



LEARNER CONDUCT POLICY & PROCEDURE

Created by	Director Learner Services	December 2021
Approved by	Curriculum, Quality and Standards Committee	
Version	1.0	
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WM College Learner Conduct Policy & Procedure

1.0 Purpose

- 1.1 WM College (“the College”) seeks to ensure that every learner enjoys their time at the College and experiences a welcoming, friendly, environment that supports learners to reach their learning goals.
- 1.2 WM College maintains a Code of Conduct and sets standards of Positive Conduct that all learners are expected to follow.
- 1.3 This policy sets out of the standards and the procedure that will be followed where a learner breaches the Code of Conduct or their conduct is unacceptable.

2.0 Scope

- 2.1 This policy and procedure applies to:
 - All learners of the College, full-time or part-time
 - All learners studying on site or engaging in off-site activity including community learning, trips and work experience
 - Prospective learners: see section 6.0
- 2.2 This policy and procedure will be applied equitably; that means that not every learner will be treated the same, but our approach will acknowledge the different support needs and experiences of our learners.
- 2.3 It sets out the processes for addressing unacceptable conduct where a formal resolution is needed.
- 2.4 This policy recognises that where the learner’s attendance, performance or conduct appears to be indicative of a mental health issue, illness or injury it may be more appropriate to follow procedures as stated in the College’s Fitness to Learn Policy.
- 2.5 It is the responsibility of College staff to familiarise themselves with this policy and overall responsibility for managing, monitoring and advising is held by the Director of Learner Services.

3.0 Code of Conduct

- 3.1. Learners are expected value and respect others in the same way and to help them do this we have developed a Code of Conduct which we expect all learners to follow:
 - Always wear your college ID card
 - Take responsibility for your own learning and work hard
 - Arrive on time for your class and attend regularly
 - Be polite and considerate to others
 - Respect other people’s values, cultures and beliefs
 - Be aware of people who are less able than yourself

4.0 Learner Positive Conduct

4.1 At WM College, learners are expected to:

- Treat all users of the College, whether learners, staff, volunteers or members of the public with kindness and respect
- Act at all times with due regard for own safety and that of others
- Treat WM College and its facilities and equipment as a place of learning and not for any other purpose
- Respect the property, equipment and software of the college, staff and other learners
- Follow reasonable instructions of any member of College staff
- Maintain a clean, tidy and smoke-free environment
- Familiarise themselves with and follow the course requirements including attendance, punctuality and homework/assignments.
- Comply with all relevant WM College Policies and Procedures. The Policies and Procedures can be found on the College Website and the Learner Intranet.

5.0 Disciplinary Procedure

5.1 WM College will manage any breaches of the Learner Code of Conduct, Learner Positive Conduct or this policy in up to five stages:

- Informal resolution
- Stage 1 – Informal Warning (verbal or written)
- Stage 2 – Formal Warning
- Stage 3 – Formal Disciplinary Hearing
- Stage 4 – Appeal

5.2 Informal Resolution

Before proceeding to Stage 1 of the disciplinary process, for low level breaches of conduct or performance staff may judge that a warning of further action may resolve the issue. Any member of College staff may inform a learner that their conduct or performance is or was unacceptable and where possible link it to the Code of Conduct or Learner Positive Conduct. A formal record is not required under this Policy and Procedure, but staff may choose to inform the learner's Course Tutor or Curriculum Manager and the Director of Learner Services of the matter.

5.3 Stage 1 – Informal Warning (verbal or written)

For minor breaches or if misconduct is repeated or escalates and is not deemed to be gross misconduct an informal warning may be necessary.

5.4 The relevant Director of Learning and the Director of Learner Services will be informed and a decision made on the best course of action. This could include:

- Issue an informal warning (verbal or written)
 - Restrict learner access to certain College facilities, including College buildings for a specified period, e.g. for a 'cooling off' period
- 5.5 If the Director of Learning and or Director of Learner Services deem the matter to be serious and/or an act of gross misconduct, the matter may proceed immediately to Stage 2 or 3 of this procedure.
- 5.6 The outcome and action will be provided in writing to the learner within five working days of any incident.
- 5.7 Where an informal warning is deemed to be the most appropriate course action it may be issued by a Senior Manager, Director or College Manager.
- 5.8 The learner will be warned that any repeat of the misconduct may result in a formal warning or a disciplinary hearing.
- 5.9 Any action taken will be shared with the Director of Learner Services and recorded in the College's Learner Disciplinary record system.
- 5.10 There is no right of appeal to an informal warning. See Appendix 4.

