



## **Learner Disciplinary Policy and Procedure**

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## 1 PURPOSE

The welfare and wellbeing of all learners and staff of the College depends on reasonable and disciplined behaviour of all learners as detailed in the Code of Conduct. The Learner Disciplinary Policy will support this requirement and ensure that any allegations of inappropriate behaviour are dealt with in a consistent, fair and supportive manner.

## 2 SCOPE

## 3 DETAILS OF POLICY

All learners have the right to learn and a responsibility to allow others to learn in a safe, secure and respectful environment. The College, as an employer, also has a responsibility to provide staff with a safe, secure and respectful environment to work in.

Wherever possible, the College will strive to work constructively with learners to resolve disciplinary issues but implicit in this policy is the recognition of the need to disapprove of, formally record and in certain circumstances reprimand unacceptable conduct and behaviour which disrupts learning.

Calderdale College will ensure that all processes and procedures associated with learner discipline are fair, open and transparent and that all disciplinary proceedings are conducted in accordance with the Learner Disciplinary Policy & Procedure.

### 3.1 Responsibilities

- During teaching and learning sessions, the tutor/instructor/designated person in charge has immediate authority for learner discipline.
- All staff have immediate authority to take action to maintain discipline in the common areas of the College including corridors, open access areas and areas serving food.
- Any member of staff observing a learner behaving in a manner which could breach the Code of Conduct has the authority to challenge the learner and may warn them that his/her behaviour is inappropriate.
- All members of staff should ensure that learners are made aware and know where to find the College Code of Conduct and relevant policies, procedures and regulations during the induction period.
- It is the responsibility of every individual learner to familiarise themselves with the Code of Conduct and relevant policies, procedures and regulations and comply with them. Copies are available from Advice & Guidance.

### 3.2 ProMonitor

To monitor learner behaviour, some of the disciplinary activities are recorded in the ILP section in ProMonitor. For further guidance see QAF 1.04P– Guidance on the use of ProMonitor.

### 3.3 Potential impact on Equality, Diversity and Inclusivity

This policy document has been reviewed by the Equality, Diversity and Inclusivity Coordinator to ensure that it does not negatively impact upon any individual. All College policies seek to actively promote inclusion of all learners. This policy includes rigorous measures to ensure fairness for all and that any incidents of misconduct are conducted without bias. It ensures both the learner's right to learn and staff's right to work in a safe, secure and respectful environment are met regardless of any protected characteristic.

### 3.4 Definition of Unacceptable Conduct

Unacceptable conduct is any academic or non-academic conduct which adversely interferes with teaching and learning, is disrespectful to other members of the College community or College property or breaches the College Code of Conduct. This policy covers all learner activities such as work placements, trips and visits and other enrichment activities.

This policy details the disciplinary procedure to deal with learners whose behaviour falls outside acceptable standards. If the cause for concern relates to a learner's health and general wellbeing, the Fitness to Study Policy may be more appropriate. As a general rule, if the behaviour or conduct is 'deliberate', it is probably more appropriate to enforce the Disciplinary Policy. If the learner displays signs of 'an inability to' or is 'unable to' change their behaviour or conduct, the most appropriate course of action is likely to be the Fitness to Study Policy.

If a criminal offence has been committed the College may choose to involve the police. They should contact the Security Team who will do this on their behalf. In certain circumstances, Advice & Guidance may advise the victim to contact the police directly. Advice & Guidance are available to advise in all cases involving the police.

The following list shows examples of unacceptable conduct and the most appropriate stage of the disciplinary process. The list is neither exhaustive nor exclusive and in some cases it may be appropriate to enforce a different stage of the disciplinary process from the examples listed.

#### 3.5 Stage 1 & 2 – Minor Misconduct

- Poor attendance
- Where absence is not notified or reasonably explained
- Poor punctuality
- Late or non-submission of course related work/assignments
- Disrupting the learning of others either in class or around the College
- Minor cases of academic misconduct (refer to Learner Academic Misconduct Policy)
- Disrespectful behaviour to other learners, staff or visitors
- Misuse of the internet/IT equipment
- Unauthorised or improper use of radios/personal stereos/mobile phones when in class or on College premises
- Misuse of facilities
- Eating/drinking in class or public areas
- Persistent forgetting of ID Card
- Persistent occurrence of a number of the above

