3.7 Policy for Dealing with Disciplinary Breaches

QA Area (s)	• Programmes of Education and Training • Governance and Management of Quality • Documented Approach to QA
Applies to	☐ Staff only ☐ Learners only ☒ Staff and learners
Policy Owner	Director of Academic Affairs and Undergraduate Programmes

3.7.1 Purpose

The purpose of this policy is to provide the College with a process through which they can have complaints against a learner for misconduct investigated in a fair, constructive and thorough manner, and appropriate sanctions applied. For the purposes of this policy, 'misconduct' is defined as an alleged breach of the Learner Code of Conduct, described in the Learner Charter.

3.7.2 Scope

The policy applies to all learners who are in receipt of services from the College.

3.7.3 Policy

The College assumes that learners will comply with the requirements of the Code of Conduct on a voluntary basis through the exercise of mature self-discipline.
Where circumstances warrant it, the College may suspend a learner pending the completion of inquiries and without prejudice to the outcome of disciplinary procedures.
Nothing in this policy and associated procedures shall prevent the College from referring matters tothe Garda Síochána where it considers this to be appropriate.
The College classifies misconduct at three levels:

1. Minor infringement: Minor infringements include, but are not limited to, noise, disorderly conduct and minor damage.
2. Major infringement: Major infringements include but are not limited to, repeated minor offences, injury or threats to the person, harassment, bullying, abusive or dangerous behaviour, nuisance, damage to property, malicious tampering with and/or disabling of security and safety systems.
3. Gross misconduct: Gross misconduct includes, but is not limited to, assault causing serious harm (including sexual assault), serious or repeated harassment, discrimination, extreme nuisance, serious damage to property and use of illegal substances.

In order to support a charge under any of these headings, proof presented in support of that charge must be considered to be beyond all reasonable doubt by the investigating body. This provides protection for both the College and the learner. The College reserves the right to report major or gross misconduct to the appropriate authorities where it deems it necessary.

As is the case in dealing with complaints, the disciplinary process comprises up to three stages:

1. Stage 1 – Informal
2. Stage 2 – Formal Investigation of Alleged Breach of Code of Conduct
3. Stage 3 - Appeal

3.7.4 Responsibility

The Director of Academic Affairs and Undergraduate Programmes has responsibility for ensuring learners and staff are aware of the College's disciplinary policy and procedure.
All staff and learners at the College have responsibility for adhering to the disciplinary policy and procedure, whether they are the person bringing the charge or the subject of the charge.

3.7.5 Related Legislation, Regulation or Guidelines

1. Core Statutory Quality Assurance Guidelines 2016 (QQI).
2. Sector Specific (Independent/Private) Statutory Quality Assurance Guidelines 2016 (QQI).
3. Policies and criteria for the validation of programmes of education and training 2017 (QQI)
4. Policy and Criteria for Making Awards 2014 (QQI)
5. Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG, 2015).
6. Assessment and Standards, Revised 2013 (QQI).
7. Policy for Determining Awards Standards – QQI, 2014
8. NFQ Awards Standards
9. European Credit Transfer and Accumulation System (ECTS) User Guide –2015
10. International Standard Classification of Education (ISCED) – UNESCO, 2011.

3.8 Procedure for Dealing with Disciplinary Breaches

3.8.1 Procedure

Should it become necessary to initiate the disciplinary process, the following procedures will apply:

1. An allegation of a breach of the Code of Conduct may be made by any member of academic, administrative or support staff. In certain circumstances, the Director of Academic Affairs and Undergraduate Programmes may invoke the Complaints Procedure in respect of a complaint received from a member of the public, in as far as it relates to a prima facie case of an alleged breach of the Code of Conduct.
2. Where it becomes appropriate that disciplinary proceedings are to be invoked arising from a complaint by one learner against another learner, the formal procedure will be initiated by the appropriate Programme Lead.
3. Where a disciplinary action results in the imposition of a sanction against a learner, that fact will be noted on the learner's record and may be taken into account by the

College authorities in responding to requests for character references if such is deemed relevant and appropriate.

The disciplinary procedure is structured in a three-stage process.

3.8.2 Stage 1: Informal Process

Minor infringements are expected to be handled at this stage as an informal process and no written record will be maintained.
Allegations of serious breaches of the Code of Conduct should proceed to Stage 2 directly.