5.10 Stage 2 – Formal Warning

Where the Stage 1 process has been exhausted, for example further repeated minor cases of misconduct, or where the behaviour is serious but not considered as Gross Misconduct, a formal warning may be issued.

- 5.11 The formal disciplinary process will only be used where the College deems informal action to be inadequate or exhausted.
- 5.12 A formal warning can be issued by a Director of Learning, Director of Learner Services or any College Senior Manager.
- 5.13 In such cases any Director or Senior Manager has the power, if necessary, to suspend the learner from the College pending the outcome of a disciplinary investigation, without prejudice.
- 5.14 Details of any suspension will be provided in writing to the learner within five working days of any incident.
- 5.15 A suspended learner is not generally permitted to enter WM College premises or attend any online classes. There may be exceptions; for example, attending an examination, meeting staff investigating the case, or attending a disciplinary hearing. These will be set out in the suspension letter.
- 5.16 Before a formal warning is issued the College may:
- Appoint an investigating manager
 - Speak to any relevant witnesses and establish what happened.
 - Invite the learner to a meeting, giving at least 24 hours' notice, to discuss the matter

- Review any written evidence (emails, letters, notes, online posts, etc)
- Review any CCTV recordings of the incident(s)

5.17 The outcome of the investigation into the incident will result in one of the following:

- Issue a formal written warning
- Learner suspended from the College for a specific period
- Recommendation of a Stage 3 Disciplinary Hearing
- No further action

5.18 The learner will be provided with the outcome of an investigation in writing, within ten working days of the start of the process.

5.19 Where a formal warning is issued, learners will be warned that any repeat of the misconduct may result in a disciplinary hearing.

5.20 A note of any warning and/or action taken will be shared with the Director of Learner Services and recorded in the College's Learner Disciplinary Record system.

5.21 There is a right of appeal against a formal warning. See Appendix 4.

5.22 Stage 3 – Formal Disciplinary Hearing

Serious breaches (gross misconduct) of the Learner Code of Conduct, Learner Positive Conduct or breaches of College policies and procedures or where a formal written warning has not resulted in any improvement, will result referral in a disciplinary hearing.

5.23 Any behaviour involving violence or the threat of violence, deliberate damage to property, putting the health and safety of others in danger, disruptive behaviour, bullying, harassment, intimidation, dishonesty (including cheating and theft) or any illegal activity is likely to be treated as gross misconduct and will usually be dealt with immediately under Stage 3 of this Policy and Procedure. See Appendix 1 for more detailed examples of Gross Misconduct or acts that would be classed as serious breaches.

5.24 In such cases any Director or Senior Manager has the power to suspend the learner from the College pending the outcome of the disciplinary investigation, without prejudice.

5.25 Details of any suspension will be provided in writing to the learner within five working days of any incident.

5.26 A suspended learner is not generally permitted to enter WM College premises or attend any online classes. There may be exceptions; for example, attending an examination, meeting staff investigating the case, or attending a disciplinary hearing. These will be set out in the suspension letter.

See Appendix 3 for the Disciplinary Hearing procedure

5.27 A disciplinary hearing may have the following possible outcomes:

- No action to be taken

- Formal written warning
- Temporary exclusion for a stated period
- Permanent exclusion

5.28 There is a right of appeal against any penalty imposed by a disciplinary hearing. See Appendix 4.

6.0 Prospective Learners

6.1 During the journey to becoming a WM College learner, individuals may breach the College's Code of Conduct or fail to meet the expected positive conduct of our learners.

6.2 Occasions where this could happen are during communication with staff on the telephone, online or during on site during a visit, for example an open event, initial assessment or during the enrolment process itself.

6.3 The College reserves the right to use the following measures:

- Refuse enrolment in cases of gross misconduct
- Delay enrolment pending an investigation
- Issue a formal warning
- Issue an informal warning

6.4 If an informal or formal warning is issued it will be recorded prior to their enrolment and remain on their record once they are a fully enrolled learner. In the event of any further incidents of inappropriate conduct the next stage of this policy and process will be applied.

7.0 Criminal Offences

7.1 Where there is reason to believe that a learner may have committed a criminal offence, the College will refer the matter to the police and may continue disciplinary proceedings under this procedure or suspend the learner pending the outcome of police enquiries and any charges which may be brought against the learner. Where the learner has been suspended under this provision, when the results of those enquiries and any criminal proceedings are known, the College reserves the right to recommence disciplinary proceedings under this procedure in relation to the matter.

7.2.1 Any disciplinary action relating to alleged criminal offences will be based on the genuine belief of staff taking the action after a proper investigation and will not require a criminal conviction. It is emphasised that in relation to the application of this procedure, the College is not necessarily bound by the results of any criminal proceedings against learners.

