



**University of Brighton**

## **Student disciplinary procedure 2017-18**

### **1 The scope of the University's disciplinary procedures**

The University of Brighton's disciplinary procedures are based on the following principles:

- Universities are communities whose members work, and often live, together. This requires certain standards of behaviour. It also places obligations on universities which owe a duty of care and responsibility to members of that community.
- Universities are organisations committed to certain standards and values, inherent in their aims, objectives and missions.
- Universities are as much entitled to protect and defend their good names and reputations as other organisations or professions.

#### **1.1 Misconduct and the University's right to take disciplinary action**

- 1.1.1** Students at the university and students taking University of Brighton awards at partner colleges have a duty at all times to conduct themselves according to the university's rules and regulations and to act with good sense, taking due care when using the university's facilities and having due consideration for other members of the university community or visitors to the university's property. All students registered at the university, whether full-time or part-time, sign a declaration on enrolment which states that they agree to be bound by such regulations as are in place, or which may be passed during their careers at the university. Students who are taking University of Brighton awards at partner colleges are also bound by the regulations of the partner college. The university's right to initiate disciplinary action is thus well established. Nevertheless, the student is entitled to a fair hearing in accordance with the rules of natural justice, and will be presumed innocent until judged otherwise through this process; the civil standard of proof (balance of probability) will apply in all internal disciplinary procedures. Two forms of misconduct are distinguished. Serious misconduct is misconduct such that a finding against the student might result in temporary or permanent exclusion from the university or the imposition of a fine on disciplinary grounds. Minor misconduct is misconduct such that these penalties would

be inappropriate. A more detailed definition of misconduct is given in Appendix 1: Definition of Misconduct.

**1.1.2** There are a number of specific sets of rules, operating within the scope of the university's disciplinary procedures. These cover rules of conduct for students in halls of residence or university-managed housing, and the use of the university's library and media centre, and computing regulations.

## **1.2 Procedures**

### **1.2.1 Authority to act**

#### **1.2.1.1 The Vice-Chancellor**

The Articles of Government of the university make the Vice-Chancellor responsible for 'the maintenance of student discipline and ... for the suspension and exclusion of students on disciplinary grounds'; the Vice-Chancellor is also responsible for 'implementing decisions to expel students for academic reasons' (see chapter 3, section 3G). Further, the Vice-Chancellor has the power temporarily or permanently to exclude a student for indebtedness to the university as detailed in this chapter, section 4D.

While the power to exclude any student, or to suspend pending an investigation, is vested in the Vice-Chancellor (or the Deputy Vice-Chancellor, acting in the absence of the Vice-Chancellor or upon authority delegated by the Vice-Chancellor), the power to investigate and to recommend penalties is delegated as explained below.

#### **1.2.1.2 Delegation of authority**

Authority to deal with alleged misconduct is delegated by the Vice-Chancellor to the Registrar and Secretary and Heads of School and to such staff as may from time to time be appointed to serve on disciplinary panels. Note that references in this procedure to members of staff include references to their nominees. A recommendation for permanent or temporary exclusion from the university requires a recommendation to the Vice-Chancellor (or the Deputy Vice-Chancellor acting on behalf of the Vice-Chancellor).

### **1.2.2 Allegations of misconduct**

Any staff or student member of the university who becomes aware of misconduct by a student is expected and required to report this without delay. The allegation should be brought to the attention of the student's Head of School. The allegation should be made in writing, and with any available evidence enclosed, and a copy sent to the Registrar and Secretary. The Head of School will then decide whether there is a prima facie case to answer. If the Head of School is the person discovering the possible misconduct, he or she should compile a brief written statement summarising the facts.

If, in the judgement of the Head of School, there is a case to answer, the Head of School should refer the matter to the Registrar and Secretary, who will determine whether this appears to constitute serious or minor misconduct (that is, whether there is a possibility of the student being temporarily or permanently excluded or fined).

The Registrar and Secretary will advise the Head of School of their conclusion, and either authorise the Head of School to convene a personal hearing to deal with a case of potential minor misconduct (see section 1.2.5) or authorise the establishment of a formal disciplinary panel to deal with a case of potential serious misconduct (see section 1.2.4).

If the student is on a course which is accredited by a professional body, the Head of School will normally inform the professional body of cases where the student's alleged action may have infringed the professional code of conduct. Alternatively, if the student is on a placement as part of their course, the Head of School will normally inform the person currently responsible for the student, if the alleged action calls into question the student's suitability to continue on this placement.