### 3.6 **Stage 3 – Serious Misconduct**

- Repeated or persistent violation of a verbal warning disciplinary incident
- Moderate cases of academic misconduct (refer to Learner Academic Misconduct Policy)
- Demonstration of aggressive behaviour/discrimination/ harassment/bullying
- Disrespectful behaviour including swearing at other learners, staff or visitors
- Misuse of College resources
- Interference with College property including software or data belonging to or used by the College
- Minor breach of Health and Safety regulations
- Allowing other learners to gain access to the premises using their own ID Card

### 3.7 **Stage 4 – Gross Misconduct**

- Violation of a written disciplinary warning
- Serious cases of academic misconduct (refer to Learner Academic Misconduct Policy)
- Under the influence of alcohol or illegal drugs on College premises or whilst engaged in any College related activities
- Serious breach of Health and Safety regulations including smoking in buildings
- Serious inappropriate internet use, e.g. accessing pornography
- Bullying, intimidation, harassment, abuse, the use of violence or threats of violence in any form e.g. verbal, physical, via e-mail etc.
- Serious breach of the Equal Opportunities Policy
- Bringing non-learners onto the premises including learners who are excluded
- Allowing non or excluded learners to gain access to the premises using their own ID Card
- Any criminal offence including :-
  - Reasonable suspicion or actually being in possession of alcohol or illegal substances or associated drug paraphernalia
  - Endangering or causing injury to others
  - Possession of an offensive weapon
  - Theft
  - Wilful damage to College property, equipment and accommodation

### 3.8 **Reporting**

Any member of staff who witnesses an incident requiring immediate intervention should contact a member of Security on ext. 9000 or a member of the Advice & Guidance Team.

Any member of staff who witnesses an incident that they believe is unacceptable behaviour and requires disciplinary action should complete the QAF 1.04J Incident Report Form. This will be forwarded to the learner's Course Team Leader who will decide what action is required.

If an incident is witnessed by a member of the Security staff they should complete a Security Incident Report Sheet and forward it to the Security Supervisor. This will then be forwarded to the relevant Curriculum Manager or Assistant Principal who will decide what action is required.

If a visitor to the College and/or Out Centres witnesses an incident, they should report it to any member of staff, security or the Centre Manager who will take the appropriate action.

### 3.9 Suspension

The College has a responsibility to provide a duty of care for both learners and members of staff. Situations may arise where it is necessary to suspend an individual(s) following an incident but prior to commencement of the disciplinary procedure to safeguard all individuals.

Suspension of a learner can be authorised by the Head of Learner Services, Safeguarding Co-ordinator, Curriculum Manager or any of the Senior Management Team. The rationale for all suspensions should be documented on the incident report form QAF 1.04J and signed by the authorising manager.

The following provides some examples where suspension is warranted but this list is neither exclusive nor exhaustive:-

- Where there is a significant risk of harm or damage to the individual, others or property
- Where it felt that the inappropriate behaviour would continue
- Where it is felt that the presence of the individual will inhibit the investigation
- Pending a criminal investigation

The learner will be accompanied to collect any belongings and consideration will be given for the health, safety and wellbeing of the learner.

- 14 -16 Learners  
School will be contacted and the learner returned into the care of the school
- 16 - 18 Learners  
Parents or guardians must be informed and arrangements be made to return the learner into their care.
- Adult learners at risk
- Where appropriate in the case of adult learners a responsible adult or agency will be contacted and arrangements will be made to return the learner into their care.

In all cases the learner will then be escorted from the premises and the process recorded on form QAF1.04J. Their learner ID card will be retained by the College at this time. Consideration will be given to any forthcoming event requiring attendance by the suspended learner e.g. examinations, interviews, stage performance etc.

The authorising manager is responsible for advising the Security Team and Reception of the details of any learner that is suspended. This should be carried out as soon as is possible after they have been escorted from the premises. They also need to inform the Advice & Guidance Team, Safeguarding Officer and the Course Team Leader. This will also be recorded on Pro-Monitor.

Tutors should be advised to support home study arrangements as appropriate during the period of suspension.

A Letter of Suspension QAF 1.04E will be issued to the Learner within 2 working days stating the reason and duration of the suspension. If the learner is receiving guaranteed bursary or enhanced learner support fund (ELSF), the payment of these will be continued during the period of suspension. This should be confirmed in the letter. A copy of the letter will be retained in the learner's file.

A copy of the letter will be sent separately to the parents/guardians (the named 'next of kin' as shown on EBS) of learners who are under the age of 18 or perceived as a vulnerable adult.

