



Student Disciplinary Policy [and Procedures]

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Note: The disciplinary forms are available through the College intranet under the FORMS section and are also available through pro-solution from the reports tab in the student record;

- SDP1 Informal Warning
- SDP2 Disciplinary Warning Form
- SDP3 Acceptable Behaviour Agreement
- SDP4 Suspension Letter

1. Introduction

- 1.1 Leeds College of Building (LCB) is committed to establishing positive relationships between staff and students and the wider College community. The Student Induction Procedure sets out what students can expect from the College and outlines the College values (including British Values). In turn, the College expects all students to behave with integrity and respect; enabling a safe, secure and respectful environment for everyone. The student disciplinary process exists to address situations where a student's behaviour has fallen below acceptable standards. This would apply to any incidents reported on College premises and may extend to incidents involving students who are offsite or online (e.g. cyber bullying and gaming).
- 1.2 The College will encourage all staff and students to use the principles of restorative practice (where appropriate) to address student misconduct. The primary aim of restorative practice is to repair any harm or damage caused by or to an individual. This is based upon the individual, who has perpetrated the misconduct, making informed choices to mend a wrongdoing. This could be as simple as a verbal or written apology or the student volunteering to take on additional cleaning duties in the workshop for an agreed number of sessions. Tutors will be encouraged to recognise and reward such behaviours because this helps to support students to better prepare for life in modern Britain and the workplace.

SDP Table 1

1. Restoration	The primary aim of restorative practice is to address and repair harm.
2. Voluntarism participation	In restorative processes participation is voluntary and based on informed choice.
3. Neutrality	Restorative processes are fair and unbiased towards participants.
4. Safety	Processes and practice aim to ensure the safety of all participants and create a safe space for the expression of feelings and views about any harm that may have been caused.
5. Accessibility	Restorative processes are non-discriminatory and available to all those affected by conflict and harm.
6. Respect	Restorative processes are respectful to the dignity of all participants and those affected by the harm.

- 1.3 The operation of this Policy will be executed in line with the College's duty of care for all members of the College community, its statutory obligations for health and safety, equality and inclusion, safeguarding, data protection and human rights (right to a fair trial). All investigations will be conducted in a fair manner.
- 1.4 In the case of HE students, the Office of the Independent Adjudicator may agree to review a case following a final decision of the College and the Policy will outline the steps which the student may take if they chose to submit complaint.

2. Definition of misconduct

2.1 Misconduct is defined as:

Improper interference (misbehaviour or wrongdoing) which is detrimental to the peaceful functioning of the College or behaviour which undermines the legitimate rights of others. This could be a failure to fully adhere to student requirements and reasonable expectations as outlined in the College Student Charter and Code of Conduct and any other relevant Policy.

3. Unauthorised recordings

- 3.1 The use of portable devices to make either voice or video recordings, in an investigation meeting, suspension meeting, disciplinary meeting or disciplinary hearing, will **NOT** be permitted without the express written consent of staff or students involved with the process.
- 3.2 Any recordings which are made without the express written consent of those attending the meeting will **NOT** be admissible as evidence in any subsequent meeting.
- 3.3 The investigating officer will make all parties aware of the College's rules relating to unauthorised recordings at the beginning of the meeting / hearing.
- 3.4 Students may be asked to leave the College premises and further disciplinary action could follow if anyone fails to observe the College's rules relating to unauthorised recordings.

4. Misconduct that may also constitute a civil or criminal offence

- 4.1 The College retains absolute discretion to either; continue or conclude, defer or suspend any disciplinary investigation or proceedings at any time where it believes that an investigation by the police or any other authority is ongoing or contemplated.
- 4.2 The College will advise anyone who is a victim of an alleged crime to report the alleged incident to the Police or any other authority. The College may in exceptional circumstances take a decision to report an incident to the Police without the consent of the victim. This will be in circumstances where a member of the Senior Management Team (SMT) determines that it is sufficiently in the public interest to do so, or if the incident relates to a safeguarding issue.

5. British Values

The College requires everyone in the College community to exemplify the British Values of democracy, respect for the rule of law, individual liberty and mutual respect and tolerance of those who have different faiths and beliefs. Any student who actively opposes those values be dealt with under this Policy.