In cases where the offence might lead to a serious criminal charge, or where in his/her judgement suspension while the investigation takes place is possible, the Registrar and Secretary should also notify the Vice-Chancellor and the Head of Student Services immediately. If, in the opinion of the Vice-Chancellor, there is due cause to suspend a student with immediate effect pending a formal disciplinary hearing, the Vice-Chancellor may do so. This move is entirely at the discretion of the Vice-Chancellor; suspension pending a formal hearing will not be added to the student's formal record, and does not constitute an indication of guilt. A student who is suspended must be given the opportunity to defend themselves at a formal hearing convened for that purpose.

Allegations should normally be made within 10 working days<sup>1</sup> of the supposed misconduct. When longer has elapsed, a further statement should be added to the allegation, explaining the reason for the delay. It will be for the Registrar and Secretary to decide whether to accept allegations after 10 working days have elapsed.

In general, and for internal purposes, consultations with personal tutors, course leaders, project supervisors and university welfare staff will be regarded as confidential. Only in exceptional circumstances, where the student is deemed to be a danger to themselves, to others or if there is a legal duty, may this confidentiality be broken. Reports to, or discussions with, university officers are not normally on a confidential basis.

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<sup>1</sup> A working day does not include Saturdays, Sundays, public holidays or such additional days as the University is deemed to be closed.

### **1.2.3 General provisions for hearings**

A full disciplinary hearing will normally take place within 20 working days of an allegation being made. The date, time and venue of the hearing will be notified to the student in writing at least 10 working days before the day of the meeting, stating whether the case is being treated as minor misconduct (and heard by the Head alone), or as serious misconduct (and heard by a disciplinary panel). It will be open to the student to argue that the case should be treated as minor misconduct rather than serious misconduct; such an objection must be made to the Registrar and Secretary within 3 working days of receipt of the formal notification and must be in writing, stating the reasons. It is also open to the student to request a hearing by a panel if they fear prejudice; such a request must also be made within 3 working days of receipt of the formal notification. The Registrar and Secretary must reply in writing within 2 working days of receipt of this letter, and may either confirm or amend their original decision.

In all cases, the student is entitled to be accompanied by a friend or advisor. Any papers to be considered at the hearing should be made available to the student (and the student's friend or advisor, as appropriate) at least 3 working days before the hearing. The Panel (or Head of School in cases of minor misconduct) will be free to interview any witnesses deemed appropriate, in addition to any called by the student.

The Panel or Head of School will have available the student's formal record (held in the student's School).

The fact that a student fails to attend a disciplinary hearing for which due formal notice has been given will invalidate neither the proceedings nor the outcome.

### **1.2.4 Hearing in cases of potential cases of serious misconduct (which may lead to temporary or permanent exclusion or the imposition of a fine)**

Allegations of serious misconduct will be heard by a disciplinary panel, and the hearing and the subsequent deliberations of the panel minuted. Normally, this panel should consist of:

- a Head of School as Chair;
- a member of staff;
- a student member appointed by the Students' Union (who should not be from the same School as the student concerned, or have shared any modules with that student).

In the case of a student taking a University of Brighton award at a partner college, the panel will comprise:

- a Head of School or other nominee of the Chair of Academic Partnership Committee as Chair;
- a member of staff from the School/Department of the partner college;

- a student representative appointed by the University of Brighton Students' Union (who should not be from the same School as the student concerned, or have shared any modules with that student).

A member of Registry staff will act as Secretary to the panel, to minute the discussion and advise the panel on procedural matters. The precise membership of the panel should be determined by the Registrar and Secretary.

The proposed chair of the disciplinary panel shall appoint an appropriate member of staff to collect information concerning the circumstances leading up to the commencement of disciplinary action. This person shall prepare a written report, which shall be made available to all members of the panel, and to the student and any friend or advisor.

Appendix 2 explains procedure for cases of serious misconduct which involve a possible serious criminal charge.

### **1.2.5 Minor misconduct (which may lead to other penalties)**

Allegations of minor misconduct will be heard by the student's Head of School. The Head should appoint an appropriate member of staff to collect information concerning the circumstances leading up to the commencement of disciplinary action. This person shall prepare a written report, which shall be made available to the Head of School, and to the student and any friend or advisor, at least 3 working days before the hearing.

