

Learner Disciplinary Policy and Procedure

Quality Assurance – Document Control	
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Learner Disciplinary Policy

Aim

The aim of this policy is to set out the informal and formal stages which will be followed when a learner behaves in ways which go against the expected codes of conduct in the college, as set out in the Learner Handbook.

Policy Statement

This policy applies to all learners aged over 16 on 31st August in the current year. There is a separate policy and procedure for younger learners.

The college wants all learners to succeed on their course and be well prepared to progress to the next level of learning or into employment.

All learners attending courses at Liverpool Community College are expected to keep to the Learner Agreement about behaviour and work. This is set out in the **Learner Handbook**.

Individual courses may have additional expectations linked to professional practice for example. These are set out clearly in the **Course Guide** or in other written instructions from college staff, such as those to do with work placement.

If a learner behaves in a way which goes against the expected codes of conduct in the college or for the course, disciplinary action may be taken.

Staff will give advice to learners during the early stages of the procedure. They may refer the learner to a learning mentor or Connexions personal adviser if this is appropriate. Young learners (16-18) who are dismissed will automatically be referred to Connexions. If a learner is in public care or has a learning difficulty and/or disability, the referral to Connexions applies up to the age of 25.

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Learner Disciplinary Procedure

A one-page summary of the procedure is available on the Staff and Learner Intranets.

Stage 1 - Informal Verbal Warning

- 1.1 Any member of Liverpool Community College staff can issue an **Informal Verbal Warning** to a learner concerning her/his behaviour or work effort. The learner's personal tutor (full-time learners) or course tutor (part-time learners) should be informed if the warning is issued by another member of staff.
- 1.2 An **Informal Verbal Warning** will be used to
- ask for unacceptable behaviour to stop
 - draw the attention of the learner to areas where improvement is needed
 - try to identify reasons for the problem.
- Staff will offer guidance and support to help the learner to improve her/his behaviour or work effort.

There is no appeal at this stage.

Formal Stages

- 1.3 Where an Informal Warning issued by any member of staff has not succeeded in changing standards of behaviour or work effort the member of staff will inform the learner's course tutor, who may then start the Disciplinary Procedure.

These are the formal stages of the Disciplinary Procedure:

Stage 2	Formal Verbal Warning
Stage 3	Written Warning
Stage 4	Final Written Warning
Stage 5	Dismissal.

In some cases the offence may be so serious that these stages cannot be followed in sequence. This would happen, for example, where gross misconduct is alleged or where the safety and/or welfare of learners or staff is thought to be at risk. Gross misconduct is explained in paragraph 5.3.

Stage 2 - Formal Verbal Warning

- 2.1 A **Formal Verbal Warning** will be issued by a Course Tutor or nominee if:
- a learner has not improved her/his behaviour or effort following an Informal

Verbal Warning

- the matter is serious enough to need to be recorded formally.

2.2 The following are examples where a **Formal Verbal Warning** will be given:

- failure to follow instructions given by a member of College staff or someone acting for the College (such as a work placement supervisor).
- disruptive or unacceptable behaviour in or around college buildings.
Depending on how serious this is, a learner may receive a Formal Verbal Warning or a First Written Warning. Examples include insulting others, bullying, verbal abuse or rudeness, using language which offends others.
- repeated problems of poor attendance or punctuality.
- repeated problems with the quality of work produced or of handing it in on time.
- action which could be seen as harassment of a fellow learner or member of staff (for definition of harassment, see the Equality through Quality section in the Learner Handbook).

2.3 The learner will be informed that she/he is to be given a Formal Verbal Warning. The learner may be accompanied by another person such as a friend or a member of the Enrichment Team.

It will be clearly explained to the learner whether action is being taken because of poor behaviour or poor work effort, and the learner will be given a copy of the Learner Disciplinary Procedure.

If a learner is following more than one course, a formal verbal warning will apply to all her/his courses.

Support and guidance will be offered to the learner to help improve behaviour and avoid the need for further action. This can include a Learning Mentor or a Connexions Personal Adviser, both accessed via Learner Services. This will be recorded on the form.

