

P O L I C Y

<b>TITLE:</b>	Learner Disciplinary
<b>AIM:</b>	To provide a fair and impartial process to identify and modify negative behaviour
<b>RELATED POLICIES &amp; PROCEDURES:</b>	Substance Misuse Policy Anti-Bullying Policy Police Involvement Policy Restrictive Physical Intervention Policy Equality Policy Safeguarding Policy ICT Acceptable Use Policy Fitness to Study Policy Admissions Policy
<b>DATE FOR IMPLEMENTATION:</b>	<i>Please complete if different from 'Approval date' below.</i>
<b>APPROVED BY:</b>	College Executive Team Board of the Corporation
<b>DATE OF APPROVAL:</b>	October 2019
<b>DATE OF NEXT REVIEW:</b>	July 2021
<b>DISTRIBUTION:</b>	All staff and learners via Intranet
<b>VERSION CONTROL:</b>	Previous version approved October 2018
<b>PERSON RESPONSIBLE:</b>	Assistant Principal: Information, Planning, Learner Experience, Inclusion and Curriculum Operations

EQUALITY IMPACT ASSESSMENT		
Phase 1 Initial Screening completed	Date:	08/09/2010
Phase 2  Full impact assessment completed/ not required	<input checked="" type="checkbox"/> Not required	<i>(please tick if appropriate)</i>
	Completed on <i>(if applicable):</i>	
Review of Equality Impact Assessment Undertaken	Date:	September 2017

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## 1 Introduction

East Riding College is committed to:

- Providing a safe learning environment for all learners;
- Providing an environment where the negative impact of poor behaviour on learners, staff, and property is reduced or eliminated;
- Protecting all learners, including those with employers and at other external sites, from harassment, bullying, discrimination and abuse

Processes relating to student discipline will be:

- The responsibility of the course tutor
- Applied promptly, fairly and consistently to all of those involved regardless of age, sex, ethnicity, disability, faith, sexual orientation or other protected characteristic
- Communicated to all staff and learners and, when appropriate, to parents/carers/guardians/sponsoring employers or other external organisations
- Subject to impartial judgement at every stage
- Appropriate to the level of negative behaviour
- Designed to contain opportunities for support
- Centrally co-ordinated to allow for the identification of proactive strategies

All stages of any individual student disciplinary will be recorded on ProMonitor by the relevant tutor(s) and Head of Curriculum. In the case of learners who do not have central records on ProMonitor (e.g. apprentices), paper records may be held.

Learners have the right to be accompanied by a friend/relative or member of Learner Services staff at every meeting from stage 2 onwards. The name of this supporter must be notified to the chair of the meeting at least 24 hours in advance. This right does not extend to accompaniment by a legal or other professional adviser.

Staff may refer to Learner Services at any stage for advice and support. Copies of written warning documentation, issued following a disciplinary hearing with a Head of Curriculum, will be held centrally on SharePoint.

The College will refer incidents suspected of involving criminal action to the police or other relevant law enforcement agency.

## 2 Informal Processes

### Stage 1 - informal (verbal)

Where a learner's behaviour is seen to be unsatisfactory, an informal discussion should be held between the learner and the member of staff who has identified the concern. Notes of this discussion should be kept on ProMonitor. Where it is deemed appropriate to issue a verbal warning, the member of staff who has identified the concern must escalate this to the course tutor and request that a verbal warning is issued. The course tutor will issue the verbal warning and maintain a record on Promonitor.

At this point it may also be appropriate to identify support needs and make the appropriate referrals to Learner Services or to Learning Support.

If no improvements are made, or the behaviour continues despite issuing verbal warnings, the admin support team for Heads of Curriculum should be asked to send out a written

Confirmation of Verbal Warning to the learner and, in the case of 16-18 year olds, their parents/carers, detailing the unsatisfactory behaviour or concern, the required action on the part of the learner, including agreed timescales, and a date when this will be reviewed by the tutor.

Where appropriate a referral should be made to the Learner Development Coach to work with the learner informally to address unacceptable behaviour.

### 3 Formal Processes - Misconduct

#### Stage 2 - misconduct

If the informal discussion has not brought about the required improvement in behaviour or if a level of behaviour is such that formal intervention is deemed appropriate, a formal written warning will be given:

A first written warning will be given if:

- behaviour identified in a verbal warning continues
- behaviour identified as misconduct\* occurs

\*Appendix A gives examples of misconduct. The list is not exhaustive but is designed to indicate a level at which it would be appropriate to issue a formal warning.

