:

- Be discussed with the learner in person, usually, by the Learning/Training and Skills Lead at a Learner Conduct Review Meeting, so they are clear on why they are being issued with the formal written notice to improve. A record will be placed on ProMonitor, with a letter being sent to the learner's parent/carer if they are under the age of 18, or 16-24 with an EHCP, LAC or Care Leaver. If the learner chooses not to attend the Learner Conduct Review Meeting, the meeting will go ahead without them being present.
- Be backed up by a letter in writing, recording the reason for the sanction, the improvement required (copy of GROWTH targets) and the time limit within which such improvement must be achieved. Advise that it is the first stage of the formal conduct procedure and that they have a right to appeal (see section 7). An agreed date shall be set to review the GROWTH targets at a formal Learner Conduct Review Meeting.
- Be uploaded to the learner's ProMonitor record.
- Be removed from the learner's ProMonitor record after 12 months, subject to the learner's standard of work, conduct and/or attendance meeting the GROWTH targets set by the Learning/Training and Skills Lead.

## **Stage 3 - Final Written Notice to Improve Conduct**

5.8 If, despite having been given a Written Notice to Improve Conduct sanction, the learner's standard of work or their progress, personal behaviour or attendance remains unsatisfactory, the learner will be issued with a Final Written Notice to Improve Conduct.

The Final Written Notice to Improve Conduct will:

- Be discussed with the learner in person, usually, by the Head of Learning/Training and Skills at a Learner Conduct Review Meeting, so they are clear on why they are being issued with the final written notice to improve. A record will be placed on ProMonitor, with a letter being sent to the learner's parent/carer if they are under the age of 18, or 16-24 with an EHCP, LAC or Care Leaver. If the learner chooses not to attend the Learner Conduct Review Meeting, the meeting will go ahead without them being present.



- Be backed up by a letter in writing, recording the reason for the sanction, the improvement required (copy of GROWTH targets) and the time limit within which such improvement must be achieved. Advise that it is the second stage of the formal conduct procedure and that they have a right to appeal (see section 7). An agreed date shall be set to review the GROWTH targets at a formal Learner Conduct Review Meeting.
- Be placed on the learner's ProMonitor record.
- Be removed from the learner's ProMonitor record after 18 months, subject to the learner's standard of work, conduct and/or attendance meeting the GROWTH targets set by the Head of Learning/Training and Skills.

#### **Stage 4 – Exclusion**

- 5.9 If, despite having been given a Final Written Notice to Improve Conduct sanction, the learner's standard of work, personal behaviour, or attendance, remains unsatisfactory, the learner will be issued with a Notice of Proposed Exclusion.

The NOTICE OF PROPOSED EXCLUSION will:

- Be discussed with the learner in person, usually, by his or her Director of Education and Training at a Learner Conduct Review Meeting, so they are clear on why they are being excluded from the College. If the learner chooses not to attend the Learner Conduct Review Meeting, the meeting will go ahead without them being present.
  - Be confirmed in writing, will specify the reasons for the proposed exclusion and the date until which the proposed exclusion will be effective. Advise that it is the final stage of the formal conduct procedure and that they have a right to appeal (see section 7).
- 5.10 A flow chart for the procedure in dealing with unacceptable personal behaviour, professional conduct and attendance is provided as Appendix 1.

## **6 FORMAL PROCEDURE FOR SERIOUS MISCONDUCT**

- 6.1 Any allegation of serious misconduct is to be immediately reported to the Director of School, or in their absence the Head of Student Services, who will make a judgement as to whether it meets the threshold for serious misconduct. If it does it will be passed to an Investigating Officer to enquire into the facts of the case as soon as is reasonably practicable. Guidance for the taking of statements is provided in appendix 5. The Investigating Officer will not subsequently be either wholly or partly responsible for determining the disciplinary sanction.

- 6.2 In cases of serious misconduct, the Director, Head of Student Services or their nominee, may suspend a learner pending investigation. Suspension should be a neutral act and does not preclude guilt.
- 6.3 If the allegation involves a criminal offence (e.g. theft; assault; harassment, including racist or homophobic abuse; sexual assault) the Director will instruct the member of staff reporting the incident to advise the complainant of his or her right to contact the police.
- 6.4 The Investigating Officer will present initial findings back to the Director of School and they will decide whether this will be addressed through academic disciplinary sanction or passed to the Strategic Safeguarding Panel to review independently.
- 6.5 If it is decided that the case will be heard through Strategic Safeguarding. The Investigating Officer will contact safeguarding admin team to send out a letter to the learner advising them of the process.
- 6.6 The Strategic Safeguarding Panel will be chaired by the Head 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.
- 6.7 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.
- 6.8 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.
- 6.9 The Learner will have the right to appeal (section 7).
- 6.10 The following actions are examples which are normally regarded as serious misconduct:
- Assault on a Learner or member of staff
  - Bringing illegal substances onto College 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

