



Bord Oideachais & Oiliúna
LUIMNIGH & AN CHLÁIR

LIMERICK & CLARE
Education & Training Board

FET LEARNER DISCIPLINARY PROCEDURE

Purpose

The purpose of this procedure is to serve a dual purpose in that it provides a framework, which enables Learning Practitioners¹ and Programme Managers², to maintain satisfactory standards in work and conduct, while providing learners access to a procedure whereby alleged failures to comply with standards may be fairly and sensitively addressed.

Scope/To Whom It Applies

This procedure applies to all Further Education and Training learners registered with the ETB.

General Principles

Matters of discipline shall be dealt with in accordance with the general principles of natural justice and fairness and in a manner that protects the dignity of the learner concerned. In this regard, the following principles shall apply:

- every effort will be made by all parties to resolve issues at the informal stage;
- details of any allegations or complaints are put to the learner concerned;
- the learner will be advised in writing, in advance of a disciplinary meeting, of the precise nature of the matters concerned and will be given copies of all relevant documentation;
- the learner concerned is given the opportunity to respond fully to any such allegations or complaints;
- the learner concerned has the right to examine and challenge all evidence available and to call witnesses on their behalf, if required;
- the learner concerned is given the opportunity to be accompanied during the procedure by a class representative or fellow learner(s);
- the learner concerned has the right to a fair and impartial determination of the issues concerned, taking into account any other relevant or appropriate evidence, factors, or circumstances;
- any disciplinary action arising should be reasonable and proportionate;
- there may be occasions where a learner's work, conduct or other such issue is satisfactory throughout the review period only to lapse soon thereafter. Where such a pattern emerges, the learner's previous conduct and pattern of behaviour may be considered as a whole in a future disciplinary procedure;
- access to personal information held by the ETB will be made in accordance with the ETB's Data Protection Policy (specifically with respect to the ETB's Access Procedure) and with the principles and requirements of the Data Protection Acts;
- all matters relating to the disciplinary procedure are strictly confidential to the parties and their representatives;
- Nothing, however, shall prevent management from holding a disciplinary meeting/hearing and imposing disciplinary sanction(s) at a more advanced stage of the procedure appropriate to the nature of the conduct/behaviour.

While it is anticipated that learners will co-operate fully with this disciplinary procedure, any failure to co-operate will not prevent the processing of a complaint to conclusion.

In the case of suspected or alleged gross misconduct, immediate precautionary suspension may apply pending an immediate investigation.

¹ The term "Learning Practitioner" is used to cover the roles of Teacher, Trainer, Tutor and Instructor.

² Programme Manager includes: Principal, Deputy Principal, Provision Co-ordinator, FET Training Provision and Support Services Manager, FET Training Provision and Support Services Assistant Manager, or other person designated by Limerick and Clare Education and Training Board.

Informal Stage

Where an ETB staff member has a concern in respect of a learner, a meeting is to be arranged to discuss the issues of concern. The learner should be verbally informed that this discussion(s) is taking place within the informal stage of the disciplinary procedure. The ETB staff member will discuss with the learner:

- any unsatisfactory performance or conduct and inform them of the improvements required;
- possible methods of correction and an indication of acceptable time scale for such correction;
- any support that might be provided to the learner;
- that unless the necessary improvement is made within a reasonable period, the matter will proceed to the formal disciplinary procedure.

Formal Stage

Stage 1 – Formal Verbal Warning

Where unsatisfactory performance or conduct has not improved through the informal procedure, the matter shall be referred by the ETB staff member to the relevant Programme Manager³. A meeting is to be arranged with the learner to discuss the issues of concern. The learner should be informed in writing that this discussion(s) is taking place within the formal stage of the disciplinary procedure. If not already provided, the learner concerned should be given a copy of the ETB's **Learner Disciplinary Procedure** and be advised to familiarise themselves with the various stages of the procedure that may be invoked and the range of sanctions available. The relevant Programme Manager will discuss with the learner:

- any unsatisfactory performance or conduct and inform them of the improvements required;
- having considered all matters, the Programme Manager will decide on whether or not a verbal warning is warranted. Correspondence confirming the decision (whether to issue a verbal warning or not) will be sent to the learner as soon as possible from the Stage 1 meeting;
- where a verbal warning is issued, it should state the improvement required, the timescale for improvement, and any support that might be provided to the learner. It should also state that the warning constitutes the first stage of the disciplinary procedure and failure to improve may result in progression to Stage 2 (or higher as may be appropriate) of the disciplinary procedure;
- if, in the opinion of the Programme Manager, there is no basis for the issuance of a verbal warning then they may decide that no further action should be taken in relation to the issue. This decision will also be communicated to the learner.

Note: A record of the Verbal Warning will be retained in the learner's file in accordance with the ETB's Data Retention Schedule.

Stage 2 – Formal Written Warning

Where unsatisfactory performance or conduct has not improved, the matter shall be escalated to the overall Provision Manager⁴. The Provision Manager shall review the file and determine an appropriate course of action which will be communicated in writing. This communication will also inform the learner that the matter is now at Stage 2 of the disciplinary procedure. Where deemed necessary, a meeting may be arranged with the learner to discuss the issue(s) of concern. The Provision Manager will discuss with the learner:

³ Programme Manager includes: Principal, Deputy Principal, Provision Co-ordinator, FET Training Provision and Support Services Manager, FET Training Provision and Support Services Assistant Manager, or other person designated by Limerick and Clare Education and Training Board.

