

Norfolk County Council, Adult Learning

Learner Disciplinary

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Operating Procedure Statement

This Learner Disciplinary Operating Procedure provides a framework for managing the conduct and behaviour of learners as defined in Norfolk County Council Adult Learning (the service) Code of Conduct and for addressing issues that arise as a result of misconduct as defined in this operating procedure.

Introduction

The service has duties and obligations relating to the care of and responsibility for its staff, learners, and others who we have contact with.

The service will protect learners, staff, and those who we have contact with from harassment, bullying, discrimination, and abuse, remove unjustified barriers to their success, value and celebrate difference and identity, and promote good relations between people with different protected characteristics, including age, race, gender, sexual orientation, gender re-assignment, disability, pregnancy and maternity, religion and belief or marriage and civil partnership.

We will ensure that our service gives all of our learners the opportunity to realise their full potential and enrich the culture of our service and the wider community.

Unacceptable or inappropriate behaviour and/or conduct by a learner, as defined in this operating procedure, will not be tolerated and we will take timely and effective action where appropriate.

The service has a duty to protect its learners, staff, and those who we have contact with.

The service is committed to maintaining its standards and values.

Code of Conduct

In accordance with expectations set out in the Ofsted Education Inspection Framework, we expect our learners to comply with the following responsibilities:

- a) To provide us with accurate information and comply with our academic and administrative procedures
- b) To attend classes regularly, punctually and be ready to learn
- c) To dress appropriately for the programme of study attended
- d) To be committed to the programme of study, complete work on time and undertake assessment activities as required
- e) To pay any tuition and/or accreditation fees that are due in a timely manner
- f) To comply with our policies and the law
- g) To ensure that the dignity and rights of staff and other learners are recognised and protected at all times
- h) To value and respect others and behave courteously, responsibly, and safely
- i) Not to give offence to others by actions, language or behaviour including

- expression of extremist views or possession of extremist material
- j) Not to bully, harass, discriminate against and/or abuse any member of staff, learner, or other person

To report any concerns that a learner may have to a trusted member of staff or, if the learner prefers to tell someone in confidence, by email at:

complimentsandcomplaints@norfolk.gov.uk

Definition of Misconduct

The general definition of misconduct under this Learner Disciplinary Operating Procedure is “improper interference, in the broadest sense, with the proper functioning or activities of the service, or those who work or learn with the service, including any person that the learner comes into contact with or action which otherwise damages the service, including actions that contravene the law”.

The following (subject to the above) will constitute misconduct:

- a) The harassment, bullying, discrimination and/or victimisation of a learner or learners, member or members of staff or any person that the learner comes into contact with on the service’s premises or on other external sites associated with or used by the service as part of the service’s business, including employers’ premises or via the internet
- b) Emotional, financial, physical, psychological, sexual and/or other forms of abuse, including grooming; or acts of neglect against another learner, member of staff or any other person that the learner comes into contact with as part of their learning programme. This is of particular relevance with regard to the safeguarding of young people and vulnerable adults
- c) Obstruction of, or improper interference with, the functions, duties, rights or activities of any learner, member of staff or other employee of the service, Norfolk County Council, or any authorised visitor
- d) Violent, indecent, or disorderly behaviour or language whilst engaged in any service activity
- e) Threatening or offensive actions, language, or behaviour, including actions, language or behaviour associated with radicalisation and/or the expression of extremist views or possession and/or distribution of extremist material, whilst engaged in any service activity
- f) Action likely to cause injury or impair safety either on the service’s premises or on any other sites associated with or used by the service, including employers’ premises
- g) Failure to value and respect others and behave courteously and responsibly, including acts of disturbance which threaten the rights and privacy of any member of staff, a learner or group of learners or any person the learner comes into contact with whilst engaged in any service activity
- h) Damage, defacement, or theft of any property of the service or Norfolk County Council or of property belonging to a site associated with or used by the service, or any property of a member of staff or a learner or group of learners, whilst on the service’s premises or on any other sites associated with or used by the service, including employers’ premises, or whilst engaged in service-related

activity

- i) Possession and/or use of and/or under the influence of illegal substances, which constitute an offence at law
- j) Attending learning sessions under the influence of alcohol
- k) Smoking in unauthorised locations whilst on the service's premises or on any other sites associated with or used by the service, including employers' premises, or whilst engaged in service activity
- l) Disruption of, or improper interference with the academic, administrative, or other activities of the service, including a failure to provide accurate information
- m) Failure to comply with the service's policies and/or the law
- n) Failure to attend the designated training sessions required by a programme of learning
- o) Failure to dress appropriately for the programme of study attended
- p) Failure to complete and submit compulsory work and/or assessment tasks required as part of a programme of learning within the required timescale
- q) Cheating, deceit, deception, dishonesty, fraud and/or plagiarism in relation to a learning programme, a learning activity, an assessment activity or task, an examination, the service, or its staff
- r) Failure to pay tuition and/or accreditation and/or examination fees in a timely manner

These examples of misconduct, whilst comprehensive, may not cover all circumstances that may arise. In the event of an issue that is not covered in this section, the broader definition, as detailed in Section 4.1, may be applied.

