

LEARNER DISCIPLINARY PROCEDURE 2019-2022

1. Introduction

This document sets out the procedure to be followed when the RHACC Learner Code of Conduct is breached. Breaches of the Learner Code of Conduct constitute misconduct and may lead to disciplinary action, such as temporary suspension. Repeated breaches of the Code of Conduct however, or serious breaches of conduct constitute gross misconduct and may result in permanent exclusion. Examples of behaviour that would breach the Learner Code of Conduct can be found in Appendix 2.

This procedure applies to all learners and users of RHACC, and at all times during the year.

There are 3 stages identified in the Disciplinary Procedure, each reflecting the seriousness of the misconduct. The starting point for disciplinary action will depend on the seriousness of the incident. Most issues relating to learner misconduct should be resolved at Stages 1 or 2 of the procedure. Stage 3 will only be used in cases of gross misconduct or when actions resulting from stage 2 have been disregarded.

2. Time periods

With the exception of the time allowed for lodging an appeal, time periods stated in this procedure are for guidance purposes and may be varied by the College in exceptional circumstances. Periods of days in this procedure are office working days. Office working days are defined as Mondays to Fridays during the College opening periods. It will be assumed that documents sent by first class post have been received within 48 hours of posting.

3. Allegations of misconduct

Any member of College staff can report incidents of learner misconduct. Allegations of learner misconduct can also be received in the form of a complaint from a learner or visitor to the College.

All allegations will be investigated, although it may not be possible to investigate allegations made anonymously

All investigations will start with an initial evaluation of the facts of the case by a relevant staff member (usually the Programme Manager). The evaluation will result in either:

- A decision that the issue is not a disciplinary case, and if appropriate the learner being referred by the Programme Manager for Additional Learning Support
- The issue being referred by the Programme Manager to the Fitness to Study Procedures (as an alternative to the disciplinary process) where it is thought that health or mental health difficulties are causing the misconduct
- The issue being referred by the Programme Manager to stage 1 of the Disciplinary Policy and Procedures

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4. Disciplinary Stages

STAGE 1

Stage 1 is for petty or minor misconduct or for the first stage of an academic performance warning (see Appendix 2 for examples)

Investigation:

1. The Director of School will appoint an Investigating Manager.
2. The Investigating Manager will collect information and statements from those involved in the case – including the learner who has allegedly broken the code of conduct.
3. The investigating manager will establish whether the learner is receiving support and will take advice/representation from support staff in appropriate cases (e.g. for learners under 18 years of age and adults with learning difficulties).
4. The Investigating Manager will report their findings on a Learner Report Form, making a recommendation as to the outcome to the Director of School.
5. The Director of School will either:
 - a. Dismiss the case, or
 - b. Invite the learner to a disciplinary hearing to discuss the case

Hearing:

1. If the learner is asked to attend a disciplinary hearing, the Investigating Manager will send the learner a summary of the alleged misconduct.
2. The Investigating Manager will inform the learner of the hearing in writing at least 3 working days before the hearing date
 - o The letter/email will include the purpose of the hearing and details of any documents or information they may need to bring.
 - o The letter/email will also advise that the learner may have a friend or family member accompany them for support. Learners with disabilities may also choose to bring their external support worker.
3. The investigating manager will conduct the hearing, which may be attended by the Tutor or other witnesses.
 Minutes will be taken.
4. The learner will be given an opportunity to present their case.
5. The hearing may result in either
 - o no disciplinary action being taken, or
 - o a verbal warning being issued, with an agreed improvement/support action plan.
 The Investigating Manager will alert the learner to the consequences of repeated or similar misconduct.
6. The Investigating Manager will record the action plan, which will have an agreed follow up review date (usually 2-4 weeks) on the Learner Report form.

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7. The Investigating Manager will send a copy of the action plan to the learner within 5 working days of the hearing. These records will be held securely whilst a learner is active at the College and for three years subsequently.
8. The Investigating Manager will arrange for support, where appropriate, to help the learner achieve the necessary improvement.
9. The learner will be notified of their right of appeal at the hearing.
 - If the learner fails to attend the hearing, the Investigating Manager with input from other staff members will determine the outcome in their absence.
 - If the learner refuses to acknowledge there is a problem, or will not discuss or accept an action plan, the Investigating Manager will nevertheless explain the actions/behaviour required of the learner, and make a note that this has been explained to the learner. The required actions will be sent to the learner by email or letter within 5 working days of the discussion.

