

7.8 Learner Disciplinary Procedure

7.8.1 Introduction

The college is committed to fair, equitable and appropriate disciplinary procedures

The Learner Disciplinary Procedure must be invoked where a learner has allegedly acted contrary to the [Learner Code of Conduct](#) or has allegedly carried out some such other activity which has been harmful to the college (other than academic misconduct which is dealt with under the [Academic Integrity and Misconduct Procedure](#)).

The Learner Disciplinary Procedure is intended to ensure a speedy and efficient resolution of issues. The aim is to prevent unnecessary delay whilst ensuring a full and fair assessment of the particular circumstances of an individual case

Learners are asked to become familiar with the expectations of the college as described in the Learner Code of Conduct, the Learner Handbook and in individual College policies and procedures to which they are subject, as well as the details of the Learner Disciplinary Procedure and their rights under this procedure.

7.8.2 Objective

- To set out the College Learner Disciplinary Procedure and learners' rights under this procedure.

7.8.3 Scope

The Learner Disciplinary Procedure is applicable to all learners of the College. Academic Misconduct is dealt with separately and as part of the [Academic Integrity and Misconduct Procedure](#).

7.8.4 Responsibility for implementation

- Learner
- Department Manager/Head of Faculty
- Chair of Disciplinary Board
- Secretary of Disciplinary Board
- Disciplinary Board
- Director of Academic Programmes
- College President

7.8.5 Definitions of Misconduct

In terms of misconduct, the college recognises that there is a distinction between a *minor infringement*, a *major infringement* and *gross misconduct* as defined below:

- i. **Minor Infringement:** Minor Infringements include, but are not limited to, noise, disorderly conduct and minor damage.

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- ii. **Major Infringement:** Major Infringements include but are not limited to, repeated minor offences, injury or threats to the person, harassment, bullying, abusive or dangerous behaviour, nuisance, damage to property, malicious tampering with and/or disabling of security and safety systems
- iii. **Gross Misconduct:** Gross Misconduct includes, but is not limited to, assault causing serious harm (including sexual assault), serious or repeated harassment, extreme nuisance, serious damage to property and use of illegal substances.

7.8.6 Standard of Proof

For the purpose of this Learner Disciplinary Procedure and having regard to the gravity of the matter for decision, a learner will be deemed to have acted contrary to the Learner Code of Conduct, or otherwise carried out some such other activity which has been harmful to the College, in circumstances where the adjudicating body is satisfied that the proof presented in support of the charge is beyond all reasonable doubt.

7.8.7 Right of Attendance and Representation at a Disciplinary Hearing and Appeal Hearing

In reference to this specific Learner Disciplinary Procedure, the following procedure refers is made to the learner's right to attend and be represented at a disciplinary hearing and an appeal hearing. The following points are relevant:

- A learner who is the subject of a disciplinary proceeding or who has requested an appeal hearing has the right to attend the hearing convened for the purpose of adjudicating the disciplinary hearing/appeal hearing, to be represented, to hear the evidence presented, to challenge the evidence on cross-examination and to present their own evidence
- A representative at a hearing may be a fellow learner, a relative, a friend, an adviser or a legal representative. Any costs associated with legal representation of the learner is borne by the learner unless the Chair of the Disciplinary Board so otherwise determines
- A representative may speak on behalf of the learner
- A learner may choose to be accompanied by a translator. Any costs associated with the appointment of a translator by the learner (other than one provided by the College) is borne by the learner, unless the Chair of the Disciplinary Board so otherwise determines.
- A learner who chooses not to be represented will be requested at the hearing to confirm in writing that they have been informed of their right of representation and have declined to exercise it.
- If a learner fails to attend the hearing, the hearing will proceed in the absence of the learner.

7.8.8 Suspension During Investigation

The college retains the right to suspend a learner suspected of misconduct whilst the investigation into the incident(s) is taking place. Such investigations must be conducted as quickly as possible

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The Chair of the Disciplinary Board must ensure that the learner is provided with formal notification of the suspension

An order of suspension may include a request that the learner should have no contact with a named person or persons.

