

## LEARNER BEHAVIOUR AND DISCIPLINARY PROCEDURE

To be read in conjunction with the following documents:

- Learner Charter
- E-Safety Policy
- Equal Opportunities and Harassment and Bullying Policy Statement

### Disciplinary procedures

Unacceptable behaviour and / or any academic misconduct by a learner or user of Community Learning Service resources and venues may lead to action under the Service's Learner Disciplinary Procedure.

The Disciplinary Procedure for unacceptable behaviour can apply to incidents that happen in The Learning Place, activities and classes delivered by the CLS at off-site locations and / or online.

The Disciplinary Procedure has three stages. It is expected that in most cases unacceptable behaviour will be dealt with under Stage 1. However, in cases of serious misconduct or behaviour, the Service may go straight to Stage 3 action which may lead to permanent exclusion from all Community Learning Service provision.

The 3 stages are:

#### Stage 1 - Cause for concern

Any member of staff may give a verbal warning to a learner whose behaviour is giving cause for concern. The learner should be given the opportunity to explain his or her behaviour and this explanation should be taken into account.

Where possible, the learner and member of staff should agree an account of the cause for concern which should be logged on the CLS MIS against the learner's record and in the complaints/concerns log. If deemed necessary, a written statement should be produced and signed by the member of staff and the learner.

#### Stage 2 - Continuing cause for concern or serious misconduct

If a learner's behaviour continues to give cause for concern or if the unacceptable behaviour is of such a level that it cannot be dealt with informally, this should be reported to the CLS management who will convene a meeting with the learner.

Prior to any stage 2 meeting / interview, the CLS management will ascertain whether the learner has any support needs or special circumstances which would require a wider panel review.

The learner may also bring a representative with them to witness the interview.

Five working days before the interview, a letter will be sent to the learner detailing:

- The problem and a summary of any supporting evidence
- The learner's entitlement to have a representative at the interview. If a learner is under the age of 18, the learner's parent or carer must be informed of the interview and be invited to attend.
- Confirmation of the time and place of the interview.
- Confirmation of support arrangements where it has been assessed that these are needed.

The CLS management team will discuss with the learner the cause(s) for concern and identify and agree with the learner some practical actions to improve behaviour. A written record of the outcomes of the meeting will be made, and if deemed necessary, the learner will be provided with a formal written warning. The formal written warning will make it clear that any future incident of

misconduct may result in a Stage 3 action. The record should be signed by the CLS Management team and by the learner. A copy of the written record will be kept on the learner's file

### **Stage 3 - Further misconduct or gross misconduct**

In a case of alleged gross misconduct, a learner may be suspended from CLS provision. Any member of the CLS management team or his or her authorised delegate may suspend a learner.

Suspended learners may not enter The Learning Place or off site programmes until he or she is invited to do so. The suspension of any learner by a member of CLS management on the grounds of gross misconduct must be reported in writing to the CLS Manager on the day of suspension and a report produced within 24-hours of the suspension. The record of suspension must state the reason for the suspension. Arrangements should be made by the CLS Manager to ensure that CLS staff are aware of a decision to suspend and the conditions of the suspension.

There is no right of appeal against such a suspension.

The Service Manager, or appointed representative, will write to a learner who has been suspended within 24-hours of the day of the suspension. This letter will:

- Confirm that the learner is suspended
- Outline the reason for the suspension and the action the CLS is taking; in other words, a Stage 3 Disciplinary Hearing and that the learner will be contacted within 5 working days of the issue of the suspension letter with details of the hearing.
- Make clear that until such time as the hearing is held, the learner will remain suspended from CLS provision and premises.
- A copy of the Disciplinary Procedure should be sent with this letter.
- In all cases where a learner is under the age of 18, a copy of this letter must be sent to the learner's parent or carer.

A Stage 3 Disciplinary Hearing will be arranged and chaired by the Service Manager unless the Service Manager is involved in the disciplinary issue in which case the Employment, Learning and Skills Manager or equivalent will take the chair. Where a learner has a learning difficulty or disability, appropriate support in order to enable the learner to participate fully in the hearing should be offered.

The Chair will be provided with a report of the alleged Stage 3 incident by the member of the CLS management team who initiated the suspension.

Within 5 working days of the suspension, the Chair must send a letter inviting the learner for a Stage 3 Hearing. The letter should include:

- A statement of the alleged incident
- Any supporting evidence such as attendance and learning activity records
- A statement making clear that because a formal written warning has already been given or that the incident is considered to be gross misconduct that the hearing may result in a recommendation for exclusion from CLS provision and premises
- Details of the learner's entitlement to have a representative at the hearing. A learner may bring a representative with them to the hearing; however, he or she may not bring a legal or professional representative. If the learner is under the age of 18 the representative would usually be the parent or carer.
- The date, time and place of the disciplinary hearing
- Confirmation of support arrangements where it has been assessed that these are needed.
- In all cases where a learner is under the age of 18, a copy of this letter must be sent to the learner's parent or carer.

