



Learner Disciplinary (Misconduct) Procedure

Last reviewed- 19/04/2023
Next review- 19/04/2024

Reviewed by -
Approved by - Trustees

Purpose

At *Step into Learning* we are committed to providing a learning environment in which learners can fulfil their potential and participate freely in all activities.

Principles

The learner disciplinary procedure applies in cases of learner misconduct and is designed to:

- ensure procedural fairness
- encourage all learners to meet the standards of behaviour required by *Step into Learning*
- ensure consistent and just treatment for all regardless of disability, age, race, gender (sex), religion and belief, sexual orientation, gender reassignment, pregnancy and maternity
- ensure that the facts are established and the matter is investigated fully before disciplinary action is taken. Such investigations will be carried out by a Fitness to practice Panel for Counselling students.
- ensure that learners know what is expected of them
- ensure that learners are given access to a fair hearing.

Each case will be investigated on its own facts, and decisions will normally be based on the balance of probability that an incident did or did not take place.

The procedure applies to all individuals enrolled as a learner of *Step into Learning*.

Learners have the right to be accompanied by another person at all stages of the procedure, as a supporter. This would normally not be a learner on the same course. It is the learner's responsibility to contact his/her supporter. The role of the supporter is to provide moral support and ensure the learner has understood the process and any questions being asked. It is not the role of the supporter to speak on the learner's behalf. The procedure does not allow for legal representation on behalf of the learner in disciplinary interviews.

Equality and Diversity Statement

Step into Learning is committed to the advancement and promotion of equality and diversity. We aim to provide a learning environment which values individuals equally regardless of disability, age, race, gender (sex), religion and belief, sexual orientation, gender reassignment, pregnancy and maternity.

It is our duty and obligation under the Equality Act 2010 to:

- eliminate discrimination, harassment and victimisation

- advance equality of opportunity
- foster good relations between different groups

This procedure will be implemented in accordance with our equality and diversity policy, and learners subject to disciplinary investigation or action will not be discriminated against or victimised on any grounds. Records of disciplinary action are monitored by race and gender.

Reasonable adjustments must be made when dealing with learners with learning difficulties and/or disabilities, for instance, allowing the learner to be accompanied by more than one person in an academic performance meeting (the procedure does not allow for legal representation on behalf of the learner).

Code of Conduct for Learner

Step into Learning's Code of Conduct sets out the Step into Learning requirements for learner behaviour whilst on Step into Learning's premises or taking part in *Step into Learning* activities, so that all learners know what is expected of them. It can be found in the learner handbook and company website <https://stepintolearning.org.uk/policies/>. It will have been brought to the attention of all learners at induction.

Whilst it is not possible or desirable to lay down an exhaustive set of standards, the Code of Conduct lists Step into Learning's general expectations in terms of:

- behaviour
- attendance and punctuality
- work/study performance.

If the Code of Conduct is not adhered to, disciplinary action may be taken.

Academic neglect

Issues relating to attendance, punctuality and academic performance should be dealt with through Step into Learning's Head of Adult Education and the learner's Tutor.

Gross misconduct

Gross misconduct is generally seen as serious misconduct where *Step into Learning* considers that it is not possible to continue to allow the learner to study at or be on *Step into Learning* premises.

Such action of gross misconduct, if proven, would normally result in the learner's exclusion from *Step into Learning*.

While it is not possible to compile a comprehensive list of offences which can result in exclusion, some examples are listed below:

- theft of property from Step into Learning
- bullying of another learner or member of staff
- persistent disruption of sessions
- persistent bad language in a session
- Racist or sexist behaviour
- Attending sessions under the influence of drugs or alcohol
- Physical assault

Criminal activity

Step into Learning reserves the right to report potentially criminal activity to the police, and/or to advise victims of such activity of their right to do so. Unless there are exceptional circumstances, such as safeguarding concerns, incidents should not be reported to the police or other external agency against the wishes of the victim.

If an incident is serious and of a criminal nature, *Step into Learning* reserves the right to defer disciplinary action pending the outcome of criminal proceedings, in order not to compromise any police investigation. Depending on the seriousness of the incident, it may be necessary to suspend the learner in the meantime, but this decision must not be taken lightly.

Disciplinary Procedure

The following procedure should apply where learners have breached the Code of Conduct and standards expected of them whilst at *Step into Learning*.

a. Informal stage

For non-serious or minor or first instances of misconduct, the Tutor or other member of staff may deal with the incident by means of an informal verbal warning in a tutorial interview. In such instances the learner must be advised:

- of the *Step into Learning* Code of Conduct
- of the standards of behaviour expected
- that any further misconduct will be dealt with formally under *Step into Learning's* Disciplinary (Misconduct) Procedure.

b. Formal Stage

1. Investigation

The investigation is about listening to the facts.

