



Disciplinary Procedure for Students

New College Durham is committed to safeguarding & promoting the welfare of vulnerable groups and expects all staff and volunteers to share this commitment.

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Owning Directorate	Curriculum
Directorates and Departments affected by this Policy	All students
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New College Durham

Disciplinary Procedure for Students

(Equality and Diversity Assessment)

We will consider any request for this policy to be made available in an alternative format.

We review our policies regularly to update them and to ensure that they are accessible and fair to all. All policies are subject to equality impact assessments. Equality Impact Assessments are carried out to see whether the policy has, or is likely to have, a different impact on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation or human rights.

We are always keen to hear from anyone who wants to contribute to these impact assessments, and we welcome suggestions for improving the accessibility or fairness of the policy.

If any student has difficulty understanding this policy or needs assistance completing any documentation associated with the policy, please contact either your lecturer or Advice, Support, Careers (ASC) Department who can be contacted by telephoning 0191 375 4400, or visiting the ASC office (located by Main Reception of the College)

Equality Impact Assessed: May 2023

New College Durham

Disciplinary Procedure for Students

1. Scope and Purpose

- 1.1 This procedure applies to all learners/students enrolled with the College.
- 1.2 The purpose of the procedure is to:
 - help and encourage students to achieve and maintain acceptable standards of conduct to allow all learners/students to study and learn in the most conducive environment.
 - ensure that disciplinary action is applied fairly and consistently.

2. General Principles

All matters relating to the application of these procedures will be confidential.

- 2.1 The College recognises that in most instances minor in-discipline can and should be dealt with informally and promptly by curriculum staff.
- 2.2 No formal disciplinary action will be taken against a student until a relevant investigation has been carried out. The nature of the misconduct must have been made known and the student given the opportunity to state they/their case prior to any decision being made. The purpose of the investigation is to gather the relevant facts to determine the most appropriate course of action, which may or may not involve disciplinary action.
- 2.3 A student will not be expelled for a first breach of discipline except in a case of gross misconduct. Gross Misconduct is where the misconduct is deemed so serious that it fundamentally undermines the College's trust and confidence in a student to be a member of the College community and to adhere to the fundamental expectations of being a student at the College. Acts of gross misconduct will bring the student relationship with the College to an end summarily. Examples of behaviour which constitute misconduct and gross misconduct are provided at **Annex A** of this procedure.
- 2.4 At any formal stage of the procedure the learner/student may be accompanied by:
 - a) a relative or Students' Union representative.

Additionally,

- b) If the learner/student is in receipt of support from the College's Learning Support Services, they may be accompanied by their support worker (if the student wishes).
- c) If English is not the learner's/student's first language, the student may bring an interpreter with them.

(None of the representatives detailed above must be either a legal or professional adviser).

- 2.5 The College will not permit recordings of any meetings held under this policy. Any such recordings will be considered a breach of this policy and will be treated as a further disciplinary act of gross misconduct.
- 2.6 The College reserve the right to search any student in accordance with **Annex C** of this procedure.
- 2.7 Every effort will be made to deal with alleged breaches of discipline in the shortest possible timescale. This however will vary according to the scope/complexity of the allegations and therefore so will the time required investigating a specific case.
- 2.8 Where any member of staff has reason to believe that a learner/student may have committed a criminal offence, the College may refer the matter to the Police and may continue disciplinary proceedings under this procedure or suspend the proceedings pending the outcome of Police enquiries and any charges, which may be brought against this learner/student. Where the learner/student has been suspended under this provision, when the results of those enquiries and any criminal proceedings are known, the College reserves the right to recommence proceedings under this procedure in relation to the matter. For avoidance of any doubt, the burden of proof in criminal convictions is "**beyond reasonable doubt**", akin to most civil procedure the College discipline procedure operates on a "**balance of evidence**" burdens of proof. So it may be that the police do not proceed with their case, but the College may still feel that the evidence meets their test, it is emphasised that in relation to the application of this procedure the College is not bound by the results of any police criminal proceedings against learners/students.
- 2.9 The College monitors security reports from College staff and where an incident occurs outside the classroom it will still prompt consideration under this policy.