8.0 Variations and Amendments to this procedure

8.1 In sensitive cases involving, for example harassment or actual or threatened violence, the College may decide to take special measures to protect the identity of a person who has provided a witness statement.

8.2 Time periods stated in this procedure may be varied by the College in exceptional circumstances. Any variations will be communicated with the learner.

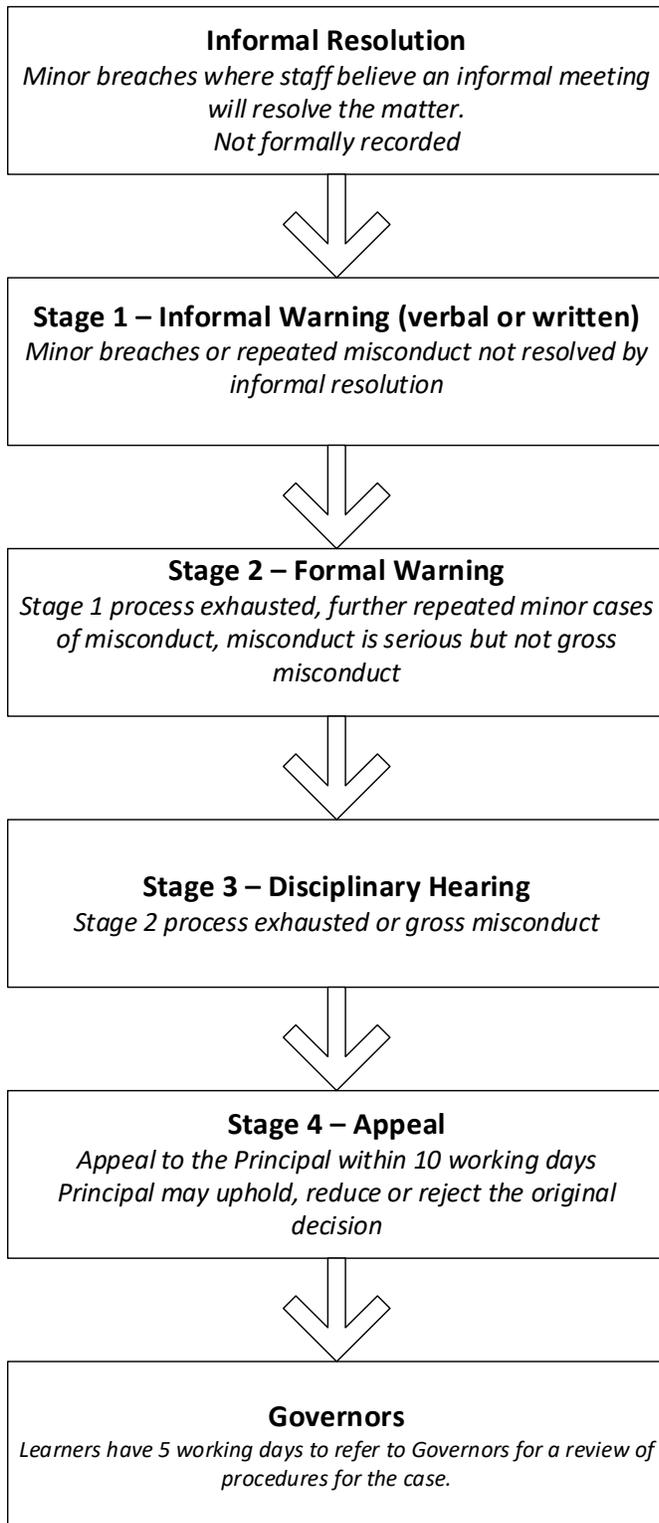
APPENDIX 1

The following are examples may be considered Gross Misconduct. It should be noted this list is not exhaustive.

- The use of offensive or abusive language
- Any behaviour which deliberately offends or discriminates against people because of their race, religious belief, gender, sex, sexual orientation, age, class or physical or mental differences.
- Any bullying, sexual harassment or violence, intimidation, taunting or verbal abuse towards any person online or offline
- Any sexual misconduct or gross indecencies
- Covert recording, photographing or videoing any member of the College community for personal use
- Any theft of property
- Any act of dishonesty, including fraud, misrepresentation and any form of cheating in examinations or assessments
- Being under the influence of alcohol, legal highs or illegal substances on College premises or any activity associated with the College or the use, possession or supply of any illegal drug, drug paraphernalia or alcohol
- Being in possession of any offensive weapon on College premises or during any activity associated with the College
- Conduct which prevents or obstructs teaching, learning or the work of WM College
- Failure to follow the reasonable instructions of College staff
- Failure to follow Health & Safety Regulations
- Any deliberate act which compromises WM College security or results in the evacuation of a College building
- Smoking (including vaping) within College buildings or outside the designated area
- Causing deliberate damage to buildings, equipment or property of the College
- Any interference with software or data belonging to the College or misuse of College computer facilities
- Any serious breach of the College's ICT Acceptable Use Policy
- Posting damaging or offensive messages attacking the College, its staff or other learners online or in public forums
- Wearing or carrying anything with illegal or offensive slogans/symbols that are intended to intimidate, incite or offend.
- Vexatious complaints
- Any behaviour or illegal act on or off WM College premises that could bring the College into disrepute