Follow-up review:

1. The Investigating Manager will meet with the learner to check progress at the end of the period agreed in the action plan and:
 - if satisfied decide that no further disciplinary action should be taken;
 - If the learner has not made sufficient progress or fails to comply with the agreed action plan, the Investigating Manager will inform the Director of School who will proceed to Stage 2 of the Disciplinary Procedure.
2. The investigating manager will record the outcome of the follow up review on the Learner Report form and copy it to the learner (and parent/carer for learners under 18 years of age and adults with learning difficulties) and the Director of School.
3. The School Administrator will maintain records of the case. Records will be held securely whilst a learner is active at the College and for three years subsequently.

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STAGE 2

Stage 2 is for failure to meet appropriate standards when warnings have been given at Stage 1.

A learner can also be referred directly to Stage 2 of the disciplinary proceedings for any breach of the Learner Code of Conduct without having to go through Stage 1 where the conduct is considered to be more serious.

Investigation:

1. The Director of School will appoint an Investigating Manager.
2. The Investigating Manager will collect information and statements from those involved in the case – including the learner who has allegedly broken the code of conduct.
3. The investigating manager will establish whether the learner is receiving support and will take advice/representation from support staff in appropriate cases (e.g. for learners under 18 years of age and adults with learning difficulties).
4. The Investigating Manager will report their findings on a Learner Report Form, making a recommendation as to the outcome to the Director of School.
5. As a result of the investigation the Director of School will either
 - a. dismiss the case or
 - b. invite the learner to a hearing to discuss the case with the Director of School and a programme manager.

Hearing:

1. If the learner is asked to attend a disciplinary hearing, the Director of School will send the learner a copy of the Learner Report Form, with the details of the alleged misconduct.
 2. The Director of School will inform the learner of the hearing in writing at least 3 working days before the due date
 - o The letter/email will include the purpose of the hearing and any documents or information they may need to bring.
 - o The letter/email will advise that the learner may have a friend or family member accompany them (but not a legal representative) who can offer support but not take an active part in the proceedings. Learners with disabilities may also choose an external support worker. Learners will inform the Director of School who they intend to bring for support prior to the hearing.
 - o In cases involving adults with learning difficulties and/or disabilities (LDDs), and learners aged 16-18, a parent/carer will also be informed and asked to attend the interview with the learner.
 3. The Director of School will chair the hearing, and the Investigating Manager will also be present.
 4. The learner will be given an opportunity to present their case.
 5. The Investigating Manager will present the evidence to the Director of School, and the Director of School may ask additional questions of the Investigating Manager and the learner.
- Minutes will be taken.

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6. The hearing may result in:
 - no further disciplinary action being taken, or
 - the Director of School issuing a written warning, along with an improvement/support action plan, within 5 working days of the hearing. The written warning will contain reasons for the decision and alert the learner to the consequences of repeated or similar misconduct, which may include suspension or exclusion.
7. The action plan and agreed follow up review period (usually 4 - 6 weeks) will be recorded on the Learner Report form, and signed by the learner and Director of School.
8. A copy of the form will be given to the learner (and parent/carer for under 18 year olds and adults with learning difficulties). These records will be held securely whilst a learner is active at the College and for three years subsequently.
9. The learner will be notified of their right of appeal at the hearing.
10. Support will be offered, where appropriate, to help the learner achieve the necessary improvement.
 - If the learner does not attend the hearing, the Director of School and programme manager will determine the outcome in their absence.
 - If the learner refuses to acknowledge there is an issue to address, or will not discuss or accept an action plan, the Director of School will nevertheless explain the actions/behaviour required of the learner, and make a note that this has been explained to the learner. The required actions will be sent to the learner by email or letter within 5 working days of the discussion.

Follow-up review:

1. The Director of School will meet with the learner to check progress at the end of the review period and:
 - If the Director of School is satisfied that sufficient progress has been made to address the concerns the learner will be notified and no further disciplinary action will take place
 - If the learner has not made sufficient progress the Director of School will proceed to Stage 3 of the Disciplinary Procedure.
2. The outcome will be recorded on the Learner Report form and copied to the learner (and parent/carer if under 18 or an adult with LDDs)
3. The School Administrator will maintain records of the case. These records will be held securely whilst a learner is active at the College and for three years subsequently.

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STAGE 3

Stage 3 is for further misconduct or failure to meet standards when a 2nd stage written warning has been given. Stage 3 is also used for cases of extreme misconduct (without having to go through Stages 1 and 2).

