

Discipline Policy (Learners)

1. PURPOSE

To outline the framework within which Holmesglen Institute deals with the general misconduct of learner/s, excluding academic misconduct.

2. SCOPE

Applies to all commencing and continuing learner/s.

3. POLICY STATEMENT

All learners and employees have the right to be treated fairly and with dignity in an environment free from disruption, intimidation, harassment, victimisation and discrimination.

Inappropriate behaviour that causes imminent risk to the safety of the learner, other learner/s, or Holmesglen community or property will be treated as general misconduct under this Policy.

4. PRINCIPLES

4.1 All learners are obliged, as part of their enrolment and admission, to read and comply with Holmesglen's [Code of Conduct](#), its Learner Rights and Obligations (refer to Appendix 1), and all other standards of behaviour required by Holmesglen's policies and procedures.

4.2 Holmesglen employees are authorised by the Chief Executive to have the powers to impose penalties, summarily or otherwise, where a learner general misconduct is proven and the imposition of a penalty is warranted (refer to Appendix 2: Summary of Disciplinary Powers).

4.3 General misconduct includes conduct by a learner who knowingly or recklessly:

- (a) causes or threatens to cause harm of any kind (physical, psychological, emotional, or other);
- (b) causes or threatens to attack, harass, intimidate, stalk, victimise, vilify or bully another person;
- (c) causes or threatens to engage in any form of non-consensual sexual activity;
- (d) disrupts the orderly conduct or activities of Holmesglen;
- (e) otherwise breaches a Holmesglen policy or procedure.

Full descriptions of general misconduct offences are listed in the Appendix 3 of this Policy.

4.4 General misconduct investigation and penalty decision is made in accordance with the principle of procedural fairness, equal opportunity, and natural justice.

4.5 Penalties for learner general misconduct may include:

- reprimanding the learner/s
- withholding AQF certification
- excluding a learner from a course or part of course for a period of time
- refusing learner/s the right to enrol
- excluding learner/s from examinations or tests
- seeking to recover damages or compensation
- refusing access to Holmesglen's systems, services and physical precincts.
- expelling learner/s.

4.6 Learners/s must not use social media to bring Holmesglen and members of its community into disrepute, to harm or damage Holmesglen academic and professional activities, to disclose confidential information obtained through Holmesglen, or to act unlawfully. A breach of this policy may result in disciplinary action against the learner/s. Holmesglen reserves the right to

edit, remove or restrict, or request the learner to remove any comment, post or other online content which breaches this policy or any Holmesglen policies or procedures.

- 4.7 A penalty is imposed:
- as a result of an investigation, or
 - where immediate action is to be taken against a learner in relation to general misconduct, or
 - when there are reasonable grounds to suspect general misconduct by that learner.
- 4.8 The following factors are taken into account when deciding on the severity of the penalty:
- personal circumstances of the learner
 - the harm, discomfort or offence caused to others by the general misconduct
 - the value of any damage that has resulted from the general misconduct
 - the risk that the general misconduct posed to the health and safety of any other persons
 - the damage or disruption or the risk of damage or disruption to the operations of Holmesglen or the reputation of Holmesglen and its employees and learners
 - any remorse, or lack thereof, shown by the learner in relation to the general misconduct
 - the appropriateness and availability of other preventative and corrective actions
 - the need to deter other learner/s from engaging in general misconduct
 - any previous findings of general misconduct
 - any other relevant factor.
- 4.9 Where a penalty is imposed, the learner will be given notice in writing outlining the details of their general misconduct and details of the penalty. A record of the notice, its findings and penalties imposed must be retained against the learner record.
- 4.10 Fraudulent activities and any other reportable offences are reported to the authorities and regulatory bodies, where relevant.
- 4.11 Penalties imposed are documented on Learner Discipline Register and reported to the Chief Executive.
- 4.12 Where the penalty imposed requires the learner to pay for damages caused by the learner, the Chief Financial Officer will attest to the value of the property damaged.
- 4.13 Learner/s have the right to appeal penalties imposed by the Chief Executive, Chief Financial Officer, or Executive Directors, in writing to the Chief Executive who will form a Student Discipline Appeals Committee with an independent Chair to hear the appeal.
- 4.14 A disciplined learner has the right to seek assistance of a support person in preparing and submitting the appeal and presenting his or her case at the hearing. The support person must not be:
- (a) a person who was involved in, associated with, or alleged to have been involved in or associated with the general misconduct alleged; or
 - (b) a qualified legal practitioner.
- 4.15 The Chair of the Student Discipline Appeals Committee will advise the learner its determination in writing and its decision is final.
- 4.16 Where an appeal is upheld the opportunity is given to the learner so far as practicable, to make up any academic ground lost during any period of exclusion which may include waiving of tuition fees for up to one academic year.
- 4.17 Learner circumstances will be taken into consideration for any suspension, deferment of the penalty or time for payment.
- 4.18 Holmesglen ensures learners are informed of this policy. The Code of Conduct and Learner Rights and Obligations are published on the Holmesglen website.