- 6.11 The above examples are not exhaustive or exclusive and offences of a similar nature will be dealt with under this procedure.
- 6.12 A flow chart 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 written sanctions and stage 4 exclusions. Appeals must be made to the Director of Performance and Planning in writing, stating the grounds for the appeal and be received within 10 working days of the sanction being issued. A Learner Conduct Appeal Hearing shall only be arranged where an exclusion has been issued (see appendix 3).
- 7.2 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. A Learner Conduct Appeal Hearing shall then be arranged (see appendix 3).
- 7.3 The support of Student Services can be made to a learner wishing to make such an appeal.
- 7.4 Any appeal will be decided upon within 14 working days of the receipt of the appeal.
- 7.5 At appeal, the decision of the Director of Performance and Planning or the Managing Director of Education and Training will be final.
- 7.7 It should be accepted that the learner or their representative will have had opportunity to put forward their account or mitigation through the conduct process either through a learner conduct meeting or as part of a serious misconduct investigation. If a learner, or their representative, believes that this opportunity has not been provided or that they believe that the policy in relation to the conduct procedure has not been adhered to then this may form the basis for their appeal. An appeal can also be made if a learner, or their representative, believes that there is new information or evidence which may have a bearing on the decision making process.

## **8 ADMINISTRATION**

- 8.1 Stages 1-3 of the Learner Conduct Procedure lie within the responsibility of the relevant academic area.

Correspondence related to learner conduct 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 learner conduct 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 Learner Conduct Procedure 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 student is normally a decision made the Director for the academic area of that student. 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.

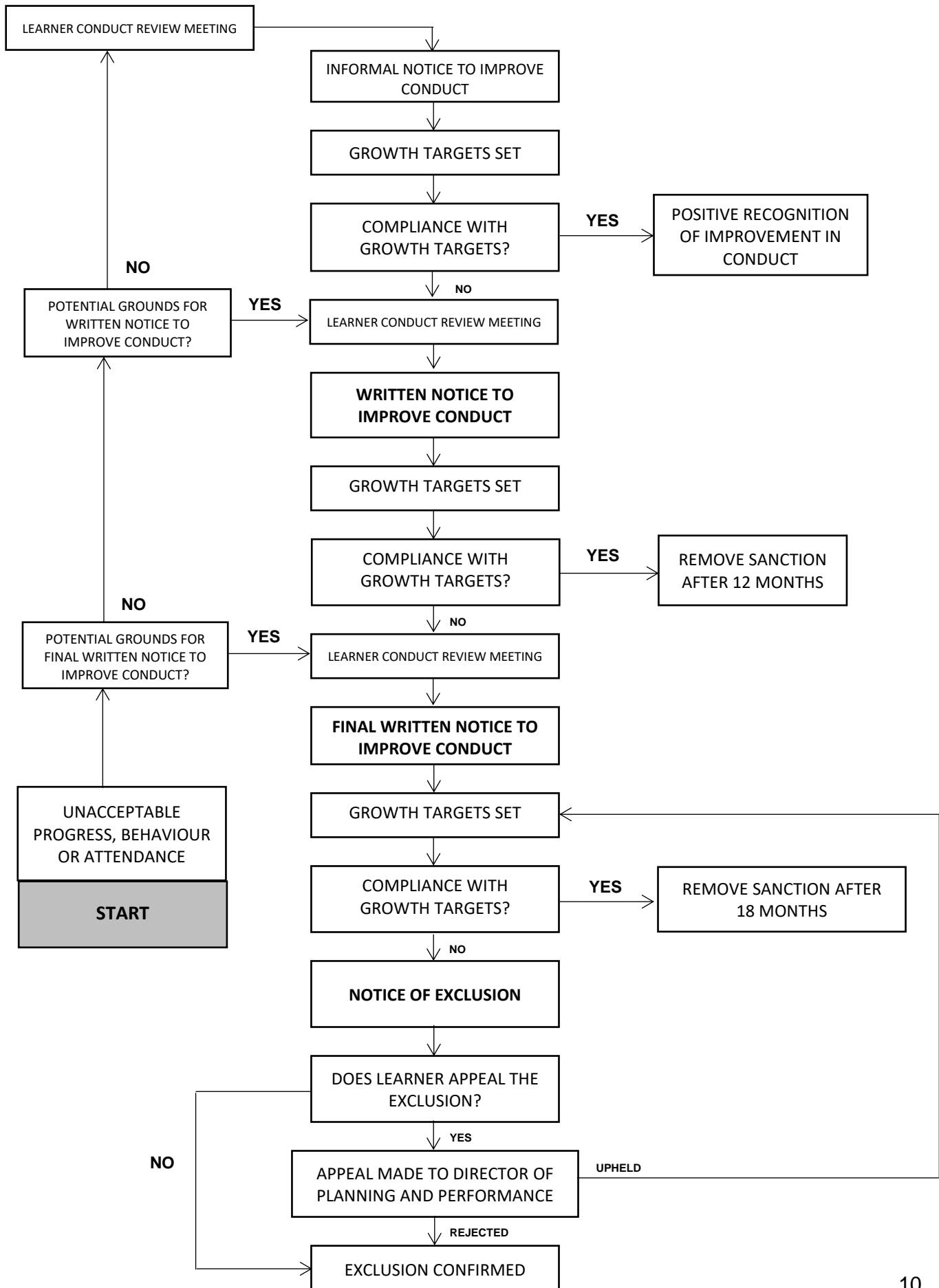
Student Services will update ProMonitor with the outcome of any Strategic Safeguarding Panel meeting if relevant.