6. Mental ill Health, Disability and Student Welfare (including EHCP students)

- 6.1 In line with the aim of the Student Disciplinary Policy, students who may have mental ill health or a specific learning difficulty or disability, will not be exempt from the rules concerning acceptable conduct at the College.
- 6.2 The College understands that, in the course of addressing cases of student discipline, issues relating to the student's mental wellbeing may arise. The College will make reasonable efforts to ensure that these issues are handled with sensitivity.
- 6.3 In some disciplinary cases, there may be concerns about the role of mental health or a specific learning difficulty in misconduct, whether from a known condition or from concerns that there may be an undiagnosed condition. In such cases, advice must be sought from the Equality, Inclusion & Safeguarding Manager and / or the Inclusive Learning Support Manager.
- 6.4 It may be the case that following advice, the College proceeds with the investigation as usual, proceeds with additional support for the student in place of a disciplinary meeting or the College may advise that this is dealt with through an alternative process.
- 6.5 In cases where the College considers that a student's mental health might create a serious risk to themselves or to others, the College may consider a suspension on health grounds.
- 6.6 Where a student has a disability, reasonable adjustments should be made to enable a student to fully engage with the disciplinary process. This can include a full range of

additional support arrangements which have been identified by the Inclusive Learning Support Team, College Safeguarding Team or Student Services.

7. Rights to representation

- 7.1 Any student who finds themselves the subject of disciplinary proceedings may seek clarification and guidance from the Student Service Team.
- 7.2 Students have the right to be accompanied in disciplinary meetings by a friend, relative, Personal Advisor, Additional Learning Support Worker, Local Authority Representative for a student who has an EHCP or disability support advisor. The companion may;
- help the student to put his or her case across;
 - confer with the student during the hearing;
 - help the student to sum up the case;
 - attend the meeting to provide moral or personal support to the student.
- 7.3 The person hearing the case is, however, entitled to expect the student, and not the companion, to answer any questions asked.
- 7.4 Representation by a lawyer or other paid advisers will not be permitted.

8. Confidentiality and disclosure of information to third parties

- 8.1 Information disclosed during or resulting from disciplinary proceedings is strictly confidential and should not be shared with any third party or any other staff and students *[other than the Local Authority involving a case with an EHCP Student]*.
- 8.2 Staff may inform a complainant that disciplinary action has been taken against an individual; however they should not disclose any further details concerning the case or the outcome.
- 8.3 The Police or other law enforcement agencies may request information or documentation in relation to disciplinary matter. This request should be passed to a member of the Senior Management Team, the Student Services Manager or the Equality, Inclusion and Safeguarding Manager. They will have authority to either approve or not approve the request.
- 8.4 The College requires the student, the student's representative and College staff to respect the sensitivity and confidentiality of the information disclosed during any proceedings and the right of others.
- 8.5 Any failing of either College staff or students to respect the provisions relating to confidentiality and disclosure contained within this Policy, will be subject to separate disciplinary proceeding.

Part 2

9.0 Categories of misconduct

The College has categorised the different types of misconduct into 4 categories (please refer to 'SDP table 2' below):

- Minor Misconduct
- Serious Misconduct – Category A
- Serious Misconduct – Category B
- Gross Misconduct

Further details relating to the types of misconduct can be found on the table 2 under section 9.1.

9.1 **SDP Table 2** - the following examples do not cover all circumstances and it is recognised there could be varying degrees of seriousness relating to many of the examples given. Members of staff are expected to make a judgement based on the facts available to them at the time and / or seek advice if necessary. Where a physical assault has taken place, an accident and incident report form should be completed. When a student has been suspended, the appropriate code (X-Suspended) should be entered on the class register.

