**ACL Positive Behaviours Policy**

**Incorporating the ACL Exclusion Process**

**Control of documents**: Adult Community Learning Senior Leadership Team

**Policy aims and intention**

This policy seeks to ensure that learners take responsibility for their own actions and/or behaviours. Combined with the exclusion process it make clear the circumstances in which a learner may be excluded from the learning provision.

The Positive Behaviours policy works alongside the Fitness to Learn Policy. The exclusion process will be implemented where the serious nature of the behaviour being addressed requires immediate resolution or is likely to impact upon the safety of the individual or others in the College.

The policy applies across all ACL teaching and learning environments including online activity and communications.

The Service will ensure a mechanism is in place which supports a process of graduated warnings. In the most serious circumstances exclusion may be instantaneous at the discretion of the Principal or Vice Principal. Appeals may be made against decisions in accordance with the exclusion process.

**Responsibility group** Senior Leadership Team

**Policy Writer** Vice Principal Quality and Compliance

**Date of acceptance** 16th March 2010

**Last review date** August 2022

**Next review date** August 2023

**Audience** All ACL employees, volunteers, learners, and other service users. This policy applies to ACL learners of all ages whether working within an ACL Centre or as part of on-line learning. All of these types of learners will be referred to as “learners” in this document.

# The policy

The Adult Community Learning Positive Behaviours Policy operates within three contracts, the Learning Agreement, the ACL Charter, and ACL Netiquette. The former is a legal contract signifying that the learner is eligible for Skills Funding Agency and Education Agency funding. The latter are social contracts which defines a set of behaviours that ACL expects learners to comply with.

In addition, the ACL Behaviours Policy and Exclusion Process will operate in circumstances where Awarding Organisations regulations are contravened. This may include notifying awarding bodies in accordance with the ACL Exams Policy.

Actions in response to learner misconduct will be dependent on the severity of the action.

* Low level misconduct requiring informal intervention.
* Misconduct
* Gross Misconduct
* Exceptional Circumstances Gross Misconduct

Exceptions may apply if a learner behaves in a way that others might consider unacceptable due to having a disability where a reasonable adjustment needs to be made. For example, a learner who is autistic may break rules without realising it or because they are anxious or stressed if their needs are not being met. Any decisions made will take into consideration the Equality Act 2010 and ensure that no direct or indirect discrimination takes place when a learner has a disability. In some cases, this may mean a more proportionate response such as:

* making reasonable adjustments and providing extra support
* helping a learner to manage and reduce anxiety and stress
* encouraging good relationships with other learners
* making sure that learning and wellbeing needs are met.

Instances of exceptional misconduct necessitating immediate exclusion are listed below and will be at the discretion of the Principal or Vice Principal. Where behaviour is deemed as minor or gross misconduct the ACL Positive Behaviours and Exclusion process will be applied. A formalised approach that is clear and transparent and may lead to the suspension or permanent. exclusion of a learner.

# definitions of misconduct

**First Category - Informal Intervention**

ACL strategy prior to any formal intervention is to engage with the student in supportive discussions. Accountability for the staff member and learner starts here. This level of behaviour intervention seeks to reduce challenging behaviour within ACL and includes interventions aimed at reducing a variety of behaviours that cause from low-level disruption.

Outcomes at this stage:

* No further action
* Verbal warning
* Decision to escalate to minor misconduct

**Second Category - Minor Misconduct**

Deliberate action that adversely affects the ability of other learners to learn and/or staff to carry out their duties/roles in a safe and secure environment. Incident to be referred to curriculum lead or appropriate manager.

* Disrupting a teaching, learning or assessment session or other ACL activity.
* Failure to comply with a reasonable request from a member of ACL staff, for example adherence to Covid guidance.[[1]](#footnote-1)
* Disruption, plagiarism and/or cheating within an examination, assessment or as part of course work.
* Inappropriate communications including comments made on social media site regarding ACL that may bring ACL or the locality/centre into disrepute.
* Smoking in an area other than a designated non-smoking area.
* Persistent breaches of the ACL Learner Agreement, Learner Charter and/or ACL Netiquette Guidance.

Outcomes at this stage

* No further action
* A reinforcement of the verbal warning
* ACL Behaviours Policy and Exclusion process will be applied
* A written warning or final written warning.
* Decision to escalate to gross misconduct

**Third Category - Gross Misconduct**

Deliberate action that has a significantly adverse effect on the ability of other learners to learn and/or staff to carry out their duties/roles in a safe and secure environment. Incident to be referred to curriculum teaching and learning manager or appropriate manager, and the Senior Leadership Team informed immediately.