- 4.19 Where an international learner is under investigation, the Associate Director, International Student Programs and Associate Director International Projects and Partnerships is to be informed and included. The International Student Programs and International Projects and Partnerships is to ensure that Holmesglen's Internal Complaints and Appeals process and an independent external appeal process has concluded prior to any suspension or cancellation of the international learner enrolment. Suspension or Cancellation of an international learner does not take effect until the internal appeal process is completed, unless the international learner's health or wellbeing, or the wellbeing of others is likely to be at risk.
- 4.20 Any person or Committee who exercises any power or carries out any function under this policy or hears any appeal must treat the subject matter thereof in the strictest confidence, unless required or permitted otherwise by law.

5. ACCOUNTABILITIES

Action	Accountability
Manage the implementation of this policy and procedures relating to it.	Executive Director Engagement & Support
Ensure learner/s are informed of this policy and relevant procedures.	Deans and Associate Directors of teaching centres
Manage appeals and set up Student Discipline Appeals Committee.	Chief Executive
Hear learner/s discipline appeals and make recommendation to the Chief Executive. Advise the learner its determination in writing.	Chair of the Student Discipline Appeals Committee
Attest to the financial value of damaged property for the purposes of determining financial penalties.	Chief Financial Officer
Maintain the Learner Discipline Register and related documentation.	Registrar
Where relevant, report fraudulent behaviour or any other reportable offences to the authorities and regulatory bodies.	Manager Student Wellbeing, Manager Security Services, Executive Officer Quality and Educational Compliance
Implement the penalty imposed on disciplined learner/s as advised by the relevant authorised employee.	Manager Security Services Chief Information Officer Registrar Manager Library Deans Heads of Department Associate Director International Student Programs Associate Director International Projects and Partnerships

6. DEFINITIONS

Terms	Meaning
Bullying	Repeated, unreasonable behaviour directed towards another person that creates a risk to the health and safety of that person.
Confidential information	Information of any kind which, because of its confidential character, is capable of protection by contractual or equitable means, and includes information of a valuable commercial or technical character.
Cyberbullying	Any use of information and communication technology (ICT) to support deliberate, repeated, hostile behaviour by an individual or group that is intended to harm others.
Expel	The permanent removal of a person's right to be a learner of Holmesglen and to enter and to be in any of the precincts of Holmesglen.
Harassment	Any unwelcome and unreasonable conduct, whether it be verbal, physical, electronic or otherwise, towards another person in circumstances where a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.
Investigation	A process by which an authorised Holmesglen employee makes reasonable inquiries about the circumstances surrounding the suspected misconduct of a learner, conducted in accordance with the principle of procedural fairness.
Precincts of Holmesglen Institute	Includes: <ul style="list-style-type: none"> ▪ all Holmesglen campuses, ▪ all places and buildings outside Holmesglen campuses used by Holmesglen, whether occupied by Holmesglen solely or in conjunction with or by others, ▪ all places to which a learner or learners have access from time to time for the purpose of tuition, study or in connection with any educational program of Holmesglen or for student wellbeing or for social or recreational purposes.
Sexual assault	The intentional touching of another in a sexual manner, where consent has not been given. Touching includes that done with any part of the body or object and may be 'sexual' due to the area touched, or circumstances of the touching. Sexual assault includes any unwanted sexual behaviour that makes a person feel uncomfortable, threatened or scared. It covers: <ul style="list-style-type: none"> ▪ rape: forced, unwanted sex or sexual acts. ▪ child sexual abuse: using power over a child to involve that child in sexual activity. ▪ indecent assault: indecent behaviour before, during or after an assault. Sexual assault is a subset of sexual harassment.
Sexual harassment	Is defined as: <ul style="list-style-type: none"> ▪ an unwelcome sexual advance ▪ an unwelcome request for sexual favours ▪ engaging in other unwelcome conduct of a sexual nature that is offensive, humiliating or intimidating. Examples of sexual harassment include staring or leering, unwelcome touching, suggestive comments, taunts, insults or jokes, displaying pornographic images, sending sexually explicit emails or text messages, and