Category	Definition	Example <i>(may include but not exclusively)</i>	Determining body	Suggested Sanctions or restorative actions.
MINOR MISCONDUCT	Behaviour which can be disruptive and may causes some hurt or harm to others; but has a small or temporary impact on the College community or visitors <i>[Inc. local residents or the business community]</i> .	<ul style="list-style-type: none"> • Poor attendance. • Persistent lateness. • Smoking on college premises • Disruptive behaviour. • Failure to complete work on time. • Public use of foul language. • Misuse of the internet / IT facilities and / or other equipment. • Failure to wear protective equipment / clothing as directed. • Inappropriate use of Social Media. 	<u>Any Lecturer</u> will have authority to investigate and issue a relevant sanction or corrective action.	<input type="checkbox"/> <i>Disciplinary Concern – Form SDP1</i> <input type="checkbox"/> <u>Formal Verbal Warning (on file for 3 months)</u> <input type="checkbox"/> Acceptable Behaviour Agreement (SDP3). <input type="checkbox"/> <i>Restorative actions – student volunteering to repair the harm, hurt or damage in a positive way.</i>
SERIOUS MISCONDUCT (CATEGORY A)	Behaviour which has a detrimental significant impact or has the potential to have a significant impact on the College community or visitors <i>[Inc. local residents or the business community]</i> .	<ul style="list-style-type: none"> • Violation of a Formal Verbal Warning disciplinary incident. • Bullying, victimisation, intimidation or verbal abuse (including the use of offensive and/or extremist language). • Aggressive, inappropriate or offensive behaviour to staff, students or visitors. • Breaches of health and safety regulations. • Displaying offensive or pornographic materials in the College. • Failure to follow reasonable instructions from a member of staff. • Serious misuse of Social Media. 	<u>Any Lecturer</u> will have authority to investigate and issue a relevant sanction or corrective action.	<input type="checkbox"/> <u>Written Warning (on file for 4 months)</u> <input type="checkbox"/> Acceptable Behaviour Agreement (SDP3). <input type="checkbox"/> <i>Restorative actions – student volunteering to repair the harm, hurt or damage in a positive way.</i>

Category	Definition	Example (may include but not exclusively)	Determining body	Suggested Sanctions or restorative actions.
SERIOUS MISCONDUCT (CATEGORY B)	<p>In addition to the definition in 'Category A'; Any behaviour which causes damage to College property or which seriously undermines the College capability to comply with a specific legal duty. This may include;</p> <ul style="list-style-type: none"> • Equality Act [2010] • Health and Safety Legislation • Counter Terrorism & Security Act [2015] • Criminal Justice Act[s] 	<ul style="list-style-type: none"> • Violation of a Written Warning disciplinary incident. • Undermining the Colleges ability to carry out its duty to prevent extremism, violence and hate crime. • A defiant, vocal or active opposition to British values as defined in 5.0 of this Policy. • Deliberate damage to College buildings, equipment, books, furnishings or any property of others. • Serious breaches of health and safety regulations, requirements or control measures. • Unauthorised interference with software or data belonging to or used by the College. • Serious incidents of harassment of staff and students (including any extremist behaviour). • Threats of violence made to staff or students. • Gross misuse of Social Media. 	<p><u>Any Curriculum Manger or Assistant Faculty Director</u> will normally have the authority to relevant sanction or corrective action</p>	<ul style="list-style-type: none"> <input type="checkbox"/> <u>Final Written Warning (on file for 6 months)</u> <input type="checkbox"/> Acceptable Behaviour Agreement (SDP3). <input type="checkbox"/> Restorative actions – student volunteering to repair the harm, hurt or damage in a positive way.
GROSS MISCONDUCT (MAY REQUIRE SUSPENSION)	<p>The most serious misconduct which represents a fundamental breach of behavioural standards.</p>	<ul style="list-style-type: none"> • Physical assault / violent or threatening behaviour (including the carrying of weapons both real and imitation). • Serious act of bullying or harassment of any type, including misuse of Social Media. • Possession of or dealing in illegal substances (see also Drugs / Alcohol Misuse Policy). • Theft, fraud or falsification of documents; • Serious infringement of the College's Equality and Inclusion Policy or Safeguarding Policy • A defiant, vocal or active opposition to British values and an unwillingness to modify their behaviour. • Cheating in examinations or assessments. • Undertaking dangerous acts or practices. • Any behaviour which has brought or may, in the opinion of the Senior Management Team brings the College into disrepute (irrespective of whether it takes place on College property or in College time). 	<p><u>Any Assistant Faculty Director</u> will normally have the authority to relevant sanction or corrective action</p>	<p><i>Note: a suspension may be used and a formal disciplinary hearing will be required at this stage.</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> <u>Exclusion from the College (not exceeding 1 academic year)</u> <input type="checkbox"/> Final Written Warning <input type="checkbox"/> Acceptable Behaviour Agreement (SDP3). <input type="checkbox"/> Restorative actions – student volunteering to repair the harm, hurt or damage in a positive way.