During the course of this process, on the basis of further information, the Head of School may decide that the allegation should be regarded as serious misconduct. He or she may then refer the allegation back to the Registrar and Secretary who will convene a disciplinary panel.

### **1.2.6 Notification of the outcome**

#### **1.2.6.1 To the student**

At the end of the disciplinary hearing, the student and the student's friend or advisor may be asked to leave the room while the Panel or Head of School considers the verdict. The decision will be based on the evidence, while ensuring that the benefit of any reasonable doubt is given to the student. The student will be informed orally of the decision. The Chair of the Panel or Head of School will inform the student of their decision in writing, normally within 5 working days of the hearing. The penalties which might be imposed are listed in section 1.3, and are discussed in more detail in Appendix 3. The appeals procedure follows in section 1.4. A copy of the letter will be sent to the Registrar and Secretary and to the Head of the student's School if he or she has not chaired the hearing.

### **1.2.6.2 To a professional body**

In the event that the Head of School has informed a professional body or other outside agency of the university's internal disciplinary action, the Head of School will send a copy of this written notification of outcome to this body.

### **1.2.6.3 To an exchange student's home university**

If the student concerned is an exchange student, the Registrar and Secretary will normally send formal written notification of any penalty imposed on a student, together with an explanation of the reason for the imposition of the penalty, to the student's home university.

### **1.2.6.4 To the student's college**

If the student concerned is taking a University of Brighton award at a partner college, the Registrar and Secretary will normally send formal notification of any penalty imposed on a student, together with an explanation of the reason for the imposition of the penalty, to the student's college.

## **1.2.7 Professional bodies and accreditation**

The university acknowledges the right of a professional body to refuse accreditation for a student whose conduct renders them unsuitable for such accreditation, or otherwise to take action against a student whose behaviour infringes a code of professional conduct. If accreditation is refused, a student will normally be permitted to complete their course and to receive the appropriate academic award, but without the professional accreditation. In some cases, however, a student's behaviour may result in the professional or statutory body refusing to allow the student to continue with or otherwise complete some compulsory part of their course (such as a placement). In these cases, the student will be deemed to have disqualified themselves from their course, and the university will accept no responsibility for the student's failure to complete the course.

## **1.3 Penalties for breaches of disciplinary procedures**

The following penalties are available to the university for breaches of its disciplinary regulations:

### **For serious misconduct:**

- permanent exclusion
- temporary exclusion
- a financial penalty

These penalties may only be decided on by a disciplinary panel.

**For minor misconduct:**

- introduction of a revised contract with the student;
- withdrawal of access to specified services or locations of the university for a specified period of time;
- reprimand.

These penalties may be decided on by either a panel or Head of School.

In cases of temporary or permanent exclusion, the action is one formally taken by the Vice-Chancellor, who will sign a formal letter of exclusion. In cases where the student is taking a University of Brighton award at a partner college, the Vice-Chancellor of the University of Brighton and the Principal of the College will agree formal letters of exclusion from the university and from the College in accordance with their respective statutory authority. However, in all instances where the Vice-Chancellor is merely effecting a decision taken under the approved procedure without direct personal involvement, the chair of the panel – rather than the Vice-Chancellor – will be required to attend any appeal hearing.

The full range of penalties for breaches of disciplinary regulations is discussed in more detail in Appendix 3.

#### **1.4 The right of appeal**

A student may appeal against the finding of the panel or Head of School, or against the penalty imposed by the panel or Head of School. An appeal may be made on one or more of the following grounds:

- (i) that certain evidence was submitted which was not considered by the panel or Head of School;
- (ii) that evidence which was not previously submitted, either because it was not available or because the appellant was for valid reasons unwilling to submit it, has become available; (it is only in exceptional circumstances that evidence which was available previously but not submitted will be allowed at a subsequent appeal);
- (iii) that a new witness has expressed a readiness to give evidence, where that witness had either not expressed such a willingness before, or where that witness was not known to be in possession of any material evidence;
- (iv) that a procedural irregularity is deemed to have occurred before or during the hearing which may have affected the findings of the panel or the Head of School;
- (v) that the penalty imposed at the original hearing is out of proportion to the alleged offence.

A simple rehearsal of the arguments from the original investigation and hearing will not be deemed adequate grounds for appeal. In cases where new evidence is to be submitted, or where a new witness is to give evidence, the nature of this evidence must also be stated.