Investigation:

1. The Director of School will appoint an Investigating Manager.
2. The Investigating Manager will collect information and statements from those involved in the case – including the learner who has allegedly broken the code of conduct
3. The investigating manager will establish whether the learner is receiving support and will take advice/representation from support staff in appropriate cases (e.g. for learners under 18 years of age and adults with learning difficulties).
4. The Investigating Manager will report their findings on a Learner Report Form, making a recommendation as to the outcome to the Director of School.
5. As a result of the investigation the Director of School will either dismiss the case or invite the learner to a disciplinary hearing to discuss the case.

Hearing:

1. If the learner is asked to attend a disciplinary hearing, the Director of School will send the learner a copy of the Learner Report Form, with the details of the alleged misconduct.
2. The Director of School will inform the learner of the hearing in writing at least 3 working days before the due date,
 - a. the letter will include the purpose of the hearing and any documents or information they may need to bring.
 - b. The letter will also advise that the learner may be accompanied by a friend or family member (but not a legal representative) who can offer support but not take an active part in the proceedings. Learners with disabilities may also choose to be accompanied by an external support worker.
3. The hearing will be chaired by the Director of School, and an additional Director of School or other senior manager not previously involved in the case.
 Minutes will be taken.
4. The Director of School chairing the hearing will go through the evidence from the investigation, and may ask additional questions of the learner.
5. The learner will be given an opportunity to present their case.
6. The hearing may result in:
 - a. no further disciplinary action being taken, or
 - b. a final written warning that will contain
 - i. a requirement for an appropriate course of action to be taken, that may include an agreed follow up review period (usually 4 – 6 weeks)
 - ii. reasons for the decision

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- iii. an alert to the learner to the consequences of failure to improve which may include suspension or exclusion,
 - c. suspension of the learner for a fixed period of time or
 - d. permanent exclusion.
- 7. The learner will be notified of their right of appeal at the hearing.
- 8. Exclusion of the learner will need to be approved by the Vice-Principal, Teaching & Learning (VPTL), or in his/her absence, the Director of Finance and Resources, or the Director of HR and Learner Services.
- 9. Notification of the outcome of the hearing will be issued to the learner (and parent/ carer for under 18 year olds and adults with LDDs) within 5 working days of the hearing, by the Director of School, and kept on file. These records will be held securely whilst a learner is active at the College and for three years subsequently.
- 10. In cases of exclusion where the learner chooses to appeal, they will remain excluded until the appeal is heard.
- If the learner fails to attend the hearing, the panel will determine the outcome in their absence.
- If the learner refuses to accept the required course of action determined by the panel, the Director of School should nevertheless explain the actions/behaviour required of the learner, and make a note that this has been explained to the learner. The required actions should be sent to the learner by email or letter within 5 working days of the discussion.

Follow-up review:

1. If the learner has been issued with a course of action, the Director of School will review the progress of the learner after the allocated time period and:
 - a. If satisfied that sufficient progress has been made to address the initial concerns the learner will be notified and no further disciplinary action will take place.
 - b. If the learner has not made sufficient progress the Director of School may recommend exclusion to the VPTL, or in his/her absence, the Director of Finance and Resources, or the Director of HR and Learner Services.
2. In cases of exclusion the learner will be notified of the right of appeal. If the learner chooses to exercise this right they will remain excluded until the appeal is heard.
3. If the learner does not exercise the right of appeal, the decision to exclude will be implemented immediately.
4. Notification of the outcome of the review will be issued to the learner (and parent/ carer for under 18 year olds and adults with LDDs) within five working days of the review, by the VPTL.
5. The School Administrator will maintain records of the case. These records will be held securely whilst a learner is active at the College and for three years subsequently.

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Appeals

- A learner has the right to appeal against any disciplinary penalty imposed. An appeal will normally only be heard if:
 - Relevant new evidence has come to light
 - The procedures were not followed correctly

Appeals Procedure

1. The learner must write to the Principal within 10 working days of receiving the letter outlining the outcome of the disciplinary hearing, giving reason for the appeal.
2. The Principal will decide if an appeal is justified.
3. The Principal will arrange an appeal hearing within 21 working days of the notice of appeal being lodged. The learner will be
 - a. given at least 5 working days' notice of the time and place of the panel
 - b. entitled to be accompanied by another College learner or by a parent/ carer in the case of under 18s or adults with LDDs (but not by a legal representative in either case; an accompanying person cannot take active part in the proceedings but can offer support to the learner).
 - c. given an opportunity to present their case
4. Minutes will be taken. These records will be held securely whilst a learner is active at the College and for three years subsequently.
5. The final decision of the Principal or appointed Senior Manager hearing the appeal will be confirmed in writing within 5 working days of the appeal panel.