3. Informal Disciplinary Procedure

- 3.1 The College recognises that in most instances minor in-discipline can and should be dealt with informally and promptly by curriculum staff, without recourse to the formal disciplinary procedure, where this is the case:

- Informal meetings may be held individually or in groups to discuss standards of conduct.
- This informal approach is to provide an opportunity for improvement or for the matter to be corrected without the necessity for formal disciplinary procedures to be used. If there is insufficient improvement the formal disciplinary procedure will be followed.
- A note of any informal action taken will be kept by the curriculum staff and recorded in ProMonitor for an appropriate period and a clear indication will be given that formal disciplinary action will be pursued should remedial action not succeed.
- Curriculum staff may wish to illustrate the concern by issuing a verbal warning to students (which again a written record of this informal warning will be placed on ProMonitor). If the student wishes to decline/dispute this verbal warning the allegation will be considered under the more formal procedure detailed at Section 4 onwards of this procedure.
- Where it is evident that there has been no sustained improvement, this can be escalated within the curriculum team using the informal approach outlined in Annex B. The verbal warning may be communicated and recorded as:
 - Cause for Concern
 - Student letter of Concern
 - Unacceptable Conduct Notification
 - Final Unacceptable Conduct Notification

4. Formal Disciplinary Procedure

4.1 Investigating Manager

- 4.1.1 Where allegation(s) arise which prompt consideration of a formal investigation, it is important that these allegation(s) are notified, as soon as practicable, to a Vice Principal.
- 4.1.2 The Vice Principal will appoint an appropriate Investigating Manager. The Investigating Manager will be a manager who will be tasked with investigating the allegation(s) thoroughly and determine if the allegation(s) warrant further consideration at a Discipline Hearing.

This individual will normally have no direct or significant involvement in the concern(s) under investigation. There is no appeal against whom the Vice Principal appoints as Investigating Manager.

- 4.1.3 The Investigating Manager will present they/their findings in the form of a report detailing the evidence collected and reasonable conclusions on the balance of probabilities that can be drawn from that evidence.

- 4.1.4 In certain cases, it may be considered appropriate to temporarily remove the student from the College (i.e. Suspension). The student must abide by these requirements to be temporarily removed from the College, and failure to comply will result in consideration of further action under this policy. Details of the reasons and process of suspension are detailed at **Annex D**.

4.2 Investigation – Investigatory Meetings with whom the allegation(s) have been raised against:

- 4.2.1 The Investigating Manager will carry out their investigation in a timely manner providing regular progress updates throughout the investigation. The Investigatory Manager will provide at the outset of the Investigation an early indication as to the likely timescale of the investigation, although this is subject to change as the scope/complexity of the investigation is unveiled.
- 4.2.2 All individuals involved in the investigation will be required to maintain confidentiality.
- 4.2.3 The student with whom the allegations have been raised against will be notified in writing normally via email of the following:
- that an investigation is to be carried out in accordance with the College’s Student Disciplinary Procedure;
 - the details of the allegation(s) under investigation;
 - their right to be accompanied (see section 2.4 of this procedure);
 - that a written account of the meeting will be produced and provided for their information/records;
 - any information gained during the meeting may be presented at any subsequent hearing;
 - their right to request adjournments and seek regular breaks during the investigatory meeting;
 - the support available to the person, e.g., Counselling
 - date, time and venue of the investigatory meeting;
 - a copy of the College Disciplinary Procedure for Students will be attached.
- 4.2.4 At the investigatory meeting, the student with whom the allegations have been raised should detail their preferred method of communication for the duration of the Disciplinary process (e.g. email, letter etc.).