7.8.9 Disciplinary Procedure

7.8.9.1 The following section describes the process which takes place when a complainant suspects that a learner has committed some form of misconduct which is contrary to the Learner Code of Conduct or has carried out some such other activity which has been harmful to the College.

- A complainant who suspects a case of misconduct should gather all available information and/or documentation about the incident and refer the case(s) to their Department Manager/Head of Faculty or to the Director of Academic Programmes if the complainant is the Department Manager/Head of Faculty.
- The relevant person should review all information and/or documentation available and discuss the suspected case of misconduct with the complainant and the learner. If the learner does not wish to challenge that misconduct has occurred the relevant person must document the outcome of the meeting, detailing the penalty which will be imposed [see section 7.8.10]. A copy of this document must be provided to the learner and kept on the learner's record for the appropriate period of time.
- If the learner wishes to challenge that misconduct has occurred, the relevant person (see section 7.7.4) should decide as to whether they consider that the suspected breach of conduct can be substantiated.
- Should the relevant person determine that the suspected misconduct cannot be substantiated, no further action will be taken and no record of the meeting will be retained.
- Should the relevant person determine that the suspected misconduct, if substantiated, is a *minor infringement* (see section 7.7.10 (i)) they must:
 - a. Notify the learner in writing 10 working days in advance of the hearing (or sooner by agreement with all parties) that the Faculty/Department is preparing a disciplinary case against them.
 - b. The relevant person must indicate the precise charge being made and the basic facts alleged to constitute the alleged offence.
 - c. They must also indicate the time, place and format of the scheduled disciplinary hearing, request the learner's attendance and inform the learner of their right of representation, right to hear the evidence presented, to challenge the evidence on cross-examination and to present their own evidence (as detailed in section 7.8.7 above).
- A person, other than the relevant person who has investigated the incident and normally with an equivalent role, must be appointed to act in the

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capacity of Chair of the Disciplinary Board and must meet the learner and the complainant together to adjudicate at the disciplinary hearing.

- Within 5 working days of the hearing, the Chair of the Disciplinary Board must notify the learner of the outcome of the hearing. Where the Chair of the Disciplinary Board is satisfied that an incident of misconduct has arisen, they will identify the associated disciplinary penalty [see section 7.8.10 below] and the learner's right of appeal.
- In the event of the learner choosing to exercise their right of appeal, the application of the disciplinary penalty will be suspended pending the outcome of the appeal. In the event of the learner not choosing to exercise their right of appeal, the disciplinary penalty will be applied

7.8.9.2 Should the relevant person determine that the suspected misconduct, if substantiated, is a *major infringement* (see 7.7.10 (ii)) or constitutes *gross misconduct* (see 7.7.10 (xi)) then:

- i. The relevant person must appoint a Disciplinary Board to conduct a disciplinary hearing into the allegation. The Disciplinary Board must consist of a person, other than the relevant person who has investigated the incident and normally with an equivalent role, and two other senior members of staff drawn from outside of the learner's faculty/department from which a Chair will be appointed. None of the members of the Disciplinary Board should have been previously directly involved with the allegation.
- ii. The relevant person must notify the learner in writing 10 working days in advance of the hearing (or sooner by agreement with all parties) that the Faculty/Department is preparing a disciplinary case against them. They must also indicate the time, place and format of the scheduled disciplinary hearing, request the learner's attendance and inform the learner of their right of representation, right to hear the evidence presented, to challenge the evidence on cross-examination and to present their own evidence (as detailed in section 7.8.7 above).
- iii. The Disciplinary Board must then meet with the learner and the complainant together to adjudicate at the disciplinary hearing.
- iv. Within 5 working days of the hearing, the Chair of the Disciplinary Board must notify the learner, in writing, of the outcome of the hearing. Where the Disciplinary Board is satisfied that an incident of misconduct has arisen, the Chair of the Disciplinary Board will identify the disciplinary penalty [see section 7.8.10 below] and the learner's right of appeal.
- v. In the event of the learner choosing to exercise their right of appeal, the application of the disciplinary penalty will be suspended pending the outcome of the appeal. In the event of the learner not choosing to exercise their right of appeal, the disciplinary penalty will be applied.