* Behaviour that constitutes bullying or harassment of ACL staff or learners including when working online includes inappropriate jokes, and “banter” within e-mails, social media, or other communication tools.
* Discriminatory conduct on the basis of the Equality Act 2010, particularly relating to Race; disability; gender; gender reassignment / transgender status; age; sexual orientation; religion or belief; pregnancy / maternity; marriage or civil partnership. Includes inappropriate jokes, “banter”, e-mails social media, or other communication tools.
* Refusing to work with another learner when required as part of learning programme, for reasons relating to the above strands.
* Fraudulent claims for funding/fee remissions.
* Misuse of ILT (Information Learning Technology), including, but not exclusively, viewing and/or downloading or passing on of illegal material.
* Unauthorised use of college software or data belonging to ACL.
* Disregard of emergency evacuation procedures.
* Deception in relation to ACL staff, learners, or visitors, including sharing of ID cards with others.
* Any criminal offence including:
* Suspected drug dealing or distribution of drugs
* Reasonable suspicion of drug use or actually being in possession of illegal substances or associated drug paraphernalia
* Being under the influence of alcohol whilst on ACL premises
* Endangering or causing injury to others
* Possession of an offensive or dangerous weapon
* Theft and/or misuse of property.
* Deliberate damage to college property, equipment or premises
* Physical assault
* Peer on Peer abuse, sexual harassment or violence including online

Outcomes at this stage

* No further action
* Reinforcement of a decision under minor misconduct.
* Final written warning
* ACL Exclusion process will be applied either permanent or for a defined period.

This list of examples is not exhaustive but is indicative of the severity of such offences and the fact that such behaviour can affect the well-being of the ACL community and therefore will not be tolerated.

Where appropriate and required serious misconduct will be reported to the police.

# FOURTH CATEGORY: exceptional exclusions

ACL reserves the right to summarily exclude any learner where there is **conclusive evidence** of a serious breach of behaviour. There is no right of appeal against an exceptional exclusion. Exceptional exclusion will be subject to agreement by three members of the senior leadership team, including the ACL Principal.

This may include but is not limited to:

* Learner behaviour that damages the Colleges reputation.
* Any illegal activity, such as carrying, using or supplying illegal substances within ACL premises or grounds, or carrying offensive weapons.
* Where a learner’s actions or behaviours put other learners and/or staff at serious risk, this may include examples listed above as minor or gross misconducts.

# Violent People Warning Markers Procedure

ACL will follow ECC’s procedures regarding putting a risk of violence marker on our records, this will apply in the following, (definition provided by the Health and Safety Executive) ‘Any incident in which a person is abused, threatened or assaulted in circumstances relating to their work’.

The aim of a marker is to help alert staff to individuals who pose or could pose a risk of violence and enable them to reduce this risk.

<https://intranet.essex.gov.uk/Documents/Violent_people_warning_markers_procedure.pdf>

**behaviours and exclusion process**

Behaviours flow chart based on policy guidance


# Acl exclusion process

All learners sign a learner agreement on enrolment stating they are aware of the expectations of their behaviour as laid out in the ACL Learner Charter ACL Netiquette, and Positive Behaviours Policy. Learner induction includes the ACL Learner Charter, British Values, ACL Netiquette and Positive Behaviours policy and is referred to as appropriate during learning programmes.

All exclusions are treated in the strictest confidence. Only those who need to know the details of exclusion should be informed of them.

Learners can be excluded from ACL in two ways:

1. Suspension or fixed term exclusion
2. Permanent exclusion.

The process for dealing with incidents leading to, or which have the potential to lead to exclusion are clear and transparent. The process records warnings given; outcomes, and support evidence where appropriate:

# Stage 2 PROCESSES: minor Misconduct actions

1. Allegations against learner reported to curriculum lead or appropriate manager and recorded on incident form **E1**.
2. Involvement of safeguarding team as appropriate.
3. Thorough investigation and reporting by curriculum lead (or nominated manager) including:
4. opportunity for learner to present their views either in person or in writing.
5. consideration given to whether any incident was provoked, for example by bullying, racial or sexual harassment.
6. investigation into any issues or barriers the learner is experiencing, and which may impact on personal behaviours.
7. statements from those that witnessed the incident/behaviour.
8. recommended action/s to be taken.
9. Depending on the seriousness of the incident outcomes will be determined in accordance with the category of misconduct.
10. Where the recommendation is that an exclusion should be applied this will be escalated to an exclusion panel.

Outcomes at this stage

* No further action
* A reinforcement of the verbal warning
* ACL Behaviours Policy and Exclusion process will be applied
* A written warning or final written warning.
* Decision to escalate to gross misconduct

# stage 3 PROCESS - Gross misconduct actions

1. Allegations against learner reported to curriculum and learning manager and recorded on incident form **E2**.
2. Involvement of safeguarding team as appropriate.

Thorough investigation and reporting by curriculum and learning manager (or nominated manager) including:

1. opportunity for learner to present their views either in person or in writing.
2. consideration given to whether any incident was provoked, for example by bullying, racial or sexual harassment.
3. investigation into any issues or barriers the learner is experiencing, and which may impact on personal behaviours.
4. statements from those that witnessed the incident/behaviour.
5. recommended action/s to be taken.
6. Depending on the seriousness of the incident outcomes will be determined in accordance with the category of misconduct.
7. Where the recommendation is that an exclusion should be applied this will be escalated to an exclusion panel.