4.3 Investigation – Investigatory Meetings with Witnesses

- 4.3.1 Where an individual has been called as a witness they will be notified in writing of the following:
- that a written account of the meeting will be produced and provided for their information/records;
 - that each witness will be interviewed separately, and he/she will have the right to be accompanied (see section 2.4 of this procedure);
 - confirmation will be given that the allegation(s) are not raised against the witness and their attendance at the investigatory meeting is purely in a witness capacity;
 - the support available to the witnesses e.g., Counselling;
 - any information gained during the meeting may be presented at any subsequent disciplinary hearing and that they may be required to attend such a hearing;
 - their right to request adjournments and seek regular breaks during the investigatory meeting.
- 4.3.2 It is a reasonable request of the College for students to attend an investigatory interview as a witness and any subsequent stages of the procedure, subject to the appropriate notification.
- 4.3.3 It is noted that witnesses may not be restricted to College students and may include other individuals such as staff or members of the public.

4.4 Investigation – Outcomes

- 4.4.1 The Investigating Manager will at the conclusion of the Investigatory meeting(s) prepare a report detailing the salient points to emerge from the investigation.
- 4.4.2 If, after an appropriate investigation, the Investigatory Manager determines that a prima facie case exists, and a Disciplinary Hearing is warranted in relation to the allegation(s) made against the student then he/she will notify the Vice Principal that a Determining Manager should be appointed to consider the allegation(s) in a formal disciplinary hearing.
- 4.4.3 If, after appropriate investigation, there is no evidence of misconduct, no further action will be taken and the student, whom the allegations have been raised against, will be informed of this in writing. This action will be reported back to the Vice Principal who initially appointed the Investigatory Manager. In exceptional circumstances the Investigating Manager may conclude that the allegations were made vexatious. Under such circumstances, he/she may wish to recommend instigating an investigation to consider these concerns.

- 4.4.4 The confidentiality of the proceedings should be observed by all parties involved.

4.5 Disciplinary Hearing

4.5.1 Where the Investigatory Manager determines that a Disciplinary Hearing is warranted in relation to the allegation(s) made against the student, a Determining Manager (normally an Assistant Principal or Vice Principal) will be appointed by a Senior Postholder (normally the Deputy Principal) to consider the allegation(s) in a formal disciplinary hearing. The Determining Manager will normally have no direct or significant involvement in the concern(s) that will be considered at the Discipline Hearing. The student, whom the allegations are against, will be notified in writing of the appointment of the Determining Manager. There is no appeal against whom the Senior Postholder appoints as Determining Manager.

4.5.2 The Determining Manager will give the student at least seven calendar days' notice in writing of the hearing and this notification should include the following:

- the venue, date and time of the hearing;
- that he/she is required to confirm their attendance at the hearing,
- a copy of the Investigating Manager's Report;
- the nature of the allegation(s);
- that the hearing is of a formal disciplinary nature;
- their right to be accompanied (see section 2.4 of this procedure);
- the possible consequences if the allegation(s) are proven, including the range of sanctions that may be considered;
- that they have the right to call witnesses and/or present documentary evidence at the hearing.

4.5.3 If the Investigating Manager or student proposes to call witnesses to give evidence at the hearing, their identity should be disclosed in advance to the other parties.

If either side wishes to produce documents or statements at the hearing, copies should be exchanged at least three calendar days before the hearing. If either side produces new evidence at the hearing, it should be open to either side to request an adjournment for further investigation.

