

LEARNER BEHAVIOUR AND DISCIPLINARY PROCEDURE

To be read in conjunction with the following documents:

- Learner Charter
- 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 CLS's Learner Disciplinary Procedure. This policy 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, CLS may go straight to Stage 3 action which may lead to permanent exclusion from all provision.

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 invited to explain their behaviour and this explanation should be considered.

Where possible, the learner and member of staff should agree an account of the incident 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 cannot be dealt with informally, this should be reported to the CLS management team who will consider next steps. This might include:-

- A written warning
- An interview - in which case any additional requirements will be agreed. The learners may also bring a representative with them. If the learner is under the age of 18, the learner's parent or carer will be informed and invited to attend. Written confirmation of the arrangements for the meeting will be sent five working days before the interview.

The CLS management team will discuss with the learner the cause(s) for concern and identify and agree with the learner actions to improve behaviour. A written record of the meeting will be made, and if deemed necessary, the learner will be provided with a formal written warning confirming that any future incident of misconduct may result in a Stage 3 action. The record should be signed by the CLS Management team and 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 may suspend a learner.

Suspended learners may not enter CLS provision until invited to do so. The suspension of any learner 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 including 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.
- 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 an equivalent manager will chair. Appropriate support will be offered if needed to enable the learner to participate fully in the hearing.

The Chair will be provided with a report of the alleged Stage 3 incident.

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 as a formal written warning has 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 to the hearing; however, they 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.
- If a learner is under 18, a copy of this letter must be sent to their parent or carer.

A disciplinary hearing panel should be held within a maximum of 15 working days of the date of the suspension or incident. Wherever possible, the time limit should be kept to a minimum to avoid disruption to the learner's studies.

The initiating CLS manager will prepare the necessary papers for the hearing. The papers should include a full report of the incident, 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. 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, representative or panel members to question the CLS representative

- 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 or panel members to question the learner / representative

At the end of the hearing the learner and / or their representative will be informed that the Chair will put in writing the panel's decision within 3 working days. The decision may include 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).

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

Where a learner is excluded from provision and premises due to gross misconduct, they are not allowed to enrol for any CLS programme or be on CLS premises for a period 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 time set, however if a learner is unable to attend, they should contact the hearing Chair to rearrange the hearing.

Where a learner fails to contact the Service and the hearing, the hearing may be held in their absence.

Appeals Process

If a learner wishes to appeal, this should be sent in writing to the CLS Manager within 10 working days 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.

The appeal hearing will be with a different senior Portsmouth City Council manager to that 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 to exclude the learner
- Ask the learner or their parent or carer or representative to explain the grounds for the appeal
- 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. The decision should be made and communicated in writing as soon as practicably possible.

In the case of appeal, the Senior Manager may decide an alternative disciplinary action is appropriate, no action should be taken or the outcome of the original hearing is upheld. The outcome of the appeal will be confirmed in writing within five working days of the hearing; in the case of a learner who is under the age of 18, a copy will be sent to the parent or carer.

The outcome following an appeal is final.