Disciplinary Procedures

Introduction

In the following circumstances, the Head of Service will be informed and reserves the right to suspend a learner immediately from their learning programme and from attending any premises used by the service, pending the outcome of an investigation and any associated Disciplinary Proceedings:

- a) Where an act of misconduct is deemed to represent a serious breach of the service's Code of Conduct.
- b) Where an act of misconduct relates to a suspicion or disclosure of abuse as defined in the Children Act 2004 and/or the Safeguarding Vulnerable Groups Act 2006. Any such incident will be referred immediately to the service's Safeguarding Lead for immediate consideration and referral to Children's Services or Adult Social Services.
- c) All incidences of bullying, harassment, discrimination and/or victimisation, expression of radical or extremist views and/or possession and/or distribution of extremist material.
- d) Any act of misconduct that is likely to lead to criminal or legal proceedings, until the outcome of the criminal or legal proceedings is known. Where Disciplinary

Proceedings are necessary as a result of any criminal or legal proceedings, the learner will remain suspended and the matter will be referred directly to a Disciplinary Hearing before the service's Disciplinary Committee, as outlined in this Operating Procedure.

Management of Disciplinary Proceedings

During disciplinary proceedings the following must be adhered to:

- a) The service should consider, prior to the commencement of any disciplinary proceedings, the needs of the learner and any other persons likely to be involved in the proceedings, in terms of their access and support needs.
- b) The learner must be given at least two weeks' written notice of any formal Disciplinary Hearing. However, if the act of misconduct is serious, the service reserves the right to hold any Disciplinary Hearing within a shorter timescale.
- c) The learner has the right to be accompanied and/or represented by a friend, family member or legal representative.
- d) The learner must be given full details, in writing, of the nature of the act of misconduct and be given the opportunity to respond.
- e) Strict confidentiality must be maintained.
- f) Where it is necessary to interview third parties the importance of confidentiality and the integrity of the process must be emphasised.
- g) In the event of an incident of bullying, harassment, discrimination, victimisation and/or abuse, under no circumstances should the person affected by the incident or the complainant and the alleged perpetrator be expected or required to face each other at the same meeting.
- h) All parties providing a statement or evidence should be advised that their statement or evidence may be shared with other parties. Any individual who withholds consent must provide justifiable reasons for doing so. If they are unable to do so, the service will not be in a position to use their statement or evidence as part of the disciplinary proceedings
- i) The disciplinary procedure must focus on the facts, drawing evidence from all available and appropriate sources
- j)

Informal Disciplinary Procedure

Where an act of misconduct is of a minor nature, an informal disciplinary meeting will be arranged, with the learner, the learner's tutor and/or assessor and the Curriculum Manager responsible for the learner's learning programme in attendance.

The purpose of this meeting is to explore the act of misconduct with the learner and to find a way forward so as to avoid any repetition of the act of misconduct so that the learner is able to successfully complete their learning programme.

The learner will be given two weeks' written notice of the meeting and advised of the purpose of the meeting.

If the learner fails to attend the meeting without providing an acceptable explanation and has not requested an alternative date and time for the meeting, the meeting will go ahead in the learner's absence.

If the learner requests and is given the opportunity of an alternative date and time to attend the meeting and fails to attend the second appointment without providing an acceptable explanation, the service will proceed with the meeting in their absence.

Depending on the seriousness/nature of the incident, if the act of misconduct is proven, the learner will be cautioned by the Curriculum Manager and offered advice on how to avoid a repetition of the act of misconduct.

The learner will also be advised that if the act of misconduct is repeated, the matter could be referred to a formal Disciplinary Hearing before the service's Disciplinary Committee.

A written record of the meeting will be produced. A copy will be kept in the Curriculum Manager's file and a further copy will be sent to the learner.

Formal Disciplinary Procedure

Cases which involve serious misconduct or repeated instances of minor acts of misconduct, will be referred to the service's Formal Disciplinary Procedure.

Where criminal or legal proceedings have resulted from the act of misconduct, the Disciplinary Hearing will take place once the outcome of these proceedings is known

All incidences of bullying, harassment, discrimination and/or victimisation, expression of radical or extremist views or possession and/or distribution of extremist material will automatically be considered as acts of serious misconduct.

Acts resulting in criminal damage or legal proceedings will automatically be considered as acts of serious misconduct.

With regard to other acts of misconduct, the severity of the act and/or the impact on the service will be considered when deciding whether the incident should be referred directly to the formal procedure. The relevant Assistant Head of Service, or in their absence another member of the Senior Leadership Team, will make the decision in these cases.