4.5.4 Neither side can call a witness they have not notified that they will require their presence at the Hearing.

- 4.5.5 The people involved in the hearing will normally be:
- the Determining Manager who is tasked with determining the operation of the disciplinary hearing within the parameters of this procedure, considering all the evidence and taking the appropriate action on the basis of this evidence;
 - the student and who is accompanying them;
 - the Investigating Manager to present the salient evidence collected as part of the investigation;
 - Any witnesses deemed appropriate by the panel (see 4.5.4).
- 4.5.6 If the student fails to attend the disciplinary hearing the Determining Manager should decide whether to proceed in the student's absence or to reconvene the hearing at some other time. Before such a decision is taken, attempts should be made to contact the student to ascertain the reason for their absence. The Determining Manager may conclude to proceed with the hearing in the student's absence. The postponement of the hearing should only be considered on one occasion.
- 4.5.7 If the student's representative is unable to attend the hearing, the Determining Manager should defer the hearing by up to a maximum of five calendar days.
- 4.5.8 The confidentiality of the proceedings should be observed by all parties involved. For details of how the proceedings within the hearing will be conducted please refer to **Annex E**.
- 4.5.9 At the end of the hearing the Determining Manager should deliberate in private and determine their decision:
- the Determining Manager should consider if the allegation(s) are sustained on the balance of probability, if not the case should be dismissed;
 - if the allegation(s) are sustained, then the Determining Manager should consider if a disciplinary sanction is reasonable (including any mitigation presented);
 - if a disciplinary sanction is warranted the Determining Manager should consider those sanctions detailed in Section 5.
- 4.5.10 The Determining Manager will convey their decision together with any right of appeal (if relevant) to the student in writing within five calendar days of the hearing.

5. Sanctions/ Time Limits

- 5.1 There are a range of disciplinary sanctions available, which will normally be applied incrementally. However, the College reserves the right to enter the formal stages of the disciplinary procedure at any stage in light of the seriousness of the offence.

Final Written Warning

Stage	Time Limit for Sanction	Details
Stage 1	*24 months	<p>A final written warning may be given to the student if, after a full investigation and disciplinary hearing, it is found that:</p> <ul style="list-style-type: none"> • The student’s misconduct, although not considered to be serious enough to justify exclusion, is sufficiently serious to warrant a final written warning. <p>The final written warning will:</p> <ul style="list-style-type: none"> • Give details of the serious misconduct that has resulted in the sanction; • The time limit within which such improvement must be achieved; • State that if the student commits a further offence (s) of misconduct during the period specified in the warning, they may be excluded; • Advise of the student’s right of appeal; • Detail that a copy of the final written warning will be placed on their personal file.

**In exceptional circumstances the durations specified above may be varied by the Determining Manager of the Disciplinary Hearing – any such variations being notified to the individual at the disciplinary hearing or following the hearing in writing. Additionally, the sanction may span longer than the duration of the actual current course and will continue if the student was to enrol on another course within the time limit of the sanction.*

Exclusion

Stage	Time Limit for Sanction	Details
Stage 2	Not applicable	<p data-bbox="536 286 676 315">Exclusion</p> <p data-bbox="536 365 1390 472">An Assistant/Vice Principal may give notice of exclusion if, after a full investigation and disciplinary hearing, it is found that a student has:</p> <ul data-bbox="560 524 1374 600" style="list-style-type: none"><li data-bbox="560 524 1374 600">• Committed a further act of misconduct despite having an active discipline sanction (e.g., Final Written Warning); <p data-bbox="536 645 1326 674">Exclusion (Gross Misconduct and Repeated Misconduct)</p> <p data-bbox="536 723 1374 831">If, after a full investigation and disciplinary hearing, it is found that a student has been found guilty of gross misconduct, a nominated Vice Principal may summarily exclude a student.</p> <p data-bbox="536 887 1086 916">The student will be notified in writing of:</p> <ul data-bbox="560 965 1310 1160" style="list-style-type: none"><li data-bbox="560 965 1007 994">• the reason(s) for exclusion;<li data-bbox="560 1043 1190 1072">• the date on which their learning will end;<li data-bbox="560 1122 1310 1151">• the student’s right of appeal against the exclusion.

The College reserves the right to cease access to all College systems on the student’s last day of attendance at the College.

6. College Support Mechanisms

- 6.1 The College has a number of specific support mechanisms available to all learners/students to assist in supporting individuals. These are available from the Advice, Support, Careers (ASC) Department who can be contacted by telephoning 0191 375 4400 or visiting the ASC office (located beside the Main Reception of the College). The services provided by ASC are confidential.