2.4 The member of staff who has issued the Formal Verbal Warning will record the details on **Form 1**. The form will be passed on to the learner's Personal Tutor (full-time courses) or Course Tutor (part-time courses) and filed in the learner's Individual Learning Plan folder. A copy should be sent to the CIS Information Officers (learners), currently Andrew Barrow, who will enter the record on the centralised learner database. The warning will be issued for a period of 6 months.

Stage 3 - First Written Warning

- 3.1 A **First Written Warning** will be issued by a Course Tutor (having sought advice from a Curriculum Group Manager) or by a Curriculum Group Manager if:
- the learner commits a serious offence, or the standard of her/his behaviour or work effort is seriously unsatisfactory
 - the learner does not keep to the terms of a Formal Verbal Warning
 - despite being given a Formal Verbal Warning the learner continues to behave in an unsatisfactory way.
- 3.2 The following are examples where a **First Written Warning** will be given:
- not following instructions so that the smooth running of a course or the progress of learners are disrupted.
 - the learner's work effort is affecting the learner or other learners' chances of gaining accreditation. This may be because of delays in producing work which affects a group project.
 - several instances of poor behaviour which may not be individually serious but are part of a general pattern which has not improved since giving a Formal Verbal Warning.
 - showing signs of being mildly affected by alcohol or illegal drugs
 - repetition of behaviour which has already been the cause of a Formal Verbal Warning.
 - serious cases of disruptive or unacceptable behaviour – see examples in Section 2.
- 3.3 The **First Written Warning** will give details of the complaint against the learner. It also says what improvement is required within a set time limit. **(Form 2).**
- In the case of **misconduct**, the warning will state that, if the learner commits further misconduct during the period specified in the warning, further action set out below will be considered.
 - In the case of unsatisfactory work effort, the warning will tell the learner what steps she/he should take to improve and will state that, unless such improvement takes place within the period set out in the warning, further action will be considered.
 - If a learner is following more than one course, a First Written Warning will apply to all her/his courses.
 - This warning will be issued for a period of up to 2 years and will be noted in the college's centralised learner records.
 - Support and guidance will be offered to the learner to help improve performance and avoid further action. This can include a Learning Mentor or a Connexions Personal Adviser, both accessed via Learner Services.

This must be recorded on the form.

3.4 The **First Written Warning** (Form 2) will be given to the learner.

Copies will be held by the Personal Tutor (full-time courses) or Course Tutor (part-time courses) and relevant Curriculum Group Manager. A copy should be sent to the CIS Information Officers (learners), currently Andrew Barrow, who will enter the record on the centralised learner database.

If a learner is aged 16 or 17 on 31st August at the start of the current academic year, or 16-24 if the learner has a learning difficulty and/or disability, a copy of the First Written Warning will be sent to the parent/carer.

Stage 4 - Final Written Warning

4.1 A **Final Written Warning** will normally be issued by a Curriculum Group Manager if:

- the learner fails to keep to the terms of a First Written Warning
- the learner continues to behave in an unsatisfactory way despite having been given a First Written Warning
- the learner's misconduct or unsatisfactory work effort is serious enough to justify a single written warning which combines the first and final written warnings.

4.2 The following are examples where a **Final Written Warning** will be given:

- continuing to behave in an unacceptable way. Although individual incidents may not be serious they form part of a persistent pattern which has not improved since a Formal Verbal Warning or a First Written Warning were given. (See 2.2.)
- not following instructions given so putting themselves or others in danger.
- breaking the rules of an awarding body such as copying someone else's work.
- using illegal drugs near college buildings.
- being involved in a scuffle. Depending on the seriousness of the offence, this may result in suspension and dismissal.
- gross verbal abuse or rudeness to a member of staff.

4.3 This **Final Written Warning** will give details of the complaint, the improvement required and the time limit within which such improvement must take place. **(Form 3)**.

- In the case of **misconduct**, the warning will state that, if the learner commits a further offence during the time limit set out in the warning, she/he may be liable to be dismissed from the College.