APPENDIX 2

Procedure flow chart



APPENDIX 3

1.0 Procedure for a Disciplinary Hearing

- 1.1 The Director of Learner Services will appoint a Director or Senior Manager to conduct the hearing (the “Chair”). This person must have had no prior involvement in the case and is responsible for conducting the disciplinary procedure and hearing in a fair and transparent manner. The Chair may appoint a note-taker to assist them in the hearing.
- 1.2 An investigating officer will be appointed whose job is to ascertain the facts and present the case at the hearing.
- 1.3 The investigating officer will contact the learner and any relevant witnesses to obtain statements of the facts of the case, and will determine, based on those and any other available information, whether there is a case to answer. If there is not, the hearing will not take place, the learner will be informed, and any suspension will be terminated.
- 1.4 If there is a case to answer, the Chair will write to the learner giving them notice of the disciplinary hearing. The notice must give 10 working days’ notice and:
- set out the nature of the alleged misconduct, a summary of the supporting facts and matters, and copies of any witness statements the College intends to rely on
 - confirm the time and place of the hearing
 - confirm the learner’s entitlement to be accompanied by a companion who can be a friend, parent/carer, fellow learner but not a legal representative. See paragraph 1.8 and 1.9 for details of the role of a companion
 - ask if the learner requires learner support or translation support to prepare and participate in the hearing
 - request the learner submit, prior to the hearing, any witness statements and any other relevant documentation or evidence they wish to present. See paragraph 1.7
 - confirm the possible outcomes of the hearing
 - enclose a copy of this policy and procedure
 - confirm that if the learner does not, without reasonable excuse, come to the hearing, it will proceed, and a decision will be made in their absence
- 1.5 Any witness statements or other documentation which the College intends to rely on at the hearing, which are not enclosed with the written notice, must be sent to the learner so they receive them prior to the hearing.
- 1.6 The learner must submit any evidence they intend to present prior to the hearing. New evidence presented at the hearing may result in an adjournment and an extension of any suspension.
- 1.7 Covert sound or video recordings will not be accepted as evidence.

1.8 The companion's responsibility is to:

Participate in the hearing to the extent of communicating or helping to communicate the facts surrounding the issue that has been raised, and generally supporting the learner during the process.

Maintain confidentiality of the proceedings by not discussing it with anyone other than the learner involved.

1.9 The companion may not:

Question witnesses or answer questions on behalf of the learner, unless this has been agreed in advance of the hearing due to the learner having a communication support need.

Disrupt the meeting in any way, e.g. by shouting, abusing participants, or advising the person they are accompanying not to answer questions.

2.0 The Hearing

2.1 The Chair will open the hearing by explaining why it has been called. The procedure followed at the hearing will then be at the discretion of the Chair (including any decision to adjourn) but will usually be as follows:

- Introduce the people in the room
- Set out the format of the hearing and the decision-making process
- Invite the investigating officer to present the allegation, the supporting evidence and relevant documents, to call any witnesses and to question them
- Invite the learner* to question the investigating officer and any of their witnesses
- Invite the learner* to give their case, answer the allegation, offer their version of events, provide their supporting evidence and relevant documents, call any witnesses and question them
- Invite the investigating officer to question the learner and any of their witnesses
- Invite the investigating officer and then the learner to sum up their case and explain any mitigating circumstances. Where a learner has additional support, summing up by their companion will be accepted if agreed in advance of the hearing. *See role of companion paragraphs 1.8 and 1.9 above.

2.2 The Chair may personally question any of the people present at any time.

2.3 The Chair will normally adjourn the hearing in order to make their decision, which will be one of the outcomes following possible outcomes:

- No action to be taken
- Formal written warning
- Temporary exclusion for a stated period
- Permanent exclusion

2.4 They will write to the learner within 5 working days to give their decision with the reasons.

- 2.5 The letter will set out the learner's right of appeal.
- 2.6 All exclusions will be notified to relevant staff by the Chair.
- 2.7 Excluded students will not be allowed to attend College premises or any college course wherever held during the period for which they are excluded.
- 2.8 A summary of any sanction imposed as a result of a disciplinary hearing may be given by the College in any reference provided to another educational establishment or potential employer.