7. Appeals Against Disciplinary Sanction

7.1 Where the student wishes to appeal against their disciplinary sanction, they should write within 14 calendar days to the College Administration/Complaints Manager. The student should state in their written communication:

- The grounds for the appeal, (these grounds will normally be an error in procedure or error in fact or error in law.);
- Supply sufficient detail to sustain the grounds of appeal;
- The outcome that they are seeking from the Appeals process;
- How they would wish to have their appeal considered (in writing or face to face).

On the conclusion of the selected Appeal process, the student's rights of appeal within the College are concluded.

8. Policy Review

- 8.1 The effectiveness of this policy will be monitored annually and reviewed every five years in light of experience and best practice. This mechanism recognises that changes to employment legislation may prompt a review of the policy before the five years stipulated.
- 8.2 In considering the effectiveness of this policy, consultation will be undertaken with Trade Unions, staff and managers to assist in the review and monitoring of this policy.

Examples of Misconduct and Gross Misconduct

1. Misconduct

The following list illustrates behaviour likely to signify misconduct, but it is neither **exclusive nor exhaustive**:

- a. Absenteeism and lateness, e.g. frequent late arrival at College;
- b. Refusal to obey a reasonable instruction of a member of College staff.
- c. Unreasonable or unacceptable conduct, e.g.:
 - abusive language, verbal abuse or abusive behaviour;
 - misuse of plant or equipment;
 - any smoking/vaping in non-smoking areas;
 - any unduly noisy, or unruly behaviour, or the use of foul or abusive language;
 - disrupting any class or any other College activity, whether or not involving staff or other learners/students;
 - failure to disclose name or other relevant details to an officer or employee of the College;
 - disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the College, including offensive behaviour, whether on College premises or elsewhere;
 - Threatened violence whilst at College on a member of staff, student or member of the public.
- d. Breach of College regulations, e.g. student code of conduct, financial, health and safety, confidentiality of personal records.
- e. Contravention of the College Equal Opportunities Policy;
- f. Contravention of the Learner/Student Code of Conduct;
- g. Any unauthorised interference with software, or data belonging to, or used by the College;
- h. Obstruction of, or improper interference with, the functions, duties or activities of any learner/student, member of staff of the College or any visitor to the College;

- i. Conduct, which constitutes a criminal offence where that conduct:
 - takes place on College premises; or
 - affects or concerns other members of the College; or damages the good name of the College; or
 - itself constitutes misconduct within the terms of these Procedures.

The distinction between misconduct and gross misconduct is often a matter of degree and some of the examples under misconduct may be of such concern/nature that they amount to gross misconduct. This is a matter of judgement on the part of the College after carefully assessing the nature and seriousness of the allegation

2. **Gross Misconduct**

Gross misconduct is defined as behaviour, which in the view of the College, fundamentally destroys the trust between student and the College and thereby warrants immediate exclusion. Such behaviour may occur within or outside normal College hours. The following list illustrates conduct likely to amount to gross misconduct, but this list is neither **exclusive nor exhaustive**:

- a. Dishonesty including theft, fraud, deceit, or deception or misappropriation or malicious damage to property of the College, fellow students, staff or members of the public;
- b. Breaches of the College's Safeguarding Procedures;
- c. Refusal to obey a lawful and reasonable instruction of a member of staff, for example a request to consent to a search;
- d. A reasonable conclusion of being under the influence of alcohol or illegal drugs at the College;
- e. Racial or sexual harassment or racial or sexual discrimination against other student(s), employees, or members of the public;
- f. Serious negligence which causes unacceptable loss, damage or injury;
- g. Non-compliance with health and safety rules and regulations or other misuse of or interference with a fire extinguisher or other fire safety equipment;
- h. Behaviour committed during or outside of College hours, which has a significant adverse effect on the College's reputation or the student's suitability to continue at the College;
- i. Unauthorised access to information held by the College whether held on electronic or manual systems;

- j. Unauthorised disclosure of information classified as confidential by the College;
- k. Falsification or omission of information for personal gain, for example, on an enrolment form, etc;
- l. Physical or verbal assault on staff, students or members of the public;
- m. Causing damage to, or defacement of, any College buildings, equipment, books or furnishings or any property of others;
- n. Any possession of offensive weapons;
- o. Violent, indecent, disorderly, threatening, or offensive behaviour or language whilst on College premises or engaged in any College activity;
- p. Significant breach of the Learner/Student Code of Conduct;
- q. Inappropriate use of Social Media such as recording and sharing inappropriate behaviour, such as physical assaults, engaging in cyberbullying and intimidation, or attempting to harm the College's reputation in any manner.
- r. Recordings of any meetings held under this policy.