- In the case of unsatisfactory **work effort**, the warning will tell the learner what steps she/he should take to improve and will say that, unless such improvement is achieved within the period set out in the warning, she/he may be liable to be dismissed from that course.
- If a learner is following more than one course, a final or single written warning will apply to all her/his courses.
- This warning will be issued for a period of up to 2 years and will be noted in the college's centralised learner records.
- The Final Written Warning will also advise the learner of the right of appeal **(see sections 6 and 7)**
- Support and guidance will be offered to the learner to help improve performance and avoid further action. This can include a Learning Mentor or a Connexions Personal Adviser, both accessed via Learner Services. This must be recorded on the form.

If a learner is aged 16 or 17 on 31st August at the start of the current academic year, or 16-24 if the learner has a learning difficulty and/or disability, a copy of the Final Written Warning will be sent to the parent/carer.

4.4 The **Final Written Warning** (Form 3) will be given or sent to the learner.

Copies will be held by the Personal Tutor (full-time courses) or Course Tutor (part-time courses), Curriculum Group Manager and the Head of Faculty. A copy should be sent to the CIS Information Officers (learners), currently Andrew Barrow, who will enter the record on the centralised learner database.

Stage 5 - Suspension and Dismissal from the College, certain College Centres or from a course

- 5.1 If it is thought that gross misconduct has happened, the Head of Faculty or nominated manager can suspend the learner/s from College to allow an investigation to take place. The investigation will be carried out by a Curriculum Group Manager responsible for the learner's course and the result will be reported back to the Head of Faculty.

If the Head of Faculty or nominated manager is not available, any college manager can suspend a learner or learners in the interests of health and safety. This applies particularly to disorderly, aggressive or violent behaviour.

- 5.2 A **suspension** will take place if gross misconduct is thought to have taken place.

This is misconduct serious enough to end the contract between the College and the learner. This may amount to total exclusion from **all** centres and

services of the college and may include being excluded from returning to take examinations.

- 5.3 The following are examples of gross misconduct:
- continuing to behave in an unacceptable way following a Final or Single Written warning
 - theft, attempted theft or unauthorised possession of any items belonging to the College or to any learner or employee
 - serious damage deliberately caused to College property or seriously attempted damage to College property
 - serious incapability as a result of being under the influence of alcohol or illegal substances in or near college buildings
 - violent, dangerous, intimidatory or indecent behaviour on or near college buildings – for example, fighting.
 - deliberately breaking the College's health and safety rules
 - failing to follow the College's Equality Policy, for example by harassing another learner, a member of staff or a visitor to the College
 - using illegal drugs or dealing drugs on college premises
 - setting off a fire extinguisher or fire alarm when there is no fire
 - in exceptional circumstances the college reserves the right to suspend a learner if the learner's actions outside college seriously challenge the health, safety or welfare of other learners and/or staff.

The reason for the suspension will be confirmed in writing by the Head of Faculty concerned. **(Letter of Suspension).**

The Letter of Suspension will say whether the suspension applies to

- just one course or centre/work placement or to all courses and centres/work placements
- attendance at examinations.

It will also say that the learner must not contact other learners about the suspension or related matter(s) without the permission of the Head of Faculty who sent the Letter of Suspension. If the learner does not keep to this instruction, s/he may be dismissed without a Disciplinary Hearing.

- 5.4 The suspension letter will be given or sent to the learner and a copy will be held by the Head of Faculty.

If a learner is aged 16 or 17 on 31st August at the start of the current academic year, a copy of the Letter of Suspension will normally be sent to the parent/carer.

- 5.5 A Disciplinary Hearing will be called within 3 weeks of the date when the suspension takes effect. The learner will be given at least 5 working days' notice of the date, time and place fixed for the Disciplinary Hearing unless an earlier date has been agreed.