A copy of the letter will be sent separately to employers, Training Officers, Youth Offending Team, Probation and/or Job Centre if the learner is on release and employer sponsored or part of a mandatory work/study programme.

### 3.10 Evidence

Where there is physical evidence gathered as part of an incident this should be retained and where possible the owner given a receipt. The evidence will then be made safe, labelled and stored in a secure environment within Advice & Guidance. The evidence will be produced during the disciplinary procedure and returned to the secure environment for safe keeping.

Certain types of evidence may need to be passed over to the police immediately to aid them in their investigation.

On completion of the disciplinary procedure items will be

- Returned to the rightful owner, receipted on hand over
- Retained for 3 months then securely destroyed
- Passed to the police for further intervention

### 3.11 Learner Disciplinary Procedure

The first occurrence of any issue should be used as an opportunity to counsel the learner and make it clear that their behaviour is unacceptable. Where this does not have the desired effect, this disciplinary procedure should be adopted.

### 3.12 Stage 1 & 2 – Minor Misconduct

**Issued by:** Tutor, Course team leader

**Appeal to:** Curriculum Manager

**Copies to:** Learner, Tutor, Course Team Leader, Completed electronically in ProMonitor.

The College prefers to adopt a supportive approach to disciplinary proceedings when appropriate and possible. In incidents of minor misconduct, it is generally most effective to act quickly and at an informal level.

The Tutor should establish the facts relating to the incident and take action to bring the inappropriate behaviour to the attention of the learner. A clear indication of future expectations should be explained to the learner and the most appropriate course of action taken by the Tutor.

#### 3.12.1 Possible Outcomes

**1. No further action to be taken**

No record of the discussion will be made or retained.

**2. Record of Concern is documented**

The Record of Concern Form QAF 1.04A is completed which highlights the issue and details the agreed action(s) is completed electronically in ProMonitor. The

Tutor will confirm to the learner that any re-occurrence will result in further disciplinary action.

### 3. Verbal Warning

The Tutor will issue a verbal warning to the learner and confirm that any repeated or persistent violation will result in further disciplinary action at stage 3. The Record of Concern form QAF 1.04A should show that a verbal warning has been issued and detail agreed action(s) completed electronically in ProMonitor.

### 4. Progression to a different stage of the disciplinary procedure

The Tutor may decide that the incidence is more serious than Minor Misconduct and that it would be more appropriate to follow the disciplinary procedure at a higher level. Follow the process for the stage that is most appropriate to the incident.

The learner should be advised of the appeals process where appropriate.

## 3.13 Stage 3 – Serious Misconduct

**Issued by:** Curriculum Manager or delegated ACM  
**Level sanctioned by:** Safeguarding Officer  
**Appeal to:** Assistant Principal Teaching & Learning  
**Copies to:** Learner, Course Team Leader, Safeguarding Officer, Advice & Guidance, Parent/Guardian, Employer, Completed electronically in ProMonitor.

When there is an alleged instance of Serious Misconduct, the Curriculum Manager needs to be informed immediately. A clear, written statement providing full details of the incident should be completed by the relevant member of staff on form QAF 1.04K. The Curriculum Manager or delegated ACM will immediately nominate an independent Investigating Officer who will be responsible for conducting a full and comprehensive investigation of the alleged instance. The Investigating Officer should collect all relevant evidence such as witness testimonies, evidence and record including a detailed statement from perpetrator. Detailed notes must be kept.

The Curriculum Manager or delegated ACM should review the details of the investigation and gain agreement from the Safeguarding Officer on the appropriate stage of the disciplinary. This consultation will ensure that there is cross College consistency on the stage of the disciplinary policy adopted.

The learner should be issued with form QAF 1.04B providing them with at least 5 days' notice of the disciplinary hearing. For convenience to them, this should be arranged for when they would normally be scheduled to attend College. The form should show full details of the alleged incident and a copy of the disciplinary policy should be attached. A copy of QAF 1.04B should be sent to Advice & Guidance who will create a disciplinary support file and contact the learner to offer their services and arrange appropriate support throughout the disciplinary procedure.

At least 48 hours prior to the hearing, the learner must be provided with copies of any documentation that will be used as evidence. Only if a witness believes that harm may come to them if their evidence is shown to the learner may this be anonymised or withheld until the hearing. If evidence is contained within CCTV footage, the learner will be advised that he/she has the right to view the footage under supervision at a pre-arranged time and have a parent/guardian, member of Learner Services or any other representative present. This is subject to maintaining conditions that ensure compliance to the Data Protection Act 1998.