This decision is final.

6. Additional Procedural Information

Complaints:

If the learner attends a hearing, but does not engage with the process, and is obstructive, disruptive or uses it as an opportunity to make allegations about staff or the college, they should be advised that their complaint will be dealt with through the existing RHACC Complaints Procedure but will not stop the continuation of the Learner Disciplinary Procedure, and asked to co-operate or leave the hearing. If a learner makes a complaint subsequent to or alongside disciplinary proceedings, they will be informed that the disciplinary process will be concluded prior to their complaint being investigated.

Under 19-year-olds:

Parents/carers will be informed of Stage 2 and Stage 3 hearings where learners are under 19 years of age. They may be asked to attend any disciplinary or appeal hearings, and will be informed of the outcome in writing.

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Learner Disciplinary Procedure 2019-2022

(Policies & Procedures)

Employer-sponsored learners:

If a learner who is being sponsored by an employer is given a second stage written warning, excluded or suspended, the employer will be informed wherever practicable.

Warnings:

Verbal and written warnings will remain on learners' files for the duration of their programme at the College. These records will be held securely whilst a learner is active at the College and for three years subsequently.

Suspension:

The Vice-Principal of the College has the authority to suspend a learner whilst staff investigate an allegation of misconduct.

A learner may be suspended for the following reasons:

- If the alleged misconduct is serious and it is considered that the learner may pose a risk to the health and safety of themselves or others;
- If it is thought that the learner's presence in the class/College may disrupt or prevent the learning of others;
- In the interest of neutrality to support a quick and objective investigation, pending a criminal investigation;
- Non-payment of fees. Following the College credit control procedure, a learner, on receipt of a third reminder, may be suspended until payment is received or an arrangement for payment is agreed.

To minimise the disruption of the learner's programme of study, they may be allowed to complete assignments or sit examinations.

Exclusion:

The Vice-Principal of the College has the authority to exclude a learner from the College following a disciplinary hearing. They may delegate this authority to a member of the Senior Management Team. Exclusion may be for a fixed period or permanently.

Re-admission to College courses after exclusion:

Any learner who has been excluded from the College following a disciplinary hearing and who wishes to re-apply, must disclose that information when applying. The Vice-Principal reserves the right to decide whether or not to re-admit a learner who has been excluded. This decision will be based on a risk assessment of the situation and may depend on evidence of an improvement in the learner's behaviour.

Criminal Offences:

Where a member of staff has reason to believe that a learner may have committed a criminal offence, the College may refer the matter to the police. The College may start disciplinary proceedings or may delay (and in severe cases suspend the learner) until the outcome of the criminal proceedings are known.

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Related documents:

Learner Attendance and Punctuality Procedure
Learner Disciplinary Policy
Anti-Harassment and Bullying Policy and Procedure
Health and Safety Policy
Equality & Diversity Policy
Assessment Policy & Procedures
Acceptable Use of IT Policy

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Appendix 1

Learner Code of Conduct

The Learner Code of Conduct is designed to ensure that learners contribute to a safe and successful learning environment by defining the behaviour and conduct expected from learners.

Behaviour: all learners must:

- Treat everyone with respect, regardless of culture, race, nationality, religion, gender, age, marital status, sexual orientation, disability or social class. The College will not tolerate any discrimination, harassment or bullying, including cyber bullying, and expects learners to report any such incidences to their tutor as soon as possible.
- Comply with and promote the British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs. Take care not to behave in a way that glamorizes or normalizes violence or extremist beliefs, and challenge any behaviour in others which appears to do this.
- Respect contributions made in class by other learners and not undermine them by inappropriate comments or behaviour such as sighing, tutting, side comments to other learners etc.
- Adopt behaviour and use language that is appropriate and does not upset others. Swearing, excessive shouting and using inappropriate gestures will be challenged.
- Follow tutors' instructions and established class etiquette regarding answering questions in class, for example, raising the hand to answer a question, allowing others to answer questions, not interrupting other learners when they are contributing to the class.
- Switch off electronic devices in classrooms and in all working areas except if they are being used to assist learning.
- Contribute to the College's continuous improvement systems by providing constructive feedback about the courses and services, and by using the College's Complaints Procedures if you wish to make a complaint.
- Be responsible for the behaviour of their children whilst on the premises, in the College crèche or in the care of childminders arranged by the children.
- Meet financial commitments relating to your course (if applicable) promptly and in full.
- Act at all times in a manner that does not cause offence nor bring the College into disrepute.