10. Formal Investigation Processes

Unauthorised recordings - The use of portable devices to make either voice or video recordings, in an investigation meeting, suspension meeting, disciplinary meeting or disciplinary hearing, will **NOT** be permitted without the express written consent of staff or students involved with the process.

- 10.1 In potentially serious cases of unacceptable conduct an investigation will need to take place (Stage 4 and if appropriate at Stage 2 or 3). To ensure fairness, the person carrying out the investigation will not be the person conducting the hearing / meeting. The following procedures should be followed when investigating a disciplinary incident.
- 10.2 Investigations should be started and concluded as soon as possible (normally by the same person) after identification of the problems. If the immediate line manager has been closely involved in the circumstances of the case, then an investigation should be conducted by another manager.
- 10.3 Full statements should be obtained as soon as possible from individuals involved in the incident together with any witness statements. Other evidence may also be required e.g. video, photographs etc. In exceptional circumstances, the College can anonymise witness statements if there is a risk that witnesses can be put at risk of significant harm if they were identified.
- 10.4 Individuals should be interviewed independently, and as quickly as possible following an incident, with a member of staff taking notes of the interview. Any Safeguarding, Disability, EHCP, Mental ill Health concerns need to be identified and the College Safeguarding Officers / Manager and / or the Inclusive Learning Support Manager must be notified. Student Services or the Inclusive Learning Support team may, if requested, provide support for the student. The student can be interviewed without being accompanied if this is done by way of agreement.
- 10.5 Students must be provided with the opportunity of giving their own version of events, particularly in cases where opinion or facts appear to differ, and they should be encouraged, if necessary helped, to prepare a written statement which should be signed and dated, or sign the interview notes to agree that they are a true representation of events. If necessary where a student has been suspended and they have not provided a statement before leaving the premises, they should be contacted and invited to provide a statement or attend an investigatory meeting. If it is not practical or appropriate to allow the student into the College, this may be done over the phone, or the student maybe asked to send their response in writing (or email) to the College.
- 10.6 It is important to ascertain the facts from individuals involved and you may have to ask the following questions: What happened? Who was involved? Where did it happen? Was this the first time it had occurred or have there been other occasions? Were there any witnesses?
- 10.7 Investigators should be consistent and objective in approach, particularly in respect of interviewing all witnesses. Ask witnesses what they saw and seek verification of dates, times, location etc. Be careful not to reveal additional information which may have been communicated by other parties. If necessary, keep witnesses isolated as far as practicable prior to interview.
- 10.8 Interviews must be held on a formal basis and it is expected that the full titles of staff members will be used in any statement e.g. Mr Smith (not forenames).
- 10.9 Staff witness statements should be written using appropriate language and content. They should be factual and bear relevance only to the incident / person concerned.
- 10.10 Following the conclusion of an investigation a decision must be made on the most appropriate level of disciplinary action to take (if considered necessary).
- 10.11 At a Stage 4 hearing, the investigating officer will normally be the Curriculum Manager or Assistant Faculty Director.

- 10.12 Staff should note that it is essential to report any potentially serious incident to a senior manager immediately so they may be aware if a complaint is subsequently received or if they need to action something immediately themselves.

11.0 Disciplinary Procedure and Available Sanctions (please refer to 'table 2' above)

Before instigating disciplinary proceedings, check if the student has a disability, learning difficulty (including an EHCP) or mental ill health. There may be cases which could place a student at a substantial disadvantage if reasonable adjustments are not made. In such cases, advice must be sought from the Inclusive Learning Support Manager or the Equality Inclusion and Safeguarding Manager.

- 11.1 Informal Procedure** (recorded on SDP1 form and record this on the Student Disciplinary Database) – This notes very minor misconduct and will aim to seek immediate improvement in behaviour.