Written warnings will identify the reason for the warning, the required action with agreed timescale and set a review date.

Where a concern is identified by a member of staff other than the course tutor, and a written warning is deemed appropriate, the member of staff must liaise with the course tutor. The course tutor will be responsible for all formal disciplinary action, including issuing the written warning.

Copies of written warnings issued to learners under the age of 19 years will be sent to parents/carers. Warnings issued to 19+ learners will be copied to any sponsor.

**A second written warning, which can only be issued by a Head of Curriculum** following a disciplinary meeting, will be given if the actions previously agreed have not been achieved and/or maintained. The second written warning must contain information about referral to the Stage 3 Process if no improvement is seen. The required action on the part of the learner and a review date will be agreed.

### 4 Stage 3 Formal Processes - persistent or serious misconduct

#### Persistent misconduct

If the second written warning is ineffective or the action plan is not adhered to, the learner will be required to attend a formal disciplinary hearing. In the case of persistent misconduct, the meeting will be attended by the relevant Head of Curriculum and will be chaired by the Client Services and Enrichment Manager or Assistant Principal as outlined within section 6 below.

#### Serious misconduct

Serious misconduct is defined as behaviour which is illegal or which endangers the safety of learners, members of staff or other persons or the security of property. Appendix B gives examples of behaviour that will be defined as serious misconduct. The list is not exhaustive.

In the case of serious misconduct, the learner will be required to attend a disciplinary hearing chaired by the Client Services and Enrichment Manager or Assistant Principal, or deputy, as outlined within section 6 below.

Serious misconduct may warrant immediate temporary exclusion (maximum of 10 working days) pending a disciplinary investigation and hearing. The investigation will be carried out by a Head of Curriculum. Temporary exclusion (or suspension) should only be applied in exceptional circumstances and the decision should be based primarily on risk to the individual and to other learners or members of staff.

Any member of staff witnessing or becoming aware of an incident that could be construed as serious misconduct must notify a member of the College Executive Team (CET).

The CET member will, if appropriate, authorise the temporary exclusion of the learner from the premises. The temporary exclusion will be confirmed in writing by the end of the next working day. For learners under the age of 19 years, parents/guardians will be contacted by telephone confirming the temporary exclusion and giving the reason for it. These conversations will be confirmed in writing by the end of the next working day. The decision to suspend will also be conveyed by the Head of Curriculum or other line manager to the learner or staff member who reported or is the victim of the alleged misconduct by the end of the next working day.

Where appropriate, a learner may be required to leave the College for a period of “cooling off” without invoking a formal suspension. This decision can be made by any member of the College Leadership Team (CLT).

## **5 Investigation**

The investigation, which must include an examination of ProMonitor to establish relevant background information, will be conducted by the relevant Head of Curriculum within the previously notified period (maximum 10 working days). All witnesses will be asked to submit a written statement within an agreed timeframe.

The investigation will determine whether or not there is a case for disciplinary action. Where the outcome of the investigation is that disciplinary action is not considered to be appropriate the learner shall return to College and continue their studies. Any such return to College must be authorised by a member of CET.

## **6 Stage 3 Disciplinary Hearing**

Where a Stage 3 disciplinary hearing is justified, the learner will be notified in writing of the date and time of the hearing. The letter should give at least 3 working days’ notice to allow relevant evidence to be compiled and shared with the Chair of the hearing in advance of the hearing taking place. The learner will be reminded that he/she may be accompanied by a representative of his/her choice which might include a member of Learner Services staff but must not be a legal representative. The letter will also confirm the name of the person chairing the disciplinary hearing.

The learner must notify the Chair of the disciplinary hearing of the name of any supporter at least 24 hours prior to the meeting.

A Stage 3 disciplinary hearing will normally be chaired by the Client Services and Enrichment Manager or Assistant Principal, or in their absence, may be chaired by a Director (see Appendix C for guidance notes on the conduct of a disciplinary hearing). In addition to the Chair one other member of College staff will be present throughout the disciplinary hearing, this would normally be the relevant Head of Curriculum.

After hearing the evidence, and any statement from the learner, the Chair will come to a conclusion which will be notified to the learner in writing within 5 working days. This letter will include details of the appeals procedure.

The outcome of the Stage 3 hearing may include any of the measures previously outlined in this procedure or a period of exclusion.