Academic: all learners must:

- Attend classes regularly and punctually and inform the College by email, text or phone of any absences, where possible in advance of the class. Where missing a class is unavoidable, take responsibility for contacting the tutor and arranging to catch up on the work which has been missed.
- Complete all work set by tutors to agreed deadlines. Late work will be marked and submitted to the awarding organisation at the tutor's discretion, or according to the awarding organisation guidelines, if applicable.
- Successfully complete all internal and external examinations and assessment, where appropriate, in order to progress on the course.
- Ensure all work produced for assignments and exams is your own work. Where information is used from another source this must be referenced appropriately. Plagiarism and/or cheating may lead to disciplinary action by the College and/or awarding organisation/examinations board.

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- Comply with the IT Systems Acceptable Use Policy (to be found in the Learning Resource Centres), and use IT facilities to support your learning and not to access any website that is against College policy.

Health & Safety: all learners must:

- Show regard for the well-being and safety of other learners, staff, community groups and visitors at all times. Reports of alleged incidences of violence towards fellow learners, staff or visitors will be investigated under the Learner Disciplinary procedures and may result in immediate temporary suspension or permanent exclusion from classes.
- Become acquainted with the College Health & Safety regulations and follow the proper college evacuation procedure in an emergency.
- Inform the College of any disability that might result in help being required in the case of an emergency evacuation.
- Not smoke, bring illegal drugs, alcohol or offensive weapons onto the premise or be under the influence of drugs or alcohol whilst on college premises.
- Notify a member of staff if you have an accident at College.
- Keep the College clean, free from litter and graffiti and not eat or drink in the classrooms or learning resource centre.

Personal and College property: all learners must:

- Show respect for the premises and property of the College and the possessions of other learners
- Return all borrowed books and items of equipment by the due date. You will be responsible for the cost of any damage or loss of College property.
- Be responsible for the loss or damage to your own property. All articles of value left on the college premises, including cars, bikes and motorbikes are left at the owner’s risk.

On signing the enrolment form / learning agreement, each learner agrees to the College’s terms and conditions and to follow the Learner Code of Conduct. Failure to comply with the code may lead to disciplinary action being implemented in accordance with the Learner Disciplinary procedures.

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Appendix 2

Examples of Disciplinary Behaviour

The examples below cover the main areas for concern that may lead to application of the Learner Disciplinary Policy and Procedure. This is not an exhaustive list of examples and each incident will be reviewed individually.

Examples of Stage 1 disciplinary behaviour

- Poor attendance or punctuality
- Late or non-submission of course related work/assignments
- Disrupting the learning of others
- Minor cases of academic misconduct (refer to Assessment Policy for examples of learner malpractice)
- Failure to follow instructions of a member of staff
- Disrespectful behaviour to other learners, staff or visitors
- Minor breaches of Health and Safety rules
- Minor damage to College property
- Misuse of the internet/IT equipment
- Unauthorised use of electronic devices
- Smoking on College premises

Examples of Stage 2 disciplinary behaviour

- Failure to comply with a Stage 1 action plan
- Repeating a Stage 1 disciplinary incident
- Moderate cases of academic misconduct e.g. cheating or plagiarism (refer to Assessment Policy for examples of learner malpractice)
- Threatening behaviour or verbal threats to another learner or member of staff
- Acts of discrimination, bullying, harassment or victimisation towards other learners or staff or visitors to the College (including by text or email/cyber-bullying)
- Actions or communications that bring the College into disrepute
- Threats to Health & Safety (eg misuse of fire alarms and fire extinguishers)
- Damage to College resources and property

Examples of Stage 3 disciplinary behaviour

- Failure to comply with a Stage 2 action plan
- Repeating a Stage 2 disciplinary incident
- Serious cases of academic misconduct (refer to Assessment Policy for examples of learner malpractice)
- Actual violence to another learner or member of staff
- Endangering the health and safety of others
- Significant damage to College resources and property
- Being in possession or under the influence of alcohol or illegal substances
- Any potentially criminal activities affecting the College or other learners
- Racial or sexual abuse
- Non-payment of fees

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