Terms	Meaning
	repeated sexual or romantic requests. It also includes behaviours that may be considered criminal offences, such as sexual assault, stalking or indecent exposure.
Social media	Means any facility for online publication and commentary using highly accessible, expandable and upgradable publishing technologies, through and on the internet. It is an interactive tool that facilitates comments and/or conversations that expand the reach of work and enables others to share with friends and networks, and includes, but is not limited to, blogs, wikis, pod casting, forums, video and photo posting, RSS, social bookmarking, tagging, mash ups, virtual worlds and any social and professional networks or networking sites including, but not limited to, Facebook, LinkedIn, Twitter, Pinterest, Instagram, Google+ and Flickr.
Learner	Includes commencing and continuing learners/s, and learners on intermission or deferral.
Suspension	The removal for a specified time period of a person's right to enter, to remain and to participate in all or specified parts of the precincts of Holmesglen and all or specified facilities, classes, examinations, tests and other activities of or under the control of Holmesglen ("suspend" shall have a similar meaning).

7. CONTEXT AND/OR REFERENCED DOCUMENTS

[Conduct Rule](#)

[Information Security Policy](#)

[Operational Authorisation Policy](#)

8. REVIEW

8.1 This policy must be reviewed no later than three years from the date of approval.

8.2 The policy will remain in force until such time as it has been reviewed and re-approved or rescinded. The policy may be withdrawn or amended as part of continuous improvement prior to the scheduled review date.

9. VERSION HISTORY

Version Number	Date	Summary of changes
1	October 2019	Updated into new format and procedural elements removed and terminology revised.
2	November 2019	Minor update to Appendix 1.

Appendix 1 – Learner Rights and Obligations

Holmesglen is committed to providing an environment for learners where free intellectual enquiry and freedom of expression is protected and encouraged, academic integrity is promoted, and the rights and responsibilities of learners, employees and Holmesglen are respected.

As members of Holmesglen community, learners must conduct themselves in a manner consistent with Holmesglen values and standards of behaviour when undertaking academic or other activities.

Accordingly, learners must:

Take responsibility for their learning

- Make themselves aware of and comply with all relevant Holmesglen policies and procedures concerning their enrolment, studies and conduct at Holmesglen.
- Read and comply with their subject/unit and course requirements.
- Take responsibility for their own learning and wellbeing, and seeking support and/or assistance from Holmesglen academics and/or support services when required.
- Provide accurate personal details to Holmesglen; keep those details up to date; and read and respond where required to all official Holmesglen correspondence including email.
- Be committed to their studies: attend classes on time, participate during classroom activities, and complete all tasks allocated to them.
- Adhere to the policies, procedures and rules of external organisations while on placement, practicum, work experience, fieldwork or educational exchange.

Act with honesty and integrity

- Undertake their academic work with integrity and honesty, avoiding breaches of academic integrity and copyright.
- Work cooperatively and collaboratively with other learners, employees, associates and Holmesglen partners.
- Not engage or collude in fraudulent or corrupt behaviour, or any unlawful behaviour, and report such behaviour as outlined in Holmesglen policies and procedures.
- Declare conflict of interest matters or a matter which has the potential to influence decisions in their interest, or declare a matter which could be perceived to influence decisions in their interest.
- Not do anything which may bring Holmesglen into disrepute including by making or publishing false or misleading statements relating to Holmesglen.