A disciplinary hearing panel should be held within a maximum of 15 working days of the date of the suspension or of the report of the incident where a learner has not been suspended. Wherever possible, the time limit should be kept to a minimum to avoid disruption to the learner's studies.

The CLS manager who initiated the suspension / incident report will prepare the necessary papers for the hearing. The papers should include a full report of the incident, all of the relevant events that led to the decision to hold a Stage 3 Hearing, including where applicable any reasons for suspension and copies of any witness statements or a summary of evidence where witnesses are deemed to be vulnerable given the nature of the incident. This report will be sent to the hearing panel, the learner and their parent / carer for learners under 18, five days prior to the hearing

The panel will:

- Ask the member of staff presenting the CLS's case to outline the reason(s) for the hearing and where applicable, the suspension.
- Invite the learner or representative to question the CLS representative
- Invite the other panel member to question the member of staff presenting the CLS's case
- Ask the learner or representative to give the panel his or her record of events including any mitigating factors
- Invite the member of staff presenting the CLS's case to question the learner / representative
- Invite other panel members to question the learner / representative

At the end of the hearing the learner and / or his or her representative will be informed that the Chair will put in writing the panel's decision within three working days. The decision may include some or all of the following:

- no further disciplinary action be taken
- a mutually agreed improvement plan is put in place and monitored
- a recommendation is made that the learner be excluded from the programme (note - any course fees would be non-refundable).

The Chair will write to the learner and his or her representative with the outcome of the hearing within three working days.

For a learner who is under the age of 18, the letter confirming the decision must also be sent to the learner's parent or carer.

If the decision is to exclude the learner, the letter will also include details of the Appeals Procedure.

Where a learner is excluded from Community Learning Service provision and premises due to gross misconduct, they are not allowed to enrol for any CLS programme or be on CLS premises. The exclusion will last for a minimum of 2 years. If after this period they wish to reapply for a CLS programme, they must do so in writing and the application will be considered by the CLS Management team.

### **Failure to attend a Stage 3 Disciplinary Hearing**

It is expected that a learner will attend a Stage 3 Disciplinary Hearing on the date and at the time set, however if for exceptional reasons a learner is unable to attend the hearing, he or she or designated representative should contact the hearing Chair to rearrange the hearing.

Where a learner fails to contact the Service and does not attend the hearing, the Chair will contact the learner to arrange for another hearing. The Chair will confirm any such arrangement with the learner within 3 working days. The letter should notify the learner that if he or she does not attend the rearranged hearing, the hearing may be held in their absence.

## Appeals Process

If a learner feels they have grounds for an appeal, these should be sent in writing to the CLS Manager within 10 working days of receipt of the outcome of the Disciplinary Hearing.

If the CLS Manager determines that an appeal hearing should be held, the hearing will take place within ten working days of the receipt of the letter of appeal. The learner will be given notice of the time and place of the appeal hearing at least five working days before the hearing. Where a learner is under the age of 18, a letter will also be sent to their parent or carer.

The letter inviting the learner to the appeal hearing will include information about their right to have a representative at the hearing. The learner may bring their parent or carer, a friend or relative or another learner, however, they may not bring a legal or professional representative.

Any documents considered at any stage in the process that led up to the decision to exclude will be considered at the appeal hearing.

The appeal hearing will be with a Portsmouth City Council manager in a senior position to that held by the chair of the original stage 3 hearing. At the appeal hearing, the Senior Manager will:

- Ask the stage 3 chair / CLS Manager to summarise their reasons for making a decision to exclude the learner
- Ask the learner or their parent or carer or representative to explain the grounds for the appeal and to state their case
- Ask questions of the learner and / or their representative
- Ask questions of the stage 3 chair or CLS Manager

The Senior Manager will consider the case in private, informing the learner of the anticipated timescale for the decision. The decision should be made and communicated in writing as soon as practicably possible.

If the appeal is allowed, the Senior Manager from the Council may decide that a lesser disciplinary action is more appropriate. This may include a decision that no further disciplinary action should be taken. If the appeal is dismissed, the Senior Manager will issue a statement that the decision to exclude is upheld.

The outcome of the appeal will be confirmed in writing by the Senior Manager within five working days of the hearing. In the case of a learner who is under the age of 18, a copy of this letter will be sent to his or her parent or carer.

The outcome following an appeal is final.

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