7.8.10 Outcomes

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- In the case of *minor infringements*, the Chair of the Disciplinary Board must issue an oral warning to the learner which will be effective for six months. A note must be retained on the learner's file until the six-month period has expired.
- In the case of *major infringements*, the Chair of the Disciplinary Board must issue a written warning which will normally be effective for 12 months unless otherwise stated at the time of issue. A copy of the written warning must be retained on the learner's file until the twelve-month period has expired.
- In the case of a second *major infringement*, the Chair of the Disciplinary Board must issue a final written warning that will normally be effective for the remainder of the learner's programme of study. A copy of the written warning must be retained on the learner's file until they have completed their programme or have otherwise withdrawn from the College.
- In the case of a *major infringement*, the circumstances may be considered so serious as to warrant the issuance of a final warning without prior warnings, such as if during the currency of an oral or first written warning a learner commits a further disciplinary offence, a final written warning may be issued (subject to a disciplinary hearing). A copy of the written warning must be retained on the learner's file until they have completed their programme or have otherwise withdrawn from the College.
- A *major infringement* subsequent to the issuance of a final warning will normally lead to the learner's expulsion. A permanent record of expulsion must be retained on the learner's file.
- In addition to, or in substitution for, an oral or written warning, the Chair of the Disciplinary Board may impose one or more of the following penalties:
 - a. That the learner gives a written undertaking as to their subsequent conduct within the College
 - b. That the learner gives a written or verbal apology
 - c. That the learner pays for any damage to property they have caused, or recompenses the college for any loss it may have suffered or for any costs incurred directly or indirectly from the learner's misconduct
 - d. The withdrawal of privileges, e.g. expulsion from a College service.
 - e. In the case of *gross misconduct*, the details of the disciplinary hearing will be reported to the College President and he will normally be asked to invoke his authority in summarily expelling the learner. The President must inform the authorities of the case as appropriate. A permanent record of expulsion must be retained on the learner's file.

7.8.11 Expulsion

On the recommendation of the Disciplinary Board, the President of the college, or his nominee, may expel a learner based on cumulative or summary evidence. An expulsion must be reported by the President to the next meeting of the Academic and Professional Council following the expulsion, without the identity of the learner concerned being divulged.

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7.8.12 Criminal Offences

If a learner is alleged to have behaved in such a manner that, if proven in a court of law, they would have committed a criminal offence the college may suspend the Learner Disciplinary Procedure and refer the matter to the appropriate authorities.

7.8.13 Illness

In cases where illness of whatever nature is perceived to be the cause of the behaviour which would normally warrant the Learner Disciplinary Procedure to be invoked, the college has the right to exclude/suspend the learner until such time as it is satisfied that they are fit to resume their studies.

7.8.14 Appeals

A learner wishing to make an appeal may do so, by invoking the College [Appeals Procedure](#).

7.8.15 Records and Follow Up

- i. Documentation pertaining to all alleged, investigated and (if applicable) confirmed instances of misconduct must be compiled and retained by the relevant person.
- ii. Documentation regarding penalties imposed for proven misconduct must be retained on the learner's file for the time periods indicated in section 7.8.10 above.
- iii. Documentation regarding expulsion will form a permanent record on the learner's file.

7.8.16 Confidentiality

Where the college is satisfied at any stage within these procedures that misconduct has not taken place, no documentation relating to the alleged misconduct and the associated investigations must be retained in the learner's file.

The disciplinary process, once entered into, is confidential to all parties. Therefore, it is essential that any individuals involved in the process respect this paramount need for confidentiality. Breaches of such confidentiality may lead to disciplinary action being taken.

7.8.17 Conduct of Disciplinary Hearings

For Guidance on the conduct of disciplinary hearings see [Appendix 47 'Guidance on the conduct of Disciplinary and Appeal Hearings'](#).