**NB.** It should not take more than 10 working days from incident being reported to the disciplinary hearing – see Appendix A.

The learner may be accompanied at this hearing by a friend, family member or other representative acting in a supportive capacity. Disabled learners can also be accompanied by a support worker as appropriate to their needs.

If the learner fails to attend the hearing without good cause, it may be decided to reschedule or continue with the hearing in his/her absence.

Parents/guardians (the named 'next of kin' as shown on EBS) should be informed and invited to attend the hearing where learners are under 18 years of age or perceived as a vulnerable adult in most situations.

Employers, Training Officers, Youth Offending Team, Probation and/or Job Centre may be informed and invited to attend the hearing if the learner is on release and employer sponsored or part of a mandatory work/study programme.

The Curriculum Manager or delegated ACM may instigate a home visit if the learner is under the age of 18 years or a vulnerable adult when there was no parent/guardian representation at the hearing. Contact Advice & Guidance for further advice.

### 3.13.1 **The Hearing**

The Curriculum Manager or delegated ACM, Investigating Officer and an independent note taker will be present at the hearing. If the note taker intends to use a Livescribe Pen, the attendees need to be advised at the start of the hearing that the discussion will be recorded.

The Investigation Officer will present details of the alleged incident together with any supporting evidence. The learner will then present their side of the case. The advocates of the learner may also take the opportunity to speak at the hearing particularly if they are aware of any mitigating circumstances surrounding the alleged incident.

The hearing should be adjourned for up to 30 minutes to allow the Curriculum Manager or delegated ACM some time to consider the findings. They should use the evidence gathered during the investigation and the presentations during the hearing to determine the most appropriate outcome. In exceptional circumstances the Curriculum Manager or delegated ACM may require additional time to reflect on the evidence prior to making their decision. In these cases the outcome may be deferred for up to 2 working days. The learner must be kept informed of the timescales for the communication of the outcome.

Once a decision has been reached, the hearing should be reconvened and the learner advised of the outcome. The learner should also be made aware of the appeals process at this time.

### 3.13.2 **Possible Outcomes**

#### 1. **No further action to be taken**

All records relating to the investigation and interview will be disposed of as confidential waste.

#### 2. **Written Warning in the form of Notice for Improved Behaviour**

The Curriculum Manager or delegated ACM should complete the Notice for Improved Behaviour QAF 1.04D form which is signed by both the Curriculum Manager or delegated ACM and learner. This shows the agreed action(s) by the



learner and the College with specified timescales for improvement.

The Curriculum Manager or delegated ACM will make it clear to the learner that any repeated or persistent violation of the Notice for Improved Behaviour within the prescribed timescales will result in further disciplinary action.

### 3. Go to a more appropriate stage of the Disciplinary Procedure

The Curriculum Manager or delegated ACM may decide that the incidence does not constitute Serious Misconduct and that it would be more appropriate to follow the disciplinary procedure at a different level. Follow the process for the most appropriate stage as detailed in this document.

#### 3.13.3 Documentation

A record of the hearing including any agreed actions must be made on QAF 1.04C – Record of learner Interview completed electronically in ProMonitor. For outcome 3 or 4, a copy of form QAF 1.04D or a letter detailing further action will be issued to the learner within 5 days of the hearing. Where appropriate, copies will be sent separately to Employers, Training Officers, Youth Offending Team, Probation and/or Job Centre.

A copy should also be sent separately to the parents/guardians of learners who are under the age of 18 or perceived as a vulnerable adult.

All original documentation relating to the Stage 3 investigation and hearing must be retained on the learner's file held in the Curriculum Office throughout the duration of the course programme.

This includes all evidence and the original QAF 1.04D completed electronically in ProMonitor.

Advice & Guidance will hold duplicate copy documentation in the learner disciplinary support file held in their office.

#### 3.14 Stage 4 – Gross Misconduct

**Issued by:** Assistant Principal Teaching & Learning

**Level sanctioned by:** Safeguarding Officer

**Appeal to:** Vice Principal for Contract for Improved Behaviour. The Principal will hear appeals for Exclusion

**Copies to:** Learner, Course Team Leader, Safeguarding officer Advice & Guidance, Parent/Guardian, Employer, Completed electronically in ProMonitor.