- 8.3 Any correspondence issued to learners aged 14-18 years or 14-24 with an EHCP, LAC or Care Leavers, should be copied to parents or carers.

## **9 ANNUAL REVIEW OF THE LEARNER CONDUCT PROCEDURE**

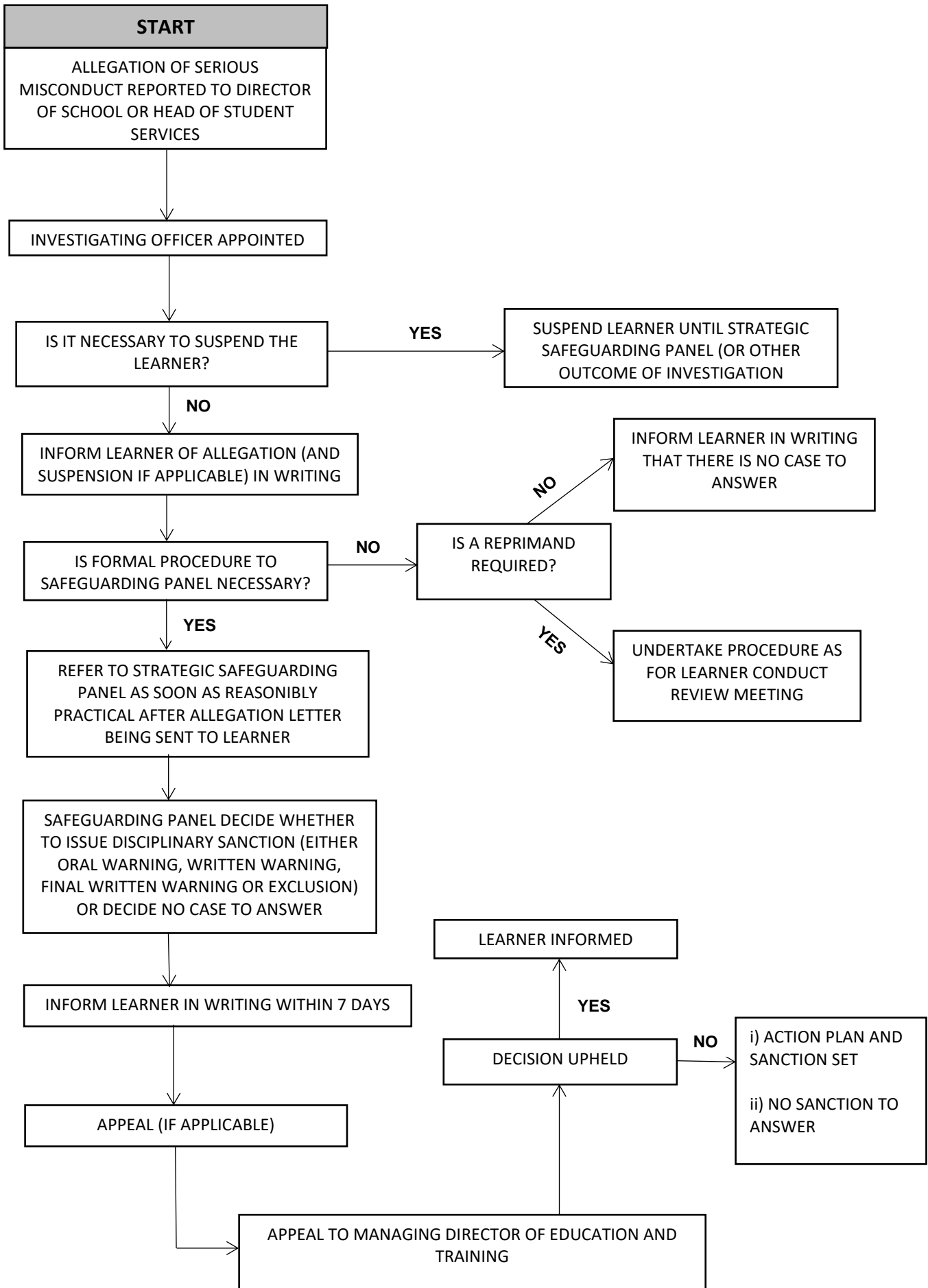
The Strategic Safeguarding Panel and the Quality Standards Committee will review the Learner Conduct Procedure on an annual basis and make recommendations for its development.