APPENDIX 4

1.0 Stage 4 - Appeal

- 1.1 Any learner in receipt of a formal warning or excluded temporarily or permanently has the right of appeal.
- 1.2 Appeals must be submitted in writing within 10 working days of the confirmation of the formal warning or outcome of a disciplinary hearing.
- 1.3 Any appeal must give the grounds for the appeal with the facts upon which the appeal is based.
- The only valid grounds for appeal are as follows:
- The learner can demonstrate that the College's Learner Conduct and Disciplinary Policy and Procedure was not followed
 - Additional information or new evidence that was not available during the hearing has come to light that would have fundamentally affected the outcome
 - The disciplinary sanction applied is not equivalent to similar cases within the College
 - There is evidence that the College failed to take into account a known physical or mental health concern when making a judgment and the Fitness to Learn Policy and Procedure would have been more appropriate
- 1.4 Where an appeal is requested on the grounds that there is additional information or new available, the learner must submit this in writing with the request for the appeal.
- 1.5 Where a learner is suspended or excluded, they will remain such until the appeal is heard.
- 1.6 Appeals against a formal warning, where there has been no disciplinary hearing, will be referred to Director of Learning, Director of Learner Services or another senior manager who has no previous involvement in the case.
- 1.7 If there are valid reasons for the appeal, the appointed person will review the evidence and may choose to interview the learner or any other witnesses.
- 1.8 If there are no valid reasons for the reasons for the appeal or the appointed person finds a formal warning was a valid outcome, the learner will be informed that the formal warning stands.
- 1.9 The learner will be informed in writing within ten working days of the appeal
- 1.10 The Principal will hear an appeal where there has been a disciplinary hearing. The process has been designed so the Principal can remain independent until the appeal stage, however, if the Principal has been involved in the early stages, then another Senior Manager can deputise.
- 1.11 If in the opinion of the Principal or nominated Senior Manager, the grounds given for an appeal are not valid, the original decision of the hearing will stand.
- 1.12 If there are valid grounds for appeal, the Principal or nominated Senior Manager will convene an appeal hearing.

2.0 The Appeal Hearing

- 2.1 An appeal hearing will normally be a review of the original decision and not a rehearing of the case. The learner will be invited to explain the grounds of the appeal and the member of staff who made the original decision will be present and may be asked to address any issues the learner raised in the appeal.
- 2.2 An appeal hearing may have the following possible outcomes:
- To confirm the decision of the disciplinary hearing or formal warning
 - To reduce the penalty
 - To allow the appeal, in which case no sanction will be imposed.
- 2.3 They will write to the learner within 5 working days to explain the decision on the outcome with the reasons.

3.0 Procedural Errors

- 3.1 Where a learner believes that the correct procedures were not followed in the management of their appeal, they may refer the matter to the College Governors within five working days of the Principal's decision.
- 3.2 The Chair of Governors or a nominated Governor will review the documentation to ensure that the correct procedures have been followed in line with the appeals procedure.
- 3.3 They will write to the learner within 5 working days with the decision on their review.
- 3.4 If the Governors find that the correct procedures have not been followed during the appeal process, then they may recommend a further appeal hearing.
- 3.5 The Governor's decision is final and concludes the disciplinary process of the College.
- 3.6 Where a learner is dissatisfied with the outcome, they may refer the matter to the relevant funding agency. See Appendix 5.

APPENDIX 5

1.0 Continuing an appeal beyond the College

- 1.1 Once the learner has exhausted the College's appeals process against an exclusion, and is not satisfied with the outcome, they have a right to complain to the College's regulatory body.
- 1.12 The College is regulated for the purposes of this policy by the Education and Skills Funding Agency (ESFA) and the Greater London Authority (GLA).
- 1.13 Such complaints should be addressed to the appropriate complaints team.
- 1.14 Details can be found at:

ESFA

<https://www.gov.uk/complain-further-education-apprenticeship-complaints>

ESFA@education.gov.uk

GLA

<https://www.london.gov.uk/what-we-do/skills-and-employment/skills-londoners/adulteducation-budget/guidance-learner-complaints>

aebcomplaints@London.gov.uk

- 1.15 Complainants should note that the Education and Skills Funding Agency and the Greater London Authority will only take up a complaint when they are satisfied that the College procedure, including appeal, has been exhausted, unless the Agency believes that the College is not dealing with the matter appropriately or effectively, then it may intervene before the procedure is exhausted