A Stage 3 disciplinary hearing may conclude that permanent exclusion is appropriate. **Only the Vice Principal or in his or her absence the Principal** may exclude a learner.

Should the learner fail to attend a disciplinary hearing, the College reserves the right to determine the outcome of the hearing in the learner's absence.

## **7 Behavioural agreements**

At any stage of the disciplinary procedure, course tutors and/or Heads of Curriculum may choose to agree a formal behavioural agreement with a learner, setting out clear expectations and clarifying consequences of non-compliance. Support with agreeing the content of a behavioural agreement is available from the Client Services and Enrichment Manager.

Where possible, the Learner Development Coach should be invited to attend any meetings relating to a learner behaviour contract (including the initial meeting to agree the contract and any subsequent review meetings). The Coaches will then provide ongoing support, encouragement and challenge (as appropriate) to the learner, in line with the specific expectations agreed within the contract.

## **8 Damage to College property**

Learners will be expected to reimburse the College for any costs arising from wilful damage to College property.

## **9 Appeals**

A learner must have clear grounds for an appeal, for example new evidence. An appeal must be received by the College within ten working days of the date of the College's letter confirming the outcome of the disciplinary hearing.

To appeal against the outcome of a Stage 3 disciplinary hearing, the learner must write to the Principal stating the reason for his/her appeal against the decision.

The Principal will communicate their decision to the learner within 10 working days of receipt of the appeal. This decision will be final.

## **10 Reporting**

A report on Stage 3 Disciplinary proceedings will be presented annually to the College Executive Team and will include information on the numbers and outcomes of hearings held and an analysis of learners alleged to have committed serious misconduct by age group, sex, ethnicity, disability and curriculum area.

## Appendix A - examples of misconduct

- Persistent non-attendance or lateness
- Refusal or failure to complete required coursework
- Failure to notify reasons for absence
- Failure to follow required systems or procedures
- Use of insulting, obscene or offensive language including, but not limited to, verbal, written, text, social networking and e-mail communication
- Unruly or disruptive behaviour
- Cheating or plagiarism
- Failure to comply with the College's IT Acceptable Use Policy
- Breach of Health and Safety guidelines or instruction or tampering with health and safety related equipment
- Minor damage to College or other's personal property, including graffiti
- Refusal to follow College regulations (e.g. use of mobile phones, consumption of food drink in classrooms)
- Smoking anywhere on the College site, other than in the permitted area
- Failure to comply with requirement to wear their learner ID card
- Bullying or harassment other than that described as serious misconduct below

## Appendix B - examples of serious misconduct

- Particularly serious cases of misconduct may be treated by the college as gross misconduct
- Threatening behaviour
- All forms of harassment, bullying and abuse, including cyber bullying and verbal abuse of a serious nature, or which continues after intervention by the Anti-bullying team
- Bullying, harassment or discrimination on the basis of gender, ethnicity, disability, faith, sexual orientation or other protected characteristic
- Indecent behaviour
- Violent behaviour
- Assault
- Fighting
- Using, or being under the influence of or possessing on College premises drugs, alcohol or other stimulants or substances
- Wilful damage to College or other's property
- Contravention of the College's ICT Acceptable Use Policy including the downloading of unacceptable material from the Internet (e.g. pornography, sending unsolicited or offensive material)
- Theft
- Malicious allegations of abuse against staff or students
- Any act likely to bring the college into disrepute
- Any illegal act