When there is an alleged instance of Gross Misconduct, the Assistant Principal Teaching & Learning needs to be informed immediately. A clear, written statement providing full details of the incident should be completed by the relevant member of staff. The Assistant Principal Teaching & Learning will immediately nominate an independent Investigating Officer who will be responsible for conducting a full and comprehensive investigation of the alleged instance. The Investigating Officer should collect all relevant evidence such as witness testimonies, evidence and records. Detailed notes must be kept.

Where a learner has escalated through to stage 4 of the disciplinary process due to a lack of sustained and significant improvement, the same Investigating Officer should be used to carry on the investigation. They should continue from the Stage 3 investigation, review progress made against the agreed actions documented in the

Notice for Improved Behaviour and collect any new evidence relevant to the Stage 4 investigation.

The Assistant Principal Teaching & Learning should review the details of the investigation and, in conjunction with the Safeguarding officer, agree the stage of the disciplinary. This consultation will ensure that there is cross College consistency on the stage of the disciplinary policy adopted.

The learner should be issued with form QAF 1.04B providing them with at least 5 days' notice of the disciplinary hearing. For convenience to them, this should be arranged for when they would normally be scheduled to attend College. The form should show full details of the alleged incident and a copy of the disciplinary policy should be attached. A copy of QAF 1.04B should be sent to Advice & Guidance who will create a disciplinary support file. They will contact the learner to offer their services and arrange appropriate support throughout the disciplinary procedure and advise them that they will be in attendance at the hearing.

At least 48 hours prior to the hearing, the learner and the panel members must be provided with copies of any documentation that will be used as evidence. Only if a witness believes that harm may come to them if their evidence is shown to the learner may this be anonymised or withheld until the hearing. If evidence is contained within CCTV footage, the learner will be advised that he/she has the right to view the footage under supervision at a pre-arranged time and have a parent/guardian, member of Learner Services or any other representative present. This is subject to maintaining conditions that ensure compliance to the Data Protection Act 1998.

**NB.** It should not take more than 10 working days from incident being reported to the disciplinary hearing – see Appendix A.

The learner may be accompanied at this hearing by a friend, family member or other representative acting in a supportive capacity. Disabled learners can also be accompanied by a support worker as appropriate to their needs.

If the learner fails to attend the case conference it will be rescheduled. A second invite will be issued with explicit instructions that further failure to attend without good reason will result in the case conference taking place in his/her absence.

Parents/guardians (the named 'next of kin' as shown on EBS) may be informed and invited to attend the hearing, where learners are under 18 years of age or perceived as a vulnerable adult.

Employers, Training Officers, Youth Offending Team, Probation and/or Job Centre may be informed and invited to attend the hearing if the learner is on release and employer sponsored or part of a mandatory work/study programme.

If appropriate, the Assistant Principal Teaching & Learning may instigate a home visit if the learner is under the age of 18 years or a vulnerable adult when there was no parent/guardian representation at the hearing. This will only be exercised if it is believed that parent/guardian support is needed. Contact Advice & Guidance for further advice.

### 3.14.1 **The Hearing**

The hearing panel will consist of the Assistant Principal Teaching & Learning (Chair), The Assistant Principal Learner Services & Quality (Advice) and another independent member of staff. The College reserves the right to use nominated representatives.

Also present at the hearing but not on the panel is the Investigating Officer and an independent note taker to record the details of the proceedings. If the note taker intends to use a Livescribe Pen, the attendees need to be advised at the start of the hearing that the discussion will be recorded.

The Investigating Officer will present details of the alleged incident together with any supporting evidence. The learner will then be given the opportunity to present their side of the case. The advocates of the learner may also take the opportunity to speak at the hearing particularly if they are aware of any mitigating circumstances surrounding the alleged incident. All accounts should be limited to the allegation of gross misconduct.

Further evidence cannot be considered by the Panel after the hearing without the learner having the opportunity to comment.

When deciding on the outcome, the panel should consider:-

- the seriousness of the case;
- the impact on learners and staff;
- the standing of the College as a centre for excellence in learning; and
- the circumstances of the individual e.g. adherence to previous contracts, other misdemeanours etc.

The hearing should be adjourned for up to 30 minutes to allow the panel time to consider the evidence. If the panel requires additional time to reflect on the evidence prior to making their decision, the outcome may be deferred for up to 2 working days. The learner must be kept informed of the timescales for the communication of the outcome.