PROCEDURE FOR UNACCEPTABLE, PROFESSIONAL CONDUCT IN PERSONAL BEHAVIOUR, ATTENDANCE AND  
 PROGRESS – FLOWCHART  
 (LEARNERS HAVE A RIGHT TO APPEAL AT EACH STAGE IN ACCORDANCE WITH SECTION 7)



# SERIOUS MISCONDUCT - FLOWCHART

# APPENDIX 2



**PROCEDURE FOR LEARNER CONDUCT APPEAL HEARINGS**

Following the receipt of a learner's appeal to exclusion, a Learner Conduct Appeal Hearing shall be arranged. The learner will be given 3 working days' notice of the hearing. If the learner chooses not to attend the Learning Conduct Appeal Hearing, the meeting will go ahead without them being present.

If the learner is under the age of 18 (or aged 16-24 with an EHCP, LAC or Care Leaver), they can be accompanied by a fellow learner or a parent/guardian or next of kin. If the learner is over the age of 18, they will be treated as an adult and can represent themselves at the learner conduct hearing or be supported by a fellow learner. It is not anticipated that a parent or guardian will be in attendance for students over the age of 18. If however a student over the age of 18 would like a parent/guardian or next of Kin to be present, with prior agreement this can be arranged on the understanding that they are there as an observer and supportive person, rather than a spokesperson for the learner. It is imperative that the learner is involved in this process and represents themselves wherever possible as this is what would be expected to happen in an employment environment.

Appeals will be heard by the Director of Performance and Planning.

**ORDER OF HEARING**

1. Director of Performance and Planning to clarify if notes will be taken at the meeting and to whom they shall be made available. It is standard practice for both sides to take their own notes.
2. The Director/Head of Learning/Training and Skills to give a short résumé of the Learner.
3. The learner/representative to state their case and explain any special circumstances that may exist and the precise nature of the remedy sought.
4. The learner/representative to introduce any witnesses.
5. The Director/Head of Learning/Training and Skills to ask questions of the witnesses and Appellant as appropriate.
6. Director of Performance and Planning to question the witnesses.
7. Learner's witnesses to withdraw.
8. The Director/Head of Learning/Training and Skills to state the management case with the assistance of relevant members of management.
9. The Director/Head of Learning/Training and Skills to introduce any witnesses to give evidence.
10. The learner/representative to ask questions of the witnesses and management representative as appropriate.
11. Director of Performance and Planning to question the witnesses.

12. The Director/Head of Learning/Training and Skills' witnesses to withdraw.
13. The Director/Head of Learning/Training and Skills summarise the College's case; no new factors to be introduced.
14. The learner/representative to summarise the appeal; no new factors to be introduced.
15. Director of Performance and Planning to review case and make decision.
16. The Head of Learning/Training and Skills / Director, Appellant and advisers to be recalled and informed of the decision by the Director of Performance and Planning.



**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' Learner Conduct 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**

- 5.1 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.
- 5.2 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"
- 5.3 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.
- 5.4 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.
- 5.5 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.
- 5.6 SURNAMES and PLACE NAMES should be in block capitals.
- 5.7 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.

- 5.8 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)**



<b>WITNESS STATEMENT</b>			
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)**