3. Immediate Exclusion

The College has a zero-tolerance policy for any individual:

- who has in their possession items that may be construed as weapons (such as knives or screwdrivers).
- Brings illegal substances onto campus, whether for personal use or distribution.
- Engages in any physical confrontation with the intent to harm another person.
- Is involved in the vandalism or deliberate damage of College property occurring on College premises and within College boundaries.

If there is credible information suggesting any of the above concerns, the College will conduct a non-invasive search of the individual (where applicable). Additionally, CCTV footage may be reviewed, if available. The discovery of any of the above-mentioned offences will result in the matter being reported to the Police, and students involved will face immediate and permanent exclusion from their studies. If the individual refuses the search, they will still be reported to the Police and, in the case of students, permanently excluded.

The application of this zero tolerance policy rests within the purview of the College's Designated Safeguarding Lead or Deputy Principal – there is no appeal against student exclusions under this zero-tolerance policy.

Informal Student Disciplinary Process

Sanction	Person responsible	Process
Cause for Concern	PLC/PDC (FE) Personal Tutor (HE)	PLC/PDC (FE) or Personal Tutor (HE) to meet with the student to explain the concerns and reason to raise a cause for concern. Expectations to be reiterated and clear explanation of process if concerns continue. Information to be logged on ProMonitor (Learner Comments and Support Referral)
Student Letter of Concern	Programme Leader	Programme Leader (following discussion with CM) to meet with student to explain the concerns raised and reason for the letter of concern which may be following unsatisfactory progress following cause for concern. Information to be logged on ProMonitor (Learner Comments and Support Referral) and letter to be sent to both student and NoK/Emergency Contact (where appropriate).
Unacceptable Conduct Notification	Curriculum Manager	Curriculum Manager to meet with both student and NoK/Emergency Contact (where appropriate) to explain the concerns raised following cause for concern/verbal warning and reason for the unacceptable conduct notification. CM to clearly state expectations moving forward and next steps (formal disciplinary procedure) if behaviour concerns do not improve. Information and letter to be logged on ProMonitor and letter sent to student and NoK/Emergency Contact (where appropriate)
Final Unacceptable Misconduct Notification	Head of School	Head of School (HoS) to meet with both student and NOK/ Emergency Contact where appropriate) to explain concerns raised either at this level or from escalation of previous informal stages. HOS to clearly state the reason for the final unacceptable contact notification. HoS to clearly state expectations if behaviour concerns to not improve. HoS behaviour contract can be issued at this stage. All outcomes of the meeting, information, letter and contract (if used) to be logged on ProMonitor and letter sent to student and NoK/Emergency contact (where appropriate).

Searching a student

The College has a responsibility towards its employees, students and visitors to ensure that it has a safe environment within which staff and students do not feel threatened. The College will support this by ensuring there is a clear understanding relating to the unacceptability of threatened or actual use of offensive weapons or prohibited items.

The College operates a 'zero tolerance' approach to weapons, drugs, alcohol and prohibited items.

Under Article 8 of the European Convention on Human Rights, students have a right to respect for their private life. In the context of these particular powers, students have the right to expect a reasonable level of personal privacy. The powers to search in the Education Act 1996 are compatible with Article 8 and a College exercising those powers lawfully should have no difficulty in demonstrating that it has acted in accordance with Article 8 so long as it is justified and proportionate.