⁴ May include: Director of Further Education and Training, FET Managers, Principal, Deputy Principal, Provision Co-ordinator, FET Training Provision and Support Services Manager, FET Training Provision and Support Services Assistant Manager, or other person designated by Limerick and Clare Education and Training Board.

- any unsatisfactory performance or conduct and inform them of the improvements required;
- having considered all matters, the Provision Manager will decide on whether or not a formal written warning is warranted. Correspondence confirming the decision, will be sent to the learner, as soon as possible;
- where the Provision Manager issues a formal written warning, it should state the improvement required, the timescale for improvement, and any support that might be provided to the learner. It should also state that the warning constitutes the second stage of the disciplinary procedure and failure to improve may result in progression to Stage 3 (or higher as may be appropriate) of the disciplinary procedure;
- if, in the opinion of the Provision Manager, there is no basis for the issuance of a written warning then they may decide that no further action should be taken in relation to the issue. This decision will also be communicated to the learner.

Note: A record of the Formal Written Warning will be retained in the learner's file in accordance with the ETB's Data Retention Schedule.

Stage 3 – Suspension / Expulsion

Where unsatisfactory performance or conduct has not improved, the matter shall be reviewed by the Provision Manager; however, if the learner's behaviour is such to cause immediate concern in respect of the learner's presence on the course and/or on the FET Campus, the Provision Manager may suspend the learner for a period of time. In such instances, the Programme Manager will notify the learner in writing of the duration of the suspension.

- a meeting of the Provision Manager and the learner shall be convened as soon as practical after the Provision Manager notifies the learner of their intention to make a recommendation for expulsion;
- In the meeting, the Provision Manager will review the matters presented and allow representations to be made by the learner to reach a decision;
- if, in the opinion of the Provision Manager, there is no basis for expulsion, however, there are concerns in respect of performance or conduct, the Provision Manager may consider alternative sanctions available under the procedure;
- the decision of the Provision Manager shall be communicated in writing outlining the rationale for the decision;
- the decision of the Provision Manager may be appealed to the ETB's Director of Further Education and Training.

Note: A record of the Suspension and/or Expulsion will be retained in the learner's file in accordance with the ETB's Data Retention Schedule.

Stage 4 – Appeal Process

Where a learner appeals the decision of the Provision Manager to expel, the learner shall:

- set out in writing to the Director of Further Education and Training the rationale for the appeal enclosing a copy of the decision of the Provision Manager;
- the Provision Manager shall be requested by the Director of FET (or Designated Person) to forward the statement of facts as presented;
- a meeting with the learner and the Provision Manager shall be convened by the Director of FET (or Designated Person) as soon as practical on receipt of the appeal;
- the Director of FET (or Designated Person) shall review the matters presented, allow representations to be made by the learner and the Provision Manager;

- if, in the opinion of the Director of FET (or Designated Person), there is no basis for expulsion, however, there are concerns in respect of performance or conduct, the Director of FET (or Designated Person) may consider alternative sanctions available under the procedure;
- the decision of the Director of FET (or Designated Person) shall be communicated in writing outlining the rationale for the Director's (or Designated Person's) decision;
- the decision of the Director of FET (or Designated Person) shall be final.

Note: A record of the Suspension and/or Expulsion will be retained in the learner's file in accordance with the ETB's Data Retention Schedule.

Gross Misconduct

Gross misconduct is a serious breach of ETB rules and procedures, or of recognised and accepted standards and behaviour, which results in a breakdown of the relationship of trust and confidence between ETB management/staff and the Further Education and Training learner. Gross misconduct, if proven, will justify disciplinary action set out in this document including where appropriate, expulsion, without recourse to giving a verbal, first written or final written warning. In all cases of alleged gross misconduct an investigation will be carried out. The learner may be suspended, pending the outcome of such an investigation. Suspension is a precautionary measure and not a disciplinary sanction.

- Where a complaint is raised which may be considered as gross misconduct, the Provision Manager shall designate the relevant Programme Manager to investigate the matter.
- On completion of an investigation, the Programme Manager shall furnish the Provision Manager with a report of the findings of fact with a recommendation as to whether there is a case to answer or not.
- The Provision Manager on consideration of the report shall make a decision on the appropriate intervention required, which may include referral to the disciplinary procedure up to and including expulsion.
- Examples of gross misconduct include, but are not limited to:
 - Breach of the terms of Child Protection Guidelines/Procedures;
 - Theft, fraud, embezzlement, misappropriation of funds;
 - Deliberate falsification of data (manual or automated);
 - Serious/gross negligence which causes unacceptable loss, damage or injury;
 - Refusal to comply with legitimate instructions resulting in serious consequences;
 - Incapability through alcohol or being under the influence of illegal drugs or misuse of prescribed medication; possession and/or sale of illegal drugs;
 - Serious breach of Health & Safety rules;
 - Serious abuse/misuse of the ETB's property/equipment/materials;
 - Deliberate damage to ETB property ;
 - Serious bullying, inappropriate behaviour, sexual harassment or harassment against a staff member, learner, parent/guardian or party with whom the ETB conducts business;
 - Violent/threatening/disruptive behaviour;
 - Serious breaches of the ETB's email, internet, ICT telephone policies ;
 - Manual or automated posting or circulation of offensive, obscene or indecent messages whether by email, text, social networking sites or any other form of communications' device; downloading/disseminating pornographic material;
 - Persistent non-attendance.