### **1.4.1 Appeals against permanent exclusion**

Students who wish to appeal against permanent exclusion from the university may appeal to the Student Appeals Committee of the Board of Governors. Any appeal must be lodged, in writing, with the Registrar and Secretary within 15 working days of the date of the original hearing and oral notification of the decision, stating the grounds for the appeal and giving notice of any witnesses he or she proposes to call.

If the Registrar and Secretary determines that grounds for an appeal exist he or she will convene a meeting of the Student Appeals Committee, giving the student at least 10 working days notice of the day and time appointed for the appeal hearing. The Student Appeals Committee will consider:

- (a) a statement by the student setting out the grounds for the appeal, and;
- (b) a statement from the Chair of the disciplinary panel setting out the reasons for the exclusion of the student.

The student is entitled to be accompanied by a friend or advisor. The Committee may question the parties concerned, and hear the evidence of any witnesses. The Student Appeals Committee may, after private deliberation, either confirm or rescind the decision to exclude the student. The student will receive oral notification of the decision as soon as practicable after it is made; the Registrar and Secretary will provide written confirmation of the outcome within 5 working days of the appeal hearing.

### **1.4.2 Appeals against other penalties imposed after a disciplinary hearing (of a panel or Head of School)**

Students who wish to appeal against any other penalty imposed after a disciplinary hearing should do so in writing to the Registrar and Secretary stating the grounds for the appeal. If the Registrar and Secretary determines that grounds for an appeal exist, he or she will convene an appeals panel consisting of:

- a member of the Senior Management Team as Chair;
- an appropriate member of staff (normally not a Head of School);
- a student appointed by the Students' Union.

No member of the appeals panel may have been involved with the process at any earlier stage, and none may be from the same School as the appellant. In addition, the student representative may not have shared any modules with the appellant. The panel will be drawn from a list of persons which is approved annually for this purpose by Academic Board. The procedure to be used is otherwise the same as that for the Student Appeals Committee of the Board of Governors.



### **1.4.3 Office of the Independent Adjudicator (OIA)**

The Office of the Independent Adjudicator for Higher Education (OIA) provides an independent scheme for the review of student complaints which includes the right to appeal against a final decision by a disciplinary or appeal body. Where a student has completed all the available processes under this procedure, the University will issue the student with a 'Completion of Procedures Letter'. A student will need to submit his/her application to the OIA within three months of the date of the Completion of Procedures letter. Further information about procedures for referring a matter to the OIA is available from the Legal Adviser or the Students' Union or can be accessed via the OIA's website [\*\*www.oiahe.org.uk\*\*](http://www.oiahe.org.uk).

## **Appendix 1      Definition of misconduct**

### **1      Introduction**

These regulations are not an Act of Parliament or part of the law of the land and they do not therefore seek to reflect or incorporate the approach of the criminal law in defining offences with great precision. The purpose of the regulations is to regulate students' behaviour as students of the university in order to secure the working of the university in the broadest sense. Nevertheless, serious consequences may follow a finding of misconduct. It is therefore necessary in every case for it to be shown that the conduct in question does fall within the general outline before it may be characterised as misconduct. It is also open to a student facing a complaint to argue that the conduct in question, whether or not falling within one or more of the following paragraphs, should not be treated as misconduct because it does not interfere or damage in the manner contemplated within the general outline given above.

### **2      What constitutes misconduct**

Further to the definition given in section 1.1.1 of the main document, the following shall (subject to the above) constitute misconduct:

- (i) disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the university, whether on university premises or elsewhere;
- (ii) obstruction of, or improper interference with, the functions, duties or activities of any student, member of staff or other employee of the university or any authorised visitor to the university;
- (iii) violent, indecent, disorderly, threatening or offensive behaviour or language (whether expressed orally or in writing, including electronically) whilst on university premises or engaged in any university activity;
- (iv) making an unauthorised recording of academic activities including lectures;
- (v) distributing or publishing information in any medium which is offensive, intimidating, threatening, indecent or illegal or is calculated to make others fearful, anxious or apprehensive;
- (vi) fraud, deceit, deception or dishonesty in relation to the university or its staff or in connection with holding any office in the university or in relation to being a student of the university;
- (vii) action likely to cause injury or impair safety on university premises;