3.8.2.1 Steps:

1. The complainant who has observed an alleged breach of the Code of Conduct should raise the matter with the learner concerned with a view to reaching a resolution. It is important that the complainant is confident that they have identified the correct learner.
2. It may be necessary in some cases to engage with the Programme Lead to expedite a resolution.
3. If these informal efforts fail to resolve the matter satisfactorily, it should proceed to Stage 2.

3.8.2.2 Stage 2: Formal Process

1. The complainant should outline in writing the alleged breach of the Code of Conduct, to the Director of Academic Affairs and Undergraduate Programmes. The information provided must be detailed and comprehensive, including dates, witnesses etc. It should also include details of any informal attempts made to address the matter.
2. The Director of Academic Affairs and Undergraduate Programmes then appoints an appropriate manager such as Head of Academic Programmes to investigate the incident.
3. The College retains the right to suspend a learner suspected of gross misconduct whilst the investigation into the incident is taking place. Such investigations shall be conducted as quickly as possible to limit the academic impact on the learner. In this instance the learner will be informed in writing of their suspension by the Director of Academic Affairs and Undergraduate Programmes . They will be requested to cease contact with any other parties involved during this period.
4. The Head of Academic Programmes conducts the investigation and on completion a report is issued outlining the reasons to call the learner before the Disciplinary Committee. The learner is notified in writing by the Director of Academic Affairs and Undergraduate Programmes Office and a copy of the findings of the investigation is made available.
5. The Disciplinary Committee is established, by the Director of Academic Affairs and Undergraduate Programmes, with the following membership:

- Chair: Registrar. In the event that the disciplinary issue arises from the College's Complaints Procedure, the Director of Academic Affairs and Undergraduate Programmes shall appoint a chair from the membership of the Academic Council, other than any learner representative.
- A member of the Executive Management Team not previously involved in the case.
- A member of lecturing staff not previously involved in the case.

6. A learner who is the subject of a referral to the Disciplinary Committee is required to attend the meeting and has the right to be accompanied and to present their own case. If a learner fails to attend or chooses not to attend the hearing, the hearing shall proceed in their absence.
7. Following the hearing, the Disciplinary Committee shall reach a decision on the case at hand and will apply a penalty appropriate to the offence committed. This decision will be communicated to the Director of Academic Affairs and Undergraduate Programmes and the learner shall be notified in writing of the outcome, normally within 72 hours of the hearing.
8. In the event of the learner choosing to exercise their right of appeal, the application of the disciplinary penalty shall be suspended pending the outcome of the appeal. In the event of the learner not choosing to exercise their right of appeal, the disciplinary penalty shall be applied.

3.8.3 Penalties

1. In the case of minor infringements, the Director of Academic Affairs and Undergraduate Programmes will issue an oral warning to the learner which shall be effective for six months. A note shall be retained on the learner's file.
2. In the case of major infringements, the Director of Academic Affairs and Undergraduate Programmes shall issue a written warning which shall normally be effective for 12 months unless otherwise stated at the time of issue. A copy of the written warning shall be retained on the learner's file.
3. In the case of a second major infringement, the Director of Academic Affairs and Undergraduate Programmes shall issue a final written warning that shall normally be effective for the remainder of the learner's programme of study. A copy of the written warning shall be retained on the learner's file.
4. It should be noted that in the case of a major infringement, the circumstances may be considered so serious as to warrant the issuance of a final warning without prior warnings. A further major infringement subsequent to the issuance of a final warning shall normally lead to the learner's expulsion. A record of expulsion shall be retained per the data retention policy on the learner's file and communicated to the relevant authorities where appropriate.

5. In the case of gross misconduct, the appropriate penalty is immediate expulsion. A record of expulsion shall be retained on the learner's file and communicated to the relevant authorities where appropriate.
6. Following the issuing of a decision by the Student Disciplinary Committee, a learner may be required to:
    - Give a written undertaking as to their subsequent conduct within the College.
    - Give a verbal or written apology to the parties impacted by their behaviour.
    - Cover the cost of damage to property (College or personal).

3.8.4 Confidentiality

If the Learner Disciplinary Committee is satisfied at any stage within these procedures that misconduct has not taken place, no documentation relating to the alleged misconduct and the associated investigations shall be retained. The disciplinary process, once entered into, is confidential to all parties. Therefore, it is essential that any individuals involved in the process respect this paramount need for confidentiality. Breaches of such confidentiality may lead to disciplinary action being taken.

3.8.5 Appeal

If the learner is dissatisfied with the decision of the Disciplinary process, they may appeal in accordance with the policy and procedure in Section 3.8 Policy for Appeals.