This will require staff to use their own professional judgement. Where there is unsatisfactory behaviour or a minor breach of the Colleges rules, lecturers should;

- a) hold an informal meeting with the student
- b) Ensure the Student understands why his/her conduct is unacceptable
- c) Seek agreement on making sure that unacceptable behaviour does not continue
- d) Set a date to review students' progress
- e) Keep a record of the meeting on **Form SDP1**.

Student Disciplinary Database - All teaching staff can view the database to see if a student has previously been issued with a warning and at what level the warning was issued at. Before invoking any part of the formal or informal procedure, check the Student Disciplinary Database to ensure a warning has not already been issued previously.

12 Stage 1 - Formal Verbal Warning

- a) This may be issued if there is sufficient evidence or an admission from the student substantiating an allegation of misconduct.
- b) Recorded on SDP2 form and will remain in the student file for 3 months
- c) This can be issued by a Lecturer for incidents concerning minor misconduct as outlined in *Table 2* in addition to a relevant 'Acceptable Behaviour Agreement (SDP3)' which may contain restorative actions for the student.
- d) Confirmation of the verbal warning will be sent to the student (if under 18, a copy will be sent to the parent / carer and employer if appropriate)

12.1 Stage 2 - Written - Warning

- a) This may be issued if sufficient evidence has been obtained (following an investigation) or an admission from the student substantiating an allegation of misconduct.
- b) Recorded on SDP2 form and will remain in the student file for 4 months.
- c) This can be issued by a Lecturer or a Curriculum Manager for incidents concerning serious misconduct – Category A as outlined in *Table 2* in addition to any relevant 'Acceptable Behaviour Agreement (SDP3)' which may contain restorative actions for the student.
- d) Confirmation of the written warning will be sent to the student (if under 18, a copy will be sent to the parent / carer and employer if appropriate)

12.2 Stage 3 - Final Written - Warning

- This may be issued if there is sufficient evidence (following an investigation / formal hearing) or an admission from the student substantiating an allegation of misconduct.
- Recorded on SDP2 form and will remain in the student file for 6 months
- this can be issued by a Curriculum Manager or an Assistant Faculty Director for incidents concerning serious misconduct – Category B as outlined in *Table 2* in addition to any relevant 'Acceptable Behaviour Agreement (SDP3)' which may contain restorative actions for the student.
- Confirmation of the final written warning will be sent to the student (if under 18, a copy will be sent to the parent / carer and employer if appropriate)

12.3 Stage 4 – Formal Disciplinary Hearing for Gross Misconduct (inc. exclusions)

NOTE: When a disciplinary matter for a student who has an EHCP is being dealt with at stage 4, the Inclusive Support Manager must be notified.

- a) A disciplinary hearing will be held by a Faculty Director / member of the Executive Team following a final written warning where behaviour does not improve in accordance with the Behaviour Agreement / or in cases of gross misconduct where the student has been suspended pending investigation.
- b) **Suspension** - A short period of suspension may be necessary while a detailed, unhindered investigation is carried out. This should be kept under regular review to ensure that it does not become unnecessarily protracted. Students may be suspended for up to 10 working days in the first instance. This may be extended if it is not reasonably practical to complete the investigation within that period. It should be made clear to the student that the suspension is not considered to be a disciplinary measure.
- c) A formal investigation as outlined in **Section 10.0** of this policy, will take place by a Curriculum Manager or an Assistant Faculty Director.

d) If the student has an EHCP, the Inclusive Learning Support Manager will submit a report to the Faculty Director, to determine whether the additional learning support (as identified in the ECHP) has been received by the student. The Faculty Director will take this into consideration at the hearing.

- e) The student will be invited to attend a disciplinary hearing. The College will provide at least 5 working days' notice from the hearing date¹.
- f) The 'PROCEDURE FOR FORMAL DISCIPLINARY AND APPEAL HEARINGS' in **Appendix A** will be followed at the hearing.
- g) If on the balance of probability, the allegation is substantiated; depending on the gravity, seriousness or mitigating factors related to the misconduct in question, the student may be reinstated back on to the course with a Final Written Warning or the student may be excluded.
- h) The College's decision will be communicated to the student within five working days of the hearing. This will include the details of the outcome and reasons why, and informed of the right to appeal.

i) In the case where the student has an EHCP, the Inclusive Learning Support Manager will call an EHCP review meeting to review the outcomes for the students EHCP going forward (whilst the College remains the named provider on the students EHCP).