In the unusual event of a student being screened or searched, or a student's bag or other repository for possessions being searched, the College will take all reasonable steps to maintain its usual high standard of safeguarding. At all times a balance will be maintained between common-sense actions rightly taken in respect of an assessed risk and the desirability to following step-by step written procedures which, however helpful, cannot anticipate every eventually.

Staff authorised by the Principal have a statutory power to carry out non- consensual searches of students or their possessions if they have reasonable grounds for suspecting that the student may have a prohibited item. Prohibited items are deemed as the following:

- knives or weapons
- illegal drugs and related paraphernalia
- stolen items
- alcohol
- fireworks
- pornographic images
- any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence or to cause personal injury to, or damage to the property of, any person (including the student).

NB: In the case of a student who is 18 years of age or older they should be asked to agree to a consensual search and a failure to agree will normally result in disciplinary action being taken.

Prior to any search being undertaken approval must be sought from the Designated Safeguarding Lead or the Deputy Designated Safeguarding Lead unless it is deemed that there is an immediate risk to students or staff.

A search of a student can only be conducted by a person authorised by the College Principal and the following procedures must be adhered to:

- The member of staff conducting the search must be the same sex as the student.
- There must be more than one member of staff present who should also be of the same sex as the student, a member of the Security team should be present.
- Outer clothing may be removed and pockets emptied, the College may then use an electronic device to allow detection of items not disclosed.
- A search can be conducted by a person of the opposite sex to the student, but only where the searcher reasonably believes that there is a risk that serious harm will be caused to the student if the search is not conducted immediately and where it is not practicable to summon another member of staff.

The search would be conducted by and in the presence of two of the following:

- i) Security Staff
- ii) College Safeguarding Leads
- iii) Senior Leadership Team member

It should be explained to the student at the time of the search why it is being conducted and what is being looked for. The aim will always be to elicit the cooperation of the student in the search process.

Searches can only be carried out on the College premises or, if elsewhere, where the member of staff has lawful control or charge of the student, for example on an authorised trip in England or in training settings. The powers only apply in England.

Searches on College property should take place out of view of anyone other than those that need to be present with appropriate sensitivity to vulnerable, gender, cultural or religious issues.

In the event of intelligence to support any concerns about the possession of a potential weapon, the College will initiate a non-invasive search of the individual, and the discovery of any potential weapon will lead to reporting the matter to the Police and in the case of students the immediate and permanent exclusion from their studies. If the individual does not consent to the search then they will be reported to the Police and in the case of a student permanently excluded from their studies.

Where the search is not in response to intelligence about the possession of a potential weapon, e.g. possession of drugs and the student does not consent to the search then the disciplinary will be deemed as gross misconduct and the student suspended. Where applicable, the college may also report the student to the Police.

Suspension from College

In certain cases, it may be considered appropriate to temporarily remove the student from the College (ie Suspension). **Suspension is not regarded as disciplinary action.** Any student suspended from their duties will continue to receive College work and will access this via the College learning portals.

It is the expectation of the College that this work is completed and submitted by the student.

The decision to suspend will be made by a Vice Principal and considered:

- An allegation(s) or likelihood, of a risk to students, staff or members of the public;
- An allegation(s) or likelihood of damage or loss of property belonging to students, members of staff, public or the College;
- An allegation that student work/effort may be undermined;
- An allegation(s) of an offence which might amount to gross misconduct;
- A perception that evidence regarding the allegation(s) may be destroyed.

The Vice Principal shall consider suspension of a student on receipt of the allegation(s) pending a full investigation, or if the nature of the initial allegation(s) is/are amended during the course of the investigation. The student will have confirmed in writing (via email):

- The nature of the allegation(s) (giving appropriate details but ensuring that the confidentiality of the complainant is respected) and inviting that student to a meeting to discuss the reasons for the suspension;
- That the matter is being investigated confidentially;
- That he/she will be required to be available to attend an investigatory interview(s) during normal College hours;
- Of the right to be accompanied to any subsequent meeting/hearing (See Paragraph 2.5 of this process)
- The right of appeal against suspension.