- 5.6 The hearing will be led by the Head of Faculty responsible for the learner's course unless s/he has been directly involved at earlier stages of the procedure (before the suspension was issued). In this case, another Head of Faculty will lead the hearing.
- 5.7 At the hearing, the learner will be invited to give evidence and may bring another person such as a friend or a member of the Enrichment Team. Legal representation is not allowed.
- 5.8 The Head of Faculty may ask another member of staff from outside the Faculty who has not been involved in the case to join him/her on the Disciplinary Hearing Panel.
- 5.9 The Disciplinary Hearing will follow the procedures set out in Appendix 1 of this document.
- 5.10 So that the hearing can be carried out in a fair and efficient way, the staff member presenting the case for dismissal and the learner will put forward proposals for witnesses to the Head of Faculty leading the panel. S/he has the right to place a reasonable limit on the number of witnesses which each side can bring to the hearing and to rule out any that may not be appropriate. Signed written statements may be presented from witnesses who do not attend the hearing and may be required by the Chair of the Panel. The Chair will decide whether it is appropriate to share the identities of the witnesses with the learner/s under investigation, having considered their safety and wellbeing.
- 5.11 The hearing may be stopped at any time if this seems necessary or desirable. If the hearing has been stopped in order to get more information, the nature of that information will be clearly stated. When a hearing is stopped, it will normally be for a stated period.
- 5.12 When the disciplinary hearing is complete, and after considering all the evidence, the person leading the hearing will state his/her decision and any disciplinary action, if any, to be taken. This will usually happen within 5 working days of the disciplinary hearing or by a date which is notified to the learner at the end of the hearing. The learner will be provided with details of the right to appeal and the procedure to be followed.
- 5.13 The panel will give special consideration to the support needs of a young person who is in care or is a care leaver (up to the age of 25) and will try to keep him/her in college.
- 5.14 If the learner or his/her representative do not attend the hearing, the panel will reach a decision on the basis of the evidence available.

- 5.15 The panel may decide to dismiss the learner if, following the disciplinary hearing, the panel decides that:
- the learner has failed to keep to the terms of a Final Written Warning (or further warning) **or**
 - has committed gross misconduct.
- 5.16 The reason for the dismissal will be confirmed in writing by the Head of Faculty dealing with the case. **(Letter of Dismissal).**

The Letter of Dismissal will say whether the dismissal applies

- just to one course or centre/work placement or to all courses and centres/work placements
- just to the current academic year or for a period up to the maximum two years.

The letter will also advise the learner of the right of appeal **(see sections 6 and 8).**

If a learner is aged 16 or 17 on 31st August at the start of the current academic year, or 16-24 if the learner has a learning difficulty and/or disability, a copy of the Letter of Dismissal will be sent to the parent/carer.

If a learner is sponsored by an employer, a copy of the letter will be sent to the employer.

- 5.17 When a learner is dismissed, the Head of Faculty dealing with the case will send a copy of the dismissal letter to the CIS Information Officer (learners), currently Andrew Barrow, who will enter the record on the centralised learner database.
- 5.18 The college will not enable an applicant to re-enrol until the period of the dismissal has passed.

Brief details of the case will be retained by the college for 5 years after the event. The reason for dismissal may be taken into account in deciding whether the person meets the requirements of the college's Admissions Policy, in particular whether s/he shows the 'ability to work cooperatively with others'

6 - Appeals

There are **three grounds for appeal.**

- 1) the procedures set out in this document have not been followed **or**
- 2) the learner has new evidence about the case **or**

- 3) the learner believes the decision reached is unfair or unreasonable.

7 - Appeal against a Final Written Warning

- 7.1 A learner who wants to appeal must write a letter, or ask someone to write for her/him, to be received by the Head of Faculty named on the Final Written Warning form within 10 working days of the date of the decision.
- 7.2 The letter must set out the grounds for appeal (see paragraph 6 above).
- 7.3 If the appeal has not been received in time, the Head of Faculty will write to inform the learner within 10 working days of receiving the letter of appeal.
- 7.4 If the appeal has been received in time, the Head of Faculty will invite the learner to a meeting within three term-time weeks after the letter has been received. At this Appeal Hearing the learner will be able to state her/his case and can bring another person with them. Legal representation is not allowed.
- 7.5 At the appeal, the disciplinary penalty will be reviewed. It may be reduced but it cannot be increased. The decision will be given to the learner in writing and will be final.