Outcomes at this stage

* No further action
* Reinforcement of a decision under minor misconduct.
* ACL Behaviours and Exclusion process will be applied
* Final written warning
* Exclusion from ACL for a defined period of time
* Permanent exclusion from ACL

# PROCESS FOR EXClusion panel

Where the recommended action is that a learner should be suspended or excluded the decision will always be ratified by a panel. The panel may require that it is a virtual panel and will consist of the Principal and two other senior leaders and managers, including relevant members of the Extended Leadership Team. (Form E3).

A specific period of exclusion time will be determined by the panel; the length of exclusion will be determined by the severity of the incident. For example:

* The remainder of the term – after which the learner may return to ACL provision following a reintegration meeting.
* The remainder of the academic year – after which the learner may return to ACL provision following a reintegration meeting.
* Permanent exclusion (Form E2)
* Learner informed of Notice to Exclude and Right of Appeal

In the event of a suspension or permanent exclusion there is no automatic refund of course fees.

# PROCESS FOR Appeals

Conducted by ACL Principal, or Vice Principal if not involved in the original decision.

The only right of appeal is against a permanent exclusion and only where there is additional evidence that was not available to the original exclusion panel. If a learner wishes to complain about how they have been treated they can do so through the ECC Complaints process.

Appeals must be made in writing to the ACL Principal, setting out the reasons for the appeal within 5 days of the exclusion. It is at the discretion of the ACL Principal if an appeal meeting is required. If a meeting is agreed this should take place within 10 days of receipt of the appeal. The ACL Principal will respond to all appeals within 14 working days of receipt of the appeal.

Where an appeal is upheld, the exclusion will be revoked.

Where an appeal is not upheld there is no further right to appeal.

**Monitoring and evaluating**

* Records of warnings given
* Records of supporting evidence
* Records of actions taken
* Records of Exclusions
* Records of Appeals

The Vice Principal Quality and Compliance be responsible for monitoring the progress of any investigations and subsequent actions. All records will be treated as confidential and stored in accordance with the General **Data Protection** Regulation (GDPR) 2018.

**Related Policies**

* Adult Safeguarding Policy
* Children and Young People Safeguarding Policy
* Disability Policy
* Fitness to Learn Policy
* Equality and Diversity Policy
* Harassment and Bullying Policy
* ECC Violent People Warning Markers Procedure
* ACL Exams Policy

**Related Documentation**

ACL Learner Charter

ACL Netiquette

ACL Learner Agreement

At the time of writing every effort has been made to address potential issues which may lead to exclusion; however, ACL Essex reserve the right to assess each situation according to Service requirements and make decisions based on individual circumstances.

**Appendix One**

**E1 - Minor Misconduct Form** – to be completed by relevant Manager

Learner Name: Learner Number:

Contact Information:

**Details to be taken from the learning agreement:** (if known / available)

Age: Disability:

Gender: Religion:

Ethnicity: Learner Sexual Orientation:

Has the learning provider made reasonable adjustments to account for any of the declared information detailed above? Please give details:

Manager’s name, Job title and contact details:

Details of gross misconduct:

Justification as to why action is being taken:

Could the misconduct have been lessoned if reasonable adjustment had been made by the learning provider on the grounds of a disability or other protected characteristic?

Action Taken: when: by who: in liaison with:

Follow up date:

Signed: Dated:

This form is to be stored in accordance with GDPR.

**Appendix 2**

**E2 Permanent Exclusion Form** – to be completed by relevant Manager and forwarded to the Exclusion Panel.

Learner: Learner Number:

Contact Information:

**Details to be taken from the learning agreement:** (if known / available)

Age: Disability:

Gender: Religion:

Ethnicity: Learner Sexual Orientation:

Has the learning provider made reasonable adjustments to account for any of the declared information detailed above? Please give details:

Designated manager’s name, Job title and contact details:

Details of Gross Misconduct:

Justification as to why action is being taken:

Could the misconduct have been lessoned if reasonable adjustment had been made by the learning provider on the grounds of a disability or other protected characteristic?

Action Taken: when: by whom: in liaison with:

Sanctions imposed:

Follow up date:

Follow up action to be made by:

Signed: Dated:

This form is to be stored in accordance with GDPR.

**Appendix 3**

**E3 Exclusion Panel Consultation Form** – to be completed by relevant Manager.

Learner: Learner Number:

Contact Information:

**Details to be taken from the learning agreement:** (if known / available)

Age: Disability:

Gender: Religion:

Ethnicity: Learner Sexual orientation:

Has the learning provider made reasonable adjustments to account for any of the declared information detailed above? Please give details:

Details of relevant mangers on the panel (name, Job title, contact details)

Details of events leading up to the panels meeting: List details of all reported / recorded misconducts and actions of gross misconduct.

Justification as to why action is being taken:

Could the misconduct have been lessoned if reasonable adjustment had been made by the learning provider on the grounds of a disability or other protected characteristic?

Sanctions to be imposed:

Actions to be taken by the panel:

Follow up date and actions:

Signed: Dated:

This form is to be stored in accordance with GDPR

1. [↑](#footnote-ref-1)