A representative of the curriculum will meet with the individual being suspended and will pass the letter to the individual, and detail the contents of the suspension letter.

The student must not return to the College or contact student/staff of the College whilst suspended. The individual should remain contactable and available to engage in the investigation during normal working hours. If the student needs to contact a member of staff/student to aid their response to the allegations, they should write to the Investigation Manager seeking permission to vary the terms of the suspension to allow such contact.

The suspension will be kept under review and will not be for a fixed duration. Any suspension will be concluded as soon as practicable but academic work will be set for the student who is suspended.

Appeals - Against Suspension

A student who has been suspended from College may appeal in writing to the Deputy Principal against the suspension by writing to him/her. The grounds for appeal against suspension are either:

- Procedural error(s) which has **fundamentally** undermined the application of suspension;
- Unreasonable duration of the Investigation;
- Nature of allegation(s) does not warrant suspension.

Any appeal shall be heard as soon as practicable by the Deputy Principal. The suspension shall continue to operate pending the determination of the Deputy Principal.

Where an appeal against suspension is made, the student shall be given at least seven calendar days' notice of the date, time and place fixed for the hearing, unless an earlier date has been mutually agreed.

Following the hearing of an appeal against suspension, the Deputy Principal may either confirm the suspension or lift the suspension. This decision shall be confirmed in writing to the student within five calendar days of the hearing of the appeal.

Conducting a Disciplinary Hearing

The Proceedings for the disciplinary hearing should be conducted as follows:

- the Determining Manager makes the introductions and explains the purpose of the hearing and the sequence of presentations and questioning;
- the Investigating Manager presents the evidence collected in the Investigation and may call witnesses;
- the student or their representative have the opportunity to ask questions of the Investigating Manager and of any witnesses;
- the Determining Manager may ask questions of the Investigating Manager and witnesses;
- each witness should leave the room once she/he has given their statement and answered questions;
- the student or their representative may put their case in the presence of the Investigating Manager and may call witnesses;
- the Investigating Manager may ask questions of the student or their representative and their witnesses;
- the Determining Manager has the opportunity to ask questions of the student and their representative and any witnesses;
- both sides should have the opportunity to sum up their cases if they so wish, the student's statement being last;
- the student and their representative, and the Investigating Manager should withdraw;
- the Determining Manager may agree to an adjournment at any time during the procedure

Glossary of Terms – Disciplinary Procedure

Allegation – A statement or assertion raised against a person.

Balance of Evidence - The common distinction made in a criminal case is the evidence needs to be beyond a reasonable doubt. In a discipline process the evidence needs to be considered on the basis of what is reasonable to conclude on the balance of evidence, ie what is more probable to have occurred or is reasonable to conclude.

Confidentiality – A set of rules that places restrictions on and limits access to sensitive data.

Conduct – The manner in which a person behaves.

Disciplinary Hearing - A meeting at which the conduct of a student is examined and a punishment in the case of Warnings (Written/Final Written or Expulsion) may be handed down.

Expelled - The official notice of being removed as a student of New College Durham.

First/Final Written Warning – A formal letter written to a student as a disciplinary measure which will sit on the student’s course file for a period of time and any further misconduct would result in consideration of further discipline action.

Gross Misconduct – is where the misconduct is deemed so serious that it fundamentally undermines the College’s trust and confidence in the student to be a member of College community and to adhere to the fundamental expectations of being a student at the College. Acts of gross misconduct will bring the student relationship with the College to an end summarily.

Incrementally – A gradual increase (in stages).

Investigation – A process to seek to ascertain evidence from all parties and allow reasonable conclusions to be drawn.

Misconduct – Behaviour which is not accepted by the College but is not a serious enough act on its own to warrant Gross Misconduct.

Pertinent – Relating to the matter at hand.

Suspension - temporarily remove the student from the College (See **Annex D**).

Written Warning - A letter written to a student as a disciplinary measure. A written warning describes the violations of the student in specific detail and explains the consequences to the student if his or her conduct does not improve within a specified period of time.