Act with respect and fairness

- Interact in a polite and respectful manner with all learners and employees of Holmesglen at all times.
- Communicate with courtesy and consideration, verbally and in writing, in person and online (including through email and social media).
- Provide considered and honest feedback to Holmesglen and its employees on the quality of learning and teaching and its services.
- Respect the privacy of other learners and employees.
- Respect others' rights to their own opinions and beliefs and, where there is disagreement, engage only in respectful discussion.
- Refrain from actions, behaviour and words (both written and spoken) that may jeopardise their own or another learner or an employee's health, safety or wellbeing, or may damage their reputation or career.
- Not engage in discrimination, sexual assault, sexual harassment, victimisation, bullying, child abuse or any form of interpersonal, psychological or physical violence, and report such behaviour as outlined in Holmesglen policies and procedures.
- Not disclose information identified as confidential concerning any matter relating to Holmesglen.

- Avoid disrupting or interfering with any teaching, learning, research or other academic activity of Holmesglen. This includes not being rude or using inappropriate language or such behaviour that may cause employee or another learner to feel uncomfortable or threatened.
- Not impair the rights of others to participate in any legitimate Holmesglen activity.
- Not encourage, persuade or incite others to engage in conduct or behaviour constituting misconduct in accordance with Holmesglen policies and procedures.

Contribute to a healthy and safe learning environment

- Not cause harm to others, endanger or potentially endanger the safety or health of others.
- Be free from the influence of alcohol and/or drugs on Holmesglen premises
- Not use, possess or supply a prohibited weapon or any prohibited substance at Holmesglen premises
- Use Holmesglen property or resources, including communication technology resources, cooperatively, legally, ethically responsibly and appropriately
- Respect the property rights of others, including learners and employees, whilst on Holmesglen premises
- Comply with any reasonable request or directions from Holmesglen employees with regard to safety or compliance with policy, procedure or ethical requirements, or to provide name or age or show proof of identity or age or learner identity card.

Appendix 2 - Summary of Disciplinary Powers

Position	Disciplinary penalty	Relevant person to be notified of the penalty imposed
Chief Executive	<ul style="list-style-type: none"> ▪ Expel a learner ▪ Impose a claim for compensation for damage ▪ Exclude a learner for a period of up to one semester ▪ Exclude a learner from any particular course or any part of a course or program for a specified period not exceeding one academic year including the right to re-enrol ▪ Exclude a learner from examinations or tests held in a particular period ▪ Reprimand a learner ▪ Withhold a AQF certification ▪ Refuse the enrolment of new and returning learners 	Dean Head of Department Security Registrar
Chief Financial Officer Executive Directors	<ul style="list-style-type: none"> ▪ Exclude a learner for a period of up to one semester ▪ Exclude a learner from any particular course or any part of a course or program for a specified period not exceeding one academic year including the right to re-enrol ▪ Exclude a learner from examinations or tests held in a particular period ▪ Reprimand a learner ▪ Withhold a AQF certification ▪ Refuse the enrolment of new and returning learners 	Dean Head of Department Security Registrar
Deans	<ul style="list-style-type: none"> ▪ Exclude a learner from class or related activities for a period of up to five days ▪ Reprimand a learner 	Head of Department Registrar
Head of Department	<ul style="list-style-type: none"> ▪ Exclude a learner from class or related activities for a period of up to two days ▪ Reprimand a learner. 	Dean Registrar
Registrar	<ul style="list-style-type: none"> ▪ For misconduct pertaining to fraudulent activities and the falsification of certification documentation: deny enrolment of new and returning learners 	Chief Executive Dean Head of Department
Manager Student Wellbeing	<ul style="list-style-type: none"> ▪ Exclude a learner from the precincts of the Institute for a period of up to two day ▪ Reprimand a learner 	Registrar Executive Director Engagement & Support
Manager, Library	<ul style="list-style-type: none"> ▪ Reprimand a learner for misconduct in the Library ▪ Exclude a learner for a period of up to two days for inappropriate use of facilities in the Library ▪ Fine a learner, who after due notice, fails to return Institute Library's materials, at a rate approved by the Chief Executive, or withhold a learner's Statement of Results until: 	Executive Director Engagement & Support Registrar

Position	Disciplinary penalty	Relevant person to be notified of the penalty imposed
	<ul style="list-style-type: none"> - the materials are returned and fines duly paid - a replacement cost is paid and fines duly paid - a satisfactory explanation in writing for non-return has been made to the Manager, Library. 	
Library employees	<ul style="list-style-type: none"> ▪ Exclude a learner from the use of the Library for the remainder of the day. 	Manager, Library Registrar
Teaching and other Institute employees	<ul style="list-style-type: none"> ▪ Exclude a learner from the precincts of the Institute for a period of up to one day ▪ Exclude a learner from the remainder of any class and/or next class, lecture or tutorial for which the employee has responsibility ▪ Reprimand a learner 	Dean Registrar