- A thorough investigation into the alleged misconduct must take place before a disciplinary interview is held or disciplinary action taken. This is likely to involve interviewing and gaining information from staff and learners who were involved or witnessed the alleged misconduct. Such investigations should be recorded in writing and completed in 5 working days of the alleged misconduct.
- The member of staff or Fitness to Practice Panel carrying out the investigation should advise individuals being questioned of the reason for the investigation and that it may lead to disciplinary action.
- Staff or learners who were witnesses have the right to choose not to take part in the investigation. Learners involved in the investigation should be advised that they may be accompanied at any investigation interview by another person.

2. Outcome and action

The following outcomes of the disciplinary investigation are possible:

- no case to answer
- learner offered counselling/support/mediation
- allegations appear to be substantiated and there is a case to answer.

Where the learner is found to have a case to answer, disciplinary action should be taken within the following disciplinary framework.

Disciplinary Framework

Where an investigation of alleged misconduct indicates that disciplinary action may be required, the following framework should be implemented. The stage at which action is taken will depend on the nature and severity of the alleged misconduct and, in serious cases, *Step into Learning's* Executive Directors or Trustees may wish to proceed straight to the written warning or, exceptionally, exclusion stage. All stages must be preceded by investigation. Counselling students should refer to the Fitness to Practice Panel document attached as an appendix to this document

1. Recorded oral warning

In cases deemed too serious for informal action, or where the misconduct persists despite an informal warning, the learner should be given a recorded oral warning.

In such instances the member of staff should:

- Arrange a date and a time to hold a disciplinary interview with the learner. This should be done within 5 working days of the alleged incident
- Confirm with the learner:
 - the date and the time of the disciplinary interview
 - the allegation of misconduct to be heard at the interview
 - the learner's right to be accompanied by a supporter
- Explain that failure to attend this meeting or make contact to rearrange it will result in a decision being made in their absence
- Email/Phone the parent (or person with parental responsibility) if the learner is under 19 at the start of their course, unless they have previously withdrawn consent to contact. Make them aware of the date and the time of the meeting and the reasons for why the meeting is taking place
- If a recorded oral warning is felt to be the appropriate sanction, issue the learner with an oral warning, and record it in their file
- Advise the learner that, if any future misconduct of any kind occurs, s/he will be disciplined further.

2. First written warning

If further misconduct occurs or if the behaviour does not improve after a recorded oral warning, a first written warning can be given. Alternatively, if the misconduct is deemed more serious, the Executive Directors may proceed directly to the first written warning stage, bypassing the oral warning stage.

In such instances an Executive Director should:

- Arrange a date and a time to hold a disciplinary interview with the learner within 5 working days of the alleged misconduct
- Confirm with the learner:
 - the date and the time of the disciplinary interview
 - the allegation of misconduct to be heard at the interview
 - the learner's right to be accompanied by a supporter

- Explain that failure to attend this meeting or make contact to rearrange it will result in a decision being made in their absence
- Email/Phone the parent (or person with parental responsibility) if the learner is under 19 at the start of their course, unless they have previously withdrawn consent to contact. Make them aware of the date and the time of the meeting and the reasons for why the meeting is taking place
- Confirm the outcome in writing to the learner within 5 working days of the disciplinary interview, sending a copy, with a covering letter, to the parent (or person with parental responsibility) if the learner is under 19 at the start of the course, unless they have previously withdrawn consent to contact
- The letter must include:
 - a clear statement of the reasons for such action
 - the conduct of behaviour and standards expected of the learner
 - an explanation that the letter will be held on the learner's file
 - the action that will be taken in the event of continued misconduct
 - the learner's right of appeal. This must be submitted in writing within 10 working days of receipt of the written warning letter.
- Record the action in their file as well as a copy of other documentation relating to the investigation and action.

3. Final written warning

- a) If further misconduct occurs following the previous warnings, a final written warning may be given. Alternatively, where serious misconduct has occurred, the learner may be given an immediate final written warning.
- b) In such instances the steps detailed for 'first written warning' should be carried out.
- c) Additionally, the learner must be informed that further misconduct or failure to meet the conduct of behaviour and standards expected will result in them being excluded.
- d) Details of recorded oral warnings and written warnings will remain on the learner's file for 12 months from the date of the warning being issued, after which they expire.

4. Exclusion

- If the learner's misconduct persists despite the final written warning, or in instances of gross misconduct the learner should be excluded from *Step into Learning*.
- In such instances the steps detailed for 'written warnings' should be carried out and a disciplinary interview held.