¹A student will be given every opportunity to participate in the disciplinary process where the following guidelines will apply:

- If a student is suspended and does not attend when invited to an investigation meeting (without good reason) the student will be sent all available investigation papers and invited to a disciplinary hearing – at this point they can present their case together with any written evidence.
- If the student does not attend the disciplinary hearing, it will be rearranged and a second invitation sent. If they fail to attend the rearranged hearing the case will be heard in their absence and the decision communicated to them – the student still has the right of appeal if they don't agree with the decision even if they did not attend
- If a student contacts the investigating officer because they can't attend on any proposed date, a mutually convenient date must be arranged

Please note that this does not impact on the process of withdrawing students for poor attendance, where they fail to respond to letters, text messages and/or phone calls. In these instances at least two letters must be sent out followed by a final withdrawal letter.

13 APPEALS

- 13.1 A student who wishes to appeal against a disciplinary decision at Stage 2 (Written Warning) or Stage 3 (Final Written Warning) must inform the Faculty Director within ten working days of the disciplinary meeting.
- 13.2 A manager, at a higher level than the one who issued the warning and not previously involved, will hear the appeal. It should be heard within ten working days of notification of appeal unless mutually agreed.
- 13.3 A student who wishes to appeal against a decision made at Stage 4 (formal hearing) should inform a member of the Executive Team in writing within ten working days of the hearing.
- 13.4 Any appeal decision is final.
- 13.5 The notice must specify the grounds on which the student wishes to appeal. The grounds on which the student may appeal are:
- Evidence provided at the hearing was factually incorrect;
 - Fresh evidence, which was not available at the original hearing and which may have affected the outcome of the hearing, is now available;
 - The hearing was flawed on procedural grounds;
 - The findings of the hearing were inconsistent with the evidence provided to the hearing;
 - The outcome was not reasonable in the circumstances.
- 13.6 The 'PROCEDURE FOR FORMAL DISCIPLINARY AND APPEAL HEARINGS' in **Appendix A** will be followed at the appeal hearing.

STUDENT DISCIPLINARY POLICY AND PROCEDURE (continued)**PROCEDURE FOR FORMAL DISCIPLINARY AND APPEAL HEARINGS****(From Final Written Warning Stage)**

A note taker will be present to record proceedings.

Unauthorised recordings - The use of portable devices to make either voice or video recordings, in a suspension meeting, disciplinary meeting or disciplinary hearing, will **NOT** be permitted without the express written consent of staff or students involved with the process.

1. The College representative shall put the case in the presence of the student and his / her representative may call witness.
2. The student (or his / her representative)* shall have the opportunity to ask questions of the College representative and of any witnesses.
3. The person(s) conducting the hearing / appeal shall have the opportunity to ask questions of the College representative and witnesses.
4. The student (or his / her representative) shall make a response in the presence of the College representative and may call witnesses.
5. The College representative shall have the opportunity to ask questions of the student and of any witnesses.
6. The person(s) conducting the hearing / appeal shall have the opportunity to ask questions of the student and of any witnesses.
7. The College representative followed by the student (or his / her representative) shall have the opportunity to sum up their cases if they so wish.
8. The College representative, the student and the student's representative and witnesses shall withdraw.
9. The person(s) conducting the hearing / appeal shall deliberate in private only calling the College's representative and the student (or his / her representative) to clear points of uncertainty on facts already given. If recall is necessary both parties are to return although only one may be concerned with clarifying a particular point.
10. All parties will be informed of the outcome of the hearing and of any disciplinary action. In exceptional circumstances, the decision may be postponed until further information is available.
11. The decision will be confirmed in writing to the student (and his / her representative) within seven days. (One week). This should include notification to the Safeguarding Officer where applicable.
12. The decision will be recorded on the Student Disciplinary Database.

* The representative may be a parent / carer, friend, employer, Student Services Personal Adviser but may not be a solicitor or barrister or legally qualified person.