Appendix 3 – General misconduct offences

General misconduct may include but is not limited to:

1. Any conduct that is prejudicial to the good order and discipline of the Institute, impairs the reasonable freedom of other persons to pursue their studies or research at the Institute or to participate in the life of the Institute, or is likely to bring the Institute into unjustified disrepute.
2. Wilful, reckless or negligent failure to comply with Holmesglen rules, policies, or similar order, direction or authorised notice.
3. Failure to comply with any reasonable instruction of a member of the Board or employee of the Institute whether pursuant to the Institute Rules or generally, including any instruction given to a learner to identify themselves by the production of an identity card or otherwise.
4. Any act that represents fraudulent activities including the falsification of certification documentation in paper or electronic format with the intention that he/she, or another person, shall use it to induce another person to accept it as genuine.
5. Failure to comply with any instruction relating to the safety of the learner or of any other person.
6. Any assault or threat of assault upon any person within or near the precincts of the Institute or in relation to any activity conducted or facilitated by Holmesglen.
7. Any wilful false representation whether oral or written (including, statements, graphics or photos on social media) on a matter concerning or affecting Holmesglen reputation, the learner or other learner/s, or Holmesglen employee.
8. Grossly negligent or wilful conduct that adversely affects the due conduct of the business of the Institute, or the work of any person in that person's capacity as a learner or an employee of the Institute.
9. Conduct within the precincts of the Institute that is disorderly including obscene language and verbal threats that interferes with the comfort of any person who is acting lawfully and entitled to be present.
10. Discriminating against other learner/s or employee/s in a way which is against the spirit or content of the Equal Opportunity legislation.
11. Exhibiting unsocial or disruptive behaviour in classes, lectures or other timetabled activities.
12. Use of profane or offensive language, content or objectionable material on social media that:
 - (a) promotes, fosters, or perpetuates discrimination;
 - (b) is sexually explicit or pornographic or links to sexually explicit or pornographic content;
 - (c) is used to intimidate, bully or harass (including, but not limited to, cyber bullying and stalking) a Holmesglen employee, contractor, learner or other person;
 - (d) creates a risk to the health and safety of Holmesglen employees or learner/s including material that amounts to unacceptable behaviour such as psychological or emotional violence, coercion, harassment and/or discrimination, aggressive or abusive comments or behaviour, and/or unreasonable demands or undue pressure; and/or
 - (e) brings Holmesglen into disrepute.
13. Being alcohol or drug affected within the precincts of the Institute.
14. Smoking in prohibited areas.
15. Wilful or negligent damage, destruction, removal or interference with any property of the Institute, including infringement of Copyright legislation, wheresoever situated or that of any other learner or an employee of the Institute, or of any person, firm or corporation within the precincts of the Institute.
16. Wilfully entering any part of the precincts of the Institute, or any other place to which learner/s may have access for the purposes of tuition, when not entitled to do so, or having so entered, refusing to leave.
17. Knowingly posting or publishing any confidential information of, or held by, the Institute.

18. Unauthorised or illegal interference with, or access to, electronic resources and/or records or data which are either the property of Holmesglen or accessible through Holmesglen resources. This includes, but is not limited to, conduct in breach of any of the guidelines in the Electronic Mail and Web Services Code of Practice published on the student intranet.
19. Possession of, or threat of using weapons or dangerous chemicals/substances within or near the precincts of the Institute.
20. Possessing, using or trafficking in a Drug of Addiction or Drug of Dependence within the meaning of the Crimes Act 1958 or the Drugs, Poisons and Controlled Substances Act 1981, or any Act in substitution thereof.
21. Failure to pay fines or other financial penalties imposed by the Institute.
22. Participation in, or conviction for a criminal offence committed within the precincts of the Institute or in any way related to the Institute or any learner or employee.
23. Participating in behaviour or activity that is described in the Child Safe Standards and Equal Opportunity Act, including bullying, cyber bullying, harassment (including sexual assault/sexual harassment), or unlawful discrimination.