- The exclusion letter must state:
 - the reason for the exclusion
 - conditions placed on the learner's future return to *Step into Learning*
 - the learner's right to appeal to *Step into Learning's* Board of Trustees. This must be done in writing within 10 working days of receipt of the exclusion or dismissal letter.
- If the disciplinary interview is likely to result in exclusion, the interview must be carried out by the Head of Adult Education.
- A learner excluded for misconduct should not normally be allowed to return on any course for the rest of the academic year in which the exclusion was imposed, or for the following academic year. In exceptional circumstances, these conditions may be waived at the discretion of the Head of Adult Education.

Suspension

- In cases where the alleged misconduct is serious and/or it may be detrimental to the smooth running of the course and/or *Step into Learning* for the learner to remain on site, suspension may need to be considered while the case is being investigated. Only the Executive Director of Business Services and the Head of Adult Education have the authority to suspend a learner from *Step into Learning*.
- In such cases the learner should be informed of the reason for the suspension. This must be confirmed in writing, with a copy to the parent (or person with parental responsibility) if the learner is under 19 at the start of their course, unless they have previously withdrawn consent to contact.
- If two or more learners are implicated in the alleged offence and if suspension is considered, then normally all parties should be suspended.
- The period of suspension should be kept to no longer than 5 working days, (unless it is pending the outcome of criminal proceedings).

Appeals

- Under the disciplinary framework, appeals are permitted at all stages except recorded oral warning. The appeal must be submitted by the learner in writing to the level of manager immediately above the member of staff who conducted the disciplinary interview and issued the warning. For exclusions, the appeal would normally be to the Head of Adult Education.

- Appeals must be made within 10 working days of receipt of the warning/exclusion letter.
- The Head of Adult Education will collect written evidence from the investigation and from the person who issued the warning/exclusion.
- The decision will be notified in writing within 5 working days.

Record-keeping

Records of disciplinary action should be kept on the learner's record for 12 months from the date of the last action.

Appendix 1

Step into Learning Fitness to Practise Panel

Constitution of the Panel

1. Terms of Reference

The terms of reference of the Step into Learning Counselling Programme Fitness to Practise Panel are:

- (a) To consider the cases of students of the Counselling Programme where doubts have been raised by their tutor about their fitness to practise counselling, or progress further with their studies. Issues of fitness to practise may arise from a student's behaviour/attitude or academic study performance, either during their period of registration or before, which could affect their practice as a counsellor.
- (b) To review the procedures for making decisions on the fitness to practise of students on the Counselling Programme and to make proposals arising from this to Step into Learning.
- (c) To maintain records of the decisions and recommendations of the Committee about individual students and report on these to the relevant Manager(s), as required.

The panel recognises that their actions potentially can have long-term ramifications to an individual's future career and all due consideration will be given to this fact. However, on ethical grounds the provision provided by Step Into Learning is responsible in training counsellors of the highest standard, ensuring that they are qualified both academically and have the practical and emotional skills to become a successful counsellor.

2. Membership

2.1 The membership of the Panel shall be:

- (a) The Head of Adult Education.
- (b) The Course Lead of the Counselling Programme.
- (c) A qualified counsellor or psychotherapist who teaches on the Step Into Learning Counselling Programme but not linked to the student or class group as the student under evaluation.
- (d) An independent externally appointed qualified counsellor who does not teach on Step Into Learning Counselling Programmes.

2.2 The Panel shall be chaired by the Head of Adult Education.

or their nominee.

2.3 The Chair shall appoint a Secretary to the Panel who need not be a member of the Panel.

3. Reporting Arrangements and Powers of the Panel

3.1 The Panel shall report to the Step Into Learning Executive Directors as required.

4. Quorum

All members of the Panel need to attend for the Panel to be quorate.

Code of Practice

1.1 Students may be found to be “unfit to practise” as counsellors because it is the opinion of the panel, that they are liable to cause harm to their clients or themselves, or because they would be unable to comply with the operational requirements of the agency where they would otherwise have placements, because they are liable to practise unethically, or because they would be likely to bring the profession into disrepute.

1.2 Counsellors and the supervisors of counsellors or psychotherapists are expected to practise ethically according to the following principles:

- (a) Fidelity: they should honour the trust placed in them by their clients.
- (b) Autonomy: they should respect the right of their clients to make their own decisions.
- (c) Beneficence: they should commit themselves to promoting the wellbeing of their clients.
- (d) Non-Maleficence: they should strive to avoid any harm befalling their clients as a result of their actions or omissions.
- (e) Justice: they should treat all their clients fairly and impartially.

A student whose conduct or attitude, is such that they are unable to practise in accordance with these principles is “unfit to practise”.