Once a decision has been reached, the Hearing Panel should reconvene and the learner advised of the outcome. The learner should also be made aware of the appeals process at this stage.

### 3.14.2 Possible Outcomes

1. **No further action to be taken/The case is dismissed**

All records relating to the investigation and interview will be disposed of as confidential waste.

2. **Go to a more appropriate stage of the Disciplinary Procedure**

The Disciplinary Panel may decide that the incidence does not constitute Gross Misconduct and that it would be more appropriate to follow the Disciplinary Procedure at a lower level. Follow the process for the relevant stage of the Disciplinary Procedure as detailed above.

3. **Contract for Improved Behaviour**

The Assistant Principal Teaching & Learning will issue a Contract for Improved Behaviour QAF 1.04D form which should also be signed by the Learner.  
Completed electronically in ProMonitor.

The Contract will clearly state the actions required by the learner and the College, timescales for improvement and regular monitoring. It will detail the support which will be in place to assist them in achieving their targets and state any relevant sanctions or conditions that have to be met.

The learner must show sustained improvement within 4 weeks and attend 2 monitoring reviews with an appropriate member of staff (reviewing officer) nominated by the Panel. If the learner does not meet the full contract requirements but it is inappropriate to exclude the learner at that stage, the

Assistant Principal Teaching & Learning will issue a Final Contract for Improved Behaviour QAF 1.04D. It will be made clear to the learner that failure to meet the full conditions of the Final Contract for Improved Behaviour will most likely result in exclusion from the College.

Where monitoring reviews confirm that the Learner is unable or unwilling to meet the full conditions of the Final Contract for Improved Behaviour, the reviewing officer will request that the Disciplinary Panel reconvene to authorise the exclusion of the learner.

#### **4. Exclusion**

If the Disciplinary Panel decides to exclude the learner from the College, form QAF 1.04F should be completed and signed by all members of the panel. A Letter of Exclusion QAF 1.04G must be sent to the learner within 2 working days of the decision setting out the conditions of the exclusion e.g. permanent or for a fixed period. The letter will also include information regarding the learner's right of appeal and suggest that the learner contact a member of the Advice & Guidance Team to arrange an appointment with a Personal Advisor at C & K Careers in Halifax, Huddersfield or Dewsbury.

The representative from Advice & Guidance is responsible for advising the Security Team and Reception of the details of any learner that is excluded from the College. This should be carried out as soon as is possible after the disciplinary hearing. They also need to inform the ACM, curriculum Manager and central data. The learner details on EBS will be updated immediately to show the learner's status as excluded and the learner ID card will be deactivated. This will also be recorded on Pro-Monitor.

There is a duty on the College to inform local authority support services if a young person has had their opportunity to study in the College removed. A young person is currently defined as age 16 or 17 but from summer 2015 this will also include 18 year olds and early College transfers. The Advice & Guidance Team will take responsibility for this action in order to conform with section 13 of the Education and Skills Act 2008.

#### **3.14.3 Documentation**

A record of the hearing including any agreed actions must be made. For outcomes 2, 3 or 4, a copy of form QAF 1.04D or a letter detailing further action will be issued to the learner within 5 days of the hearing. Where appropriate, copies will be sent separately to Employers, Training Officers, Youth Offending Team, Probation and/or Job Centre. This will also be recorded on Pro-Monitor.

A copy should also be sent separately to the parents/guardians of learners who are under the age of 18 or perceived as a vulnerable adult.

All original documentation relating to the Stage 4 investigation and hearing must be retained on the learner's file held in the Curriculum Office throughout the duration of the course programme.

This includes all evidence and original QAF documentation.

Advice & Guidance will hold duplicate copy documentation in the learner disciplinary support file held in their office.

### 3.15 Disciplinary for 14 – 16 year old learners (including Early College Transfers)

The main body of the College's disciplinary policy and procedure focuses on the behaviour of post 16 learners. The majority of this policy and procedure can be applied to 14 –16 learners who study at the College but additional elements need to be considered particularly at stage 4 - gross misconduct.