Formal Disciplinary Proceedings will be held before the service's Disciplinary Committee, which will be appointed by the Head of Service

The composition of the Disciplinary Committee will be as follows:

- a) One Member of the service's Senior Leadership Team (Chair)
- b) One Curriculum Manager
- c) One other Officer or Manager

The members of the Disciplinary Committee should not have had any previous involvement in the case.

The Curriculum Manager responsible for the learner's learning programme will submit a report to the Disciplinary Committee, outlining the circumstances of the act

of misconduct, and forward any statements of evidence, within two weeks of the date of the incident. However, if the act of misconduct is serious the service reserves the right to hold any Disciplinary Hearing within a shorter timescale and the Curriculum Manager will be asked to submit a report within a shorter timescale.

The Disciplinary Committee may request further statements of evidence as appropriate, indicating the timescale for submission.

The learner will be given at least two weeks' written notice of the date, time, and place of the Disciplinary Hearing (Hearing). If the act of misconduct is serious, the service reserves the right to hold a Disciplinary Hearing within a shorter timescale. The learner will also be sent, at the same time, copies of the Curriculum Manager's report and any statements of evidence that the service intends to use at the Hearing, a copy of this Operating Procedure, as well as details of the members of the Disciplinary Committee and the contact details of the Chair of the Disciplinary Committee.

The Disciplinary Committee will decide which other persons they wish to call to give evidence at the Hearing and give those persons two weeks' written notice of the date, time, and place of the Hearing, enclosing a copy of this Operating Procedure.

The learner will be informed of their right to be accompanied and/or represented by a friend, family member or legal representative.

If the learner fails to attend the Hearing without providing an acceptable explanation and has not requested an alternative date and time for the Hearing, the Hearing will go ahead in the learner's absence.

If the learner requests and is given the opportunity of an alternative date and time to attend the Hearing and fails to attend the second appointment without providing an acceptable explanation, the service will proceed with the Hearing in their absence.

The learner has the right, not less than three working days before the meeting, to forward to the Chair of the Disciplinary Committee, a statement containing any grounds for mitigation or challenge to the case under consideration.

At the Hearing, the Disciplinary Committee will interview the learner and the other persons that they have called to give evidence and then determine, in the light of the evidence, whether a breach of the service's Code of Conduct has been committed and, if appropriate, the sanction that the service will impose.

The Disciplinary Committee has the following options:

- a) To rule that no action be taken
- b) To issue a written warning to the learner, indicating the consequences of future misconduct
- c) To require the learner, within a period to be specified, to pay the owner of any property damaged in consequence of the act of misconduct, compensation to the extent of the estimated cost of making good that damage

- d) To require the learner to apologise to persons affected by the act of misconduct
- e) To remove the learner from their programme of learning, with no refund of any fees or other expenses that the learner has incurred. The service will require the learner to settle any and all outstanding course-related fees
- f) To require that the learner requests and obtains prior approval from the Head of Service before joining any future learning programme with the service

The Disciplinary Committee will consider the evidence and communicate their decision in writing to the learner and the Head of Service within one week of the date of the Hearing.

The written notification will state the outcome of the Hearing, the nature of the disciplinary action if action is to be taken, the reasons for the action, together with a summary of the alleged facts on which any disciplinary action is based and a clear statement of the right and method of appeal.

The decision of the Disciplinary Committee will be binding.

Appeals Procedure

A learner may appeal to the Head of Service against a penalty imposed by the Disciplinary Committee in relation to an act of misconduct.

Such an appeal must be submitted in writing to the Head of Service within two weeks of the date of the written notification of the outcome of the Hearing and shall state the grounds for the appeal.

Head of Service
Norfolk Adult Learning County Hall
Martineau Lan,
Norwich
NR1 2DH

If the Disciplinary Committee has ruled that a learner should be removed from their programme of learning, the learner will be suspended from their programme of learning pending the outcome of the appeal.

The Head of Service will review the evidence from the Hearing and the grounds that the learner has provided for an appeal.

The Head of Service will meet with the Disciplinary Committee to review their decision, within one week of receipt of the learner's request for an appeal.

The Head of Service will arrange a meeting with the learner, within two weeks of the date of the learner's request for an appeal.

The learner will be informed of their right to be accompanied and/or represented by a friend, family member or legal representative.

If the learner fails to attend the meeting without providing an acceptable explanation and has not requested an alternative date and time for the meeting, the Head of Service will reach a decision in the absence of the learner.

If the learner requests and is given the opportunity of an alternative date and time to attend the meeting and fails to attend the second appointment without providing an acceptable explanation, the Head of Service will reach a decision in the absence of the learner.

The Head of Service will confirm, reduce, set aside, amend, or otherwise vary the penalty imposed by the Disciplinary Committee.

The decision of the Head of Service will be final and binding.