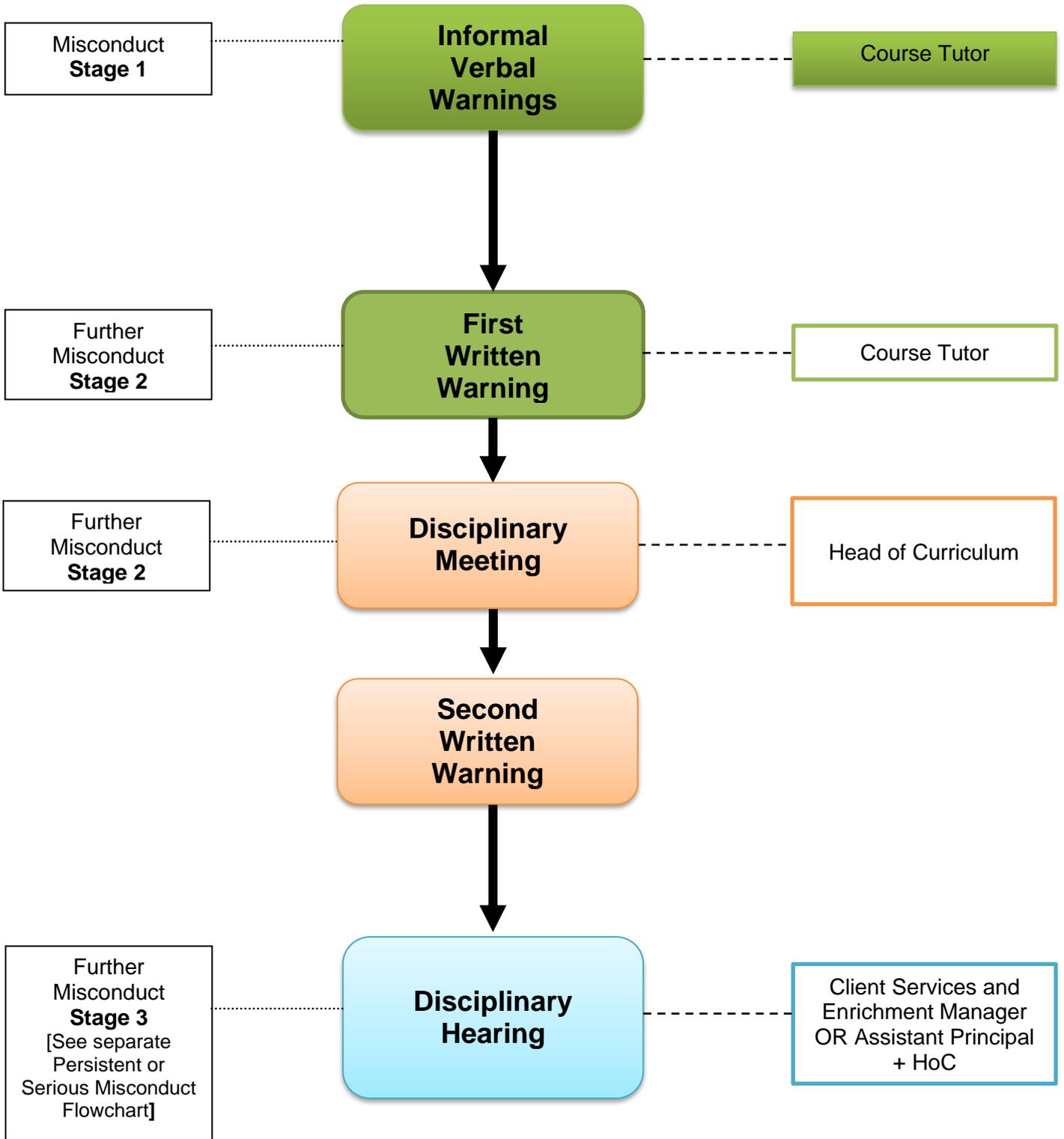
*Behaviour outside College premises which brings the College into disrepute is also deemed to be serious misconduct*

## Appendix C - conduct of a Stage 3 Disciplinary Hearing

The normal procedure for a Stage 3 disciplinary hearing will be:

- 1 The Hearing will normally be chaired by the Client Services and Enrichment Manager or Assistant Principal: Information, Planning, Learner Experience, Inclusion and Curriculum Operations
- 2 The learner will introduce any person brought as a supporter whose name was submitted prior to the hearing
- 3 The person presenting the complaint will present the College's case, which may include presenting documentary evidence or calling witnesses
- 4 The learner or his/her supporter will be given the opportunity to question the person presenting the College's case
- 5 The Chair will be given the opportunity to question the person presenting the College's case
- 6 The learner or his/her supporter will present evidence in support of the learner's position, which may include presenting documentary evidence or calling witnesses
- 7 The person presenting the College's case will be given the opportunity to question the learner or his/her supporter
- 8 The Chair will be given the opportunity to question the learner or his/her supporter
- 9 Summing up by the person presenting the College's case
- 10 Summing up by the learner or his/her supporter
- 11 The Chair will consider what action is appropriate. The Chair will convey the decision and details of the appeals procedure in writing to the learner within 5 working days

# MISCONDUCT FLOWCHART



# PERSISTENT OR SERIOUS MISCONDUCT FLOWCHART