The following actions need to be followed when a disciplinary incident involves a 14-16 learner:

- The tutor must inform the School Liaison Officer who will inform the partner school as agreed in the service level agreement.
- Any learner involved in a disciplinary hearing at stages 3 and 4 will be informed of their right to be supported by a member of school staff Parent or Guardian. Please note that 14-16 learners involved in a stage 4 disciplinary cannot be excluded however they can have their opportunity to study in the College removed.
- If the conduct of the learner warrants the learner to be suspended pending further investigation then the School Liaison Officer must contact and agree with the school and parent/guardian to arrange the most suitable and safe way for the learner to either return to school or to go home.
- All correspondence with the learner and their parent/guardian must be copied to the identified member of school staff and School Liaison Officer. This will also be recorded on Pro-Monitor.

### 3.16 Right of Appeal

The learner has the right of appeal at all Stages of the disciplinary process. Appeals should be submitted within 5 working days from the date on the Letter or Contract being issued. The learner has the right to contact Advice & Guidance for help in preparing and submitting an appeal.

The following maybe considered as grounds for appeal but the list is not exhaustive or exclusive:-

- The evidence failed to support the outcome of the hearing;
- The outcome was disproportionate to the misconduct;
- Relevant new evidence has come to light;
- The procedure was operated unfairly to the learner's disadvantage;

The hearing must take place within 5 working days of the appeal letter being received in the College. The person responsible for conducting the appeal will send the learner a Notice of Disciplinary Appeal Hearing Form QAF 1.04H. This will inform the learner of their rights to be accompanied by their parent/guardian, member of Advice & Guidance or any other representative and the date when the hearing will take place.

If any party requires additional time to prepare for the appeal, this must be agreed in advance by both parties.

The Principal reserves the right to decline an appeal in writing in exceptional circumstances.

### 3.16.1 Appeals Panel

#### Stage 1 & 2

The ACM will hear the appeal supported by the Student Safeguarding Officer. There will also be an independent note taker present.

#### Stage 3

The Assistant Principal Teaching & Learning will hear the appeal supported by the Assistant Principal Learner Services & Quality. The Chair or a representative from the original Hearing Panel will also be present with an independent note taker.

#### Stage 4 Contract/Final Contract for Improvement

The Vice Principal Learning & Achievement will hear the appeal supported by an independent Assistant Principal who has not previously been involved in the case. There will also be the Chair or a representative from the original Hearing Panel present and an independent note taker.

#### Stage 4 Exclusion

The Principal will hear the appeal supported by an independent Vice Principal who has not previously been involved in the case. There will also be the Chair or a representative from the original Hearing Panel present and an independent note taker.

### 3.16.2 Appeals Hearing

If the note taker intends to use a Livescribe Pen during the Hearing, all attendees need to be advised at the start of the discussion that it will be recorded.

The Chair or a representative from the original Hearing Panel will present a summary of the details of the alleged incident together with any additional supporting evidence. The learner is then given the opportunity to present the details of their appeal together with any evidence. The advocates of the learner may also take the opportunity to speak. All accounts should be limited to the disciplinary allegation.

When deciding on the outcome, the panel should consider:-

- Did the evidence fail to support the outcome of the hearing?
- Was the outcome disproportionate to the misconduct?
- Has relevant new evidence come to light?
- Was the procedure operated unfairly to the learner's disadvantage?

The hearing should be adjourned for up to 30 minutes to allow the panel time to consider the findings. If the panel requires additional time to reflect on the evidence prior to making their decision, the outcome may be deferred for up to 5 working days. The learner must be kept informed of the timescales for the communication of the outcome.

Once a decision has been reached, the Appeals Panel should reconvene and the learner advised of the outcome.

### 3.16.3 Possible Outcomes

#### 1. The original disciplinary outcome is unchanged

#### 2. The original disciplinary outcome is changed

The Appeal Panel may decide that the original outcome was incorrect and one of the following is more appropriate:-

- a. The disciplinary action is withdrawn completely
- b. The original disciplinary outcome should be at a lower level

- c. The original disciplinary outcome should be at a higher level

If a learner's appeal against exclusion has been changed, EBS should be updated to allow access back into College. The representative from Advice & Guidance will advise the Security Team and Reception. This will also be recorded on Pro-Monitor.

#### 3.16.4 Documentation

A letter confirming the outcome from the Appeal Hearing is issued to the learner confirming the decision within 2 working days. Where appropriate, a copy of the letter will be sent separately to Employers, Training Officers, Youth Offending Team, Probation and/or Job Centre.

A copy of the letter will be sent separately to the parents/guardians of learners who are under the age of 18 or perceived as a vulnerable adult.