Operational Procedures

1. Level of Proof

1.1 Since the welfare of clients is a paramount consideration, the level of proof required by the Panel to find a student unfit to practise for reasons related to potential harm to clients, is on balance of probabilities.

1.2 The level of proof required by the Panel to find a student unfit to practise for reasons related to potential harm to the student themselves, or to the operational requirements of a counselling agency, or to bringing the profession into disrepute; is that of certainty beyond reasonable doubt.

2. Initial Referral and Investigation

2.1 If a tutor has concerns about the fitness to practise of a student on the Counselling Programme; they should initially report their concerns to the Course Lead of the Counselling Programme. The tutor will be instructed to:

- Ensure that the student has been made aware of these concerns through tutorial contact.
- A detailed record of these meetings must be recorded.
- Every effort must have been made by the tutor to fully support the student

2.2 If a student is eventually reported to the Course Lead of the Counselling Programme as a concern of being unfit to practise, they will be referred to the Fitness to Practice Panel. The tutor should provide a written report of their concerns, plus evidence of the support which had been provided to the student prior to reporting their concern.

2.3 The Fitness to Practice Panel shall consider the evidence supplied by the tutor of the case and after meeting with the tutor decide the following:

- That no further action needs to be taken and close the evaluation.
- To call a meeting of the Fitness to Practise Panel

2.4 The Fitness to Practice Panel shall provide a copy of the evidence report to the student being evaluated prior to any hearing by the Fitness to Practise Panel.

2.5 Where medical reports are considered relevant by the Fitness to Practice Panel, they shall request the permission of the student to obtain this information.

3. The Fitness to Practise Panel

3.1 When evidence has been submitted to the Fitness to Practice Panel and the panel feels that further evaluation is required, the Fitness to Practise Panel will inform the student of the date, time, and place of the meeting of the Panel, giving the student at least seven days' notice and providing them with a copy of the Panel's procedures and the evidence that has been submitted to the panel.

3.2 The Panel shall invite the student to make a written submission to the Panel, which may include supporting statements from others. The student's submission shall be made available to members of the Panel prior to the meeting at which their case will be considered.

4. Deliberations of the Fitness to Practise Panel

4.1 The student being evaluated has the option to attend the meeting of the Panel at which their case will be considered and may be accompanied by a fellow student, or another representative to whom they are not related. The name and status of any companion must be notified to the Panel at least 48 hours before the meeting. The companion is not allowed to take an active part in the meeting

4.2 If the student does not attend the meeting of the Panel, the Panel may decide at its discretion to reschedule the meeting, or to proceed without the student being present.

4.3 If the student has refused consent for their medical information to be obtained by the Fitness to Practice Panel, the Panel may draw whatever conclusions it sees fit from this refusal.

4.4 The Panel shall not accept anonymous evidence.

4.5 The order of proceedings of the Fitness to Practise Panel shall be as follows:

- (a) The student may present their written statement or make an oral submission to support their written statement.
- (b) The panel can then ask questions of the student to explore any differences between the tutor's report and that which has been submitted by the student.
- (c) Once the panel has asked all their questions the students will be asked to leave
- (d) The Panel will deliberate in private and will convey its findings to the student in writing as soon as possible, with a summary of the reasons for the Panel's decision.
- (e) Decisions of the Panel shall be unanimous if this is possible, but if the Chair concludes that a unanimous decision is not possible, the decision shall be taken by a majority vote.

The Chair of the Fitness to Practise Panel may vary the order of proceedings if there is a good reason to do so, subject to ensuring that the student has not been disadvantaged by any such changes.

5 Outcomes of the Fitness to Practise Panel

The Fitness to Practise Panel may decide on one or more of the following outcomes:

- (a) To take no further action.
- (b) To warn the student that their behaviour or attitude is not that expected from a practising counsellor, and to request that they make appropriate changes.
- (c) To require an undertaking from the student as to their future conduct if a more severe action is to be avoided.
- (d) The panel can set specific conditions from the student within a specific time if more severe actions are to be avoided. These could, for example, involve making an apology for

unethical conduct, or writing a submission to demonstrate their improved understanding of ethical issues.

(e) To temporarily prevent the student from going on placement, either for a specific time or until conditions imposed by the Panel have been met.

(f) To recommend that the student be prevented from going on placement.

(g) To recommend that the student be suspended pending a further meeting of the Panel to consider their case.

(h) To recommend that the student be withdrawn from the course.

(i) To recommend that the student be denied the award of qualifications that they would otherwise have obtained.

6 Appeals

Students can appeal the decision of the Fitness to Practise Panel and have the right to invoke the Step into Learning appeals procedure.