8 - Appeal against dismissal

- 8.1 A learner who wants to appeal must write a letter, or ask someone to write for her/him, to be received by the Head of Faculty named in the Dismissal letter within 10 working days of the date of the decision. This Head of Faculty will not have been involved in earlier stages of the disciplinary procedure.
- 8.2 The letter must set out the grounds for appeal (see paragraph 6).
- 8.3 If the appeal has not been received in time, the Head of Faculty will write to inform the learner within 10 working days of receiving the letter.
- 8.4 If the appeal has been received in time, the Head of Faculty will invite the learner to a meeting within three term-time weeks after the letter has been received. The learner will be given at least five working days notice of the date, time and place fixed for the meeting (the Appeal Hearing) unless an earlier date has been agreed.
- 8.5 The appeal will be considered by a **Learner Disciplinary Appeals Panel**. The Head of Faculty who has been asked to chair the panel will hear the appeal with a member of staff from Learner Services or a member of the College Academic Board.
- 8.6 At the Appeal Hearing, the learner will be able to state her/his case and can

bring another person such as a friend or member of the Enrichment Team. Legal representation is not allowed.

- 8.7 The Appeal Hearing will follow the procedures set out in Appendix 2 of this document.
- 8.8 The hearing may be stopped at any time if this seems necessary or desirable. If the hearing has been stopped in order to get more information, the nature of that information will be clearly stated. When a hearing is stopped, it will normally be for a stated period.
- 8.9 At the appeal the terms of dismissal will be reviewed. When the hearing is complete, and after considering all the evidence, the person leading the hearing will state his/her decision.

The panel may decide

- to lift the dismissal **or**
- to vary the terms of the dismissal, for example by replacing the learner's dismissal with a warning **or**
- to confirm the dismissal.

The decision of the College panel appointed to hear the appeal will be given to the learner in writing within five working days of the appeal hearing and will be final and binding.

If the learner wants to make a complaint about the way in which the disciplinary procedure has been followed, s/he should write to the local office of the Learning and Skills Council as follows:

Partnership Manager Liverpool
Learning and Skills Council Greater Merseyside
14th Floor
The Plaza
Old Hall Street
Liverpool L3 9QJ

Appendix 1

Procedure to be followed at a Learner Disciplinary Hearing

1. The Head of Faculty who is leading the hearing will introduce all those present and outline the procedure to be followed.
2. The Head of Faculty will ask a staff representative to make an opening statement and outline the case for dismissal.
3. Witnesses may be called by the member of staff presenting the case for

dismissal and will be questioned in this order:

- 1) by the member of staff presenting the case
- 2) by the learner and his/her representative
- 3) by the panel

The member of staff presenting the case may ask further questions.

4. The learner or his/her representative will present their case in defence.
5. Witnesses may be called to support the learner's case and will be questioned in this order:
 - 1) by the learner or his/her representative
 - 2) by the member of staff presenting the case
 - 3) by the panel

The learner or his/her representative may ask further questions.

Written statements will then be considered.

6. The member of staff presenting the case will make a short statement covering the main points of the case for dismissal.
7. The learner or his/her representative will make a short statement covering the main points of the case against dismissal.
8. Everyone except the panel will be asked to leave the room while the panel considers the information presented.
9. The chair of the panel may ask both sides to return if some points are unclear.
10. Both sides will be called back to hear the panel's decision or will be told when and how they will be notified if the panel needs more time to consider the case.
11. The Head of Faculty leading the hearing will provide information about the learner's right of appeal and the procedure to be followed.

Appendix 2

Procedure to be followed at an Appeal Hearing against dismissal

1. The Head of Faculty who is leading the hearing (the chair) will make sure that members of the panel have copies of the records of the case.
2. The Chair will introduce all those present and outline the procedure to be

followed.

3. The Chair will ask the learner (or his/her representative) why s/he is appealing.
4. Members of the panel will ask questions to make sure they have understood all the points made by the learner (or his/her representative).
5. No witnesses will be called at the Appeal. The decision of the Panel will be reached on the basis of the written record of the Disciplinary Hearing and the written evidence presented at that hearing.
6. The learner (and anyone with him/her) will then leave the room while the appeals panel members discuss the points made.
7. The Chair of the appeal panel may ask the learner/his/her representative back to answer more questions if some points are unclear.
8. The learner will be told that s/he will get the result of the hearing in a letter, normally within 5 working days.
9. The Chair of the appeals panel may ask members of the learner's course team for advice about special requirements made by certain examination boards or professional bodies.
10. **T**he dismissal will not take effect before the appeal process has been completed.