All original documentation relating to the Appeal Hearing including a record of the hearing must be retained on the learner's file held in the Curriculum Office. Copy documentation will be held in the learner disciplinary support file in Advice & Guidance. This will also be recorded on Pro-Monitor.

**Related Forms & Guidance** (can be retrieved on Staff Moodle College Policies & Procedures)

**QAF 1.04A** – Record of Concern FORM Completed electronically in ProMonitor.

**QAF 1.04B** – Notice of Request for Attendance at Disciplinary Interview LETTER

**QAF 1.04C** – Record of learner Interview Completed electronically in ProMonitor

**QAF 1.04D** – Improved Behaviour FORM Completed electronically in ProMonitor

**QAF 1.04E** – Suspension LETTER

**QAF 1.04F** – Decision to Exclude learner FORM

**QAF 1.04G** – Exclusion LETTER

**QAF 1.04H** – Notice of Appeal Hearing

**QAF 1.04J** – Incident Report Form

**QAF 1.04K** – Code of Conduct

**QAF 1.04L**– Role of an Investigating Officer (Guidance)

**QAF 1.04M**– Learner Guide to Disciplinary Procedure (Guidance)

**QAF 1.04N**– Chair Guideline for Disciplinary Policy (Guidance)

**QAF 1.04P**– Guidance on the use of ProMonitor (Guidance)

## 4 MONITORING

## 5 LINKS TO OTHER POLICIES/PROCEDURES/DOCUMENTS

## Appendix A

Working Days	Events	College Responsibilities	Learner Responsibilities
1	<b>Incident/Suspension</b>	Complete record of concern	
2	<div style="border: 1px solid black; background-color: #e0e0e0; padding: 2px; width: fit-content; margin: 0 auto;">Max 10 working days</div>	Issue suspension letter & notice of Hearing	
3		Appoint the Investigating Officer	
4		Investigation	
5		Investigation	
6		Investigation	
7		All evidence sent to learner	
8		<div style="border: 1px solid black; background-color: #e0e0e0; padding: 2px; width: fit-content; margin: 0 auto;">Min 5 working days</div>	
9	<div style="border: 1px solid black; background-color: #e0e0e0; padding: 2px; width: fit-content; margin: 0 auto;">Min 2 working days</div>		
10	<b>Disciplinary Hearing</b>		Attend the hearing
11	<div style="border: 1px solid black; background-color: #e0e0e0; padding: 2px; width: fit-content; margin: 0 auto;">Max 2 working days</div>		
12		<b>Decision Meeting</b> <i>(if decision deferred)</i>	
13			
14			
15	<b>Outcome Documents sent to learner</b>		
16	<div style="border: 1px solid black; background-color: #e0e0e0; padding: 2px; width: fit-content; margin: 0 auto;">Max 5 working days</div>		Review the documents and if required, prepare appeal letter
17			<div style="border: 1px solid black; background-color: #e0e0e0; padding: 2px; width: fit-content; margin: 0 auto;">Max 5 working days</div>
18			
19			
20			Last day to send appeal letter
21		Issue Notice of Appeal Hearing to learner	
22	<div style="border: 1px solid black; background-color: #e0e0e0; padding: 2px; width: fit-content; margin: 0 auto;">Max 5 working days</div>	Investigation	
23		Investigation	
24		Investigation	
25		Investigation	
26	<b>Appeal Hearing</b>		
27	<div style="border: 1px solid black; background-color: #e0e0e0; padding: 2px; width: fit-content; margin: 0 auto;">Max 5 working days</div>		
28			
29			
30			
31	<b>Decision</b>		
32	<div style="border: 1px solid black; background-color: #e0e0e0; padding: 2px; width: fit-content; margin: 0 auto;">Max 2 working days</div>		
33	<b>Outcome Documents sent to learner</b>		



## 6 POLICY REVIEW

Review Date	Reviewed by:	Policy Changes	Approved by:	Next Review Date:	Review Period
May 2018	Assistant Principal Quality and Learner Services		Assistant Principal Quality and Learner Services	May 2020	1 Year
May 2020					

## 7 EQUALITY IMPACT ASSESSMENT

First Assessment Conducted by:	Date:	Final/Approved Assessment Conducted by:	Date:
David Ellis Quality Systems Manager	04/05/2018	David Ellis Quality Systems Manager	04/05/2018

## 8 PUBLICATION

Audience:	Published:
Staff	Staff Intranet
Students	Moodle