- (viii) possession of a firearm or replica firearm or other item which may be used as an offensive weapon on University premises, including halls of residences. The restriction on firearms applies whether or not the firearm is licensed.
- (ix) personal use, dealing or supply of drugs as defined in the Misuse of Drugs Act 1971 (amended January 2004) and the University of Brighton Drugs and Alcohol Policy.
- (x) breaches of, or other failure to comply with, the university's Equality and Diversity Policy, including harassment or discrimination on the grounds of sex, race or disability, in respect of any student, member of staff or other employee of the university or any visitor to the university;
- (xi) breach of the provisions of the university's Code of Practice on Freedom of Speech (available in all university libraries) or other rules or regulations of the university;
- (xii) damage to, or defacement of, university property or the property of other members of the university community caused intentionally or recklessly, and misappropriation of such property;
- (xiii) misuse or unauthorised use of university premises or items of property including computer misuse;
- (xiv) conduct which constituted a criminal offence where that conduct:
  - (a) took place on university premises; or
  - (b) affected or concerned other members of the university community; or
  - (c) damaged the good name of the university.
- (xv) behaviour which brings the university into disrepute;
- (xvi) failure to disclose name and other relevant details to an officer or employee of the university in circumstances where it is reasonable to require that such information be given;
- (xvii) failure to comply with a previously-imposed penalty under these regulations.

### **3 Misconduct prior to becoming a student**

In the case of misconduct prior to enrolling as a student which has only just come to light or is still in the process of being dealt with by other authorities then normally no account of this will be taken. The chief exceptions to this would be circumstances where the misconduct is of a serious kind and character such that it raises questions about the fitness of the student to remain a member of the university community, or in relation to vocational courses where the conduct raises questions about the fitness of the student to be admitted to and practise that

profession. (This is of particular concern in cases where the misconduct prior to becoming a student was such that professional body requirements preclude the possibility of an appropriate placement as is required by the course; in such cases, the student's past misconduct has effectively entailed their withdrawal from the university, but this should not be considered a disciplinary matter, and the student is not excluded on disciplinary grounds).

#### **4 Mental illness**

Disciplinary procedures are not appropriate for dealing with misconduct arising from mental ill health. Quite different considerations arise in these circumstances, requiring different remedies based on medical advice. These remedies might include the possible suspension or exclusion of a student, but this would not be on disciplinary grounds.

## **Appendix 2      Student discipline and criminal law**

### **1      The university's right to take legal action**

The university reserves the right to take legal action against a student who is alleged to have engaged in criminal conduct against the university. The university's interest might be triggered because the conduct concerned is closely related to the work of the university, or occurs on university property, or is carried out by a representative of the university. Examples might include stealing or damaging computer hardware or software, library books or laboratory equipment; damage to university property; theft from university staff or students; assault; incitement to racial hatred. In each case, the university may choose to deal with the matter through its own internal disciplinary procedures (see 3.3 and 3.4 below). If the conduct did not take place on university property, or involve either the work of the university or other members of the university, legal action is likely only in cases where a representative of the university jeopardises or damages the good name or reputation of the institution. Other offences would normally be covered by the standard disciplinary procedures.

### **2      Cases where the university may consider legal action**

Any action by a student which poses a danger to other members of the university community, or to the good order of the community, will normally be pursued legally. Equally, action which puts at risk the university's relationship with the local community will be considered a proper matter for disciplinary action, and possibly for legal action against the student. Offensive or disruptive behaviour affecting people living next to a student residence may be dealt with on this basis, but the disciplinary process will not be used to enforce contractual relationships between students and other private citizens such as landlords.

### **3      Treatment by the university of actions which could lead to criminal prosecution**

#### **3.1      Introduction**

Many instances of misconduct as defined in Appendix 1 are in fact criminal offences. Some, however, are not, and hence will only be dealt with through the university's internal disciplinary procedures. However, any misconduct which constitutes a criminal offence may be reported to the police, either by the university or by an individual, and thus treated as a legal matter.

#### **3.2      Cases where no internal action is taken**

As with any complaint of misconduct, it may be ruled at an early stage that no internal disciplinary action should be taken. This might be because it is in the hands of the police, which would suffice, or that disciplinary action is not called for even if not the subject of police investigation or prosecution. Disciplinary action does not have to be taken simply because a

complaint has been made and a prima facie case exists. The university has discretion as to whether formal disciplinary action is necessary or appropriate.

### **3.3 Cases where internal action is taken**

There are some examples of misconduct which, although clearly offences against the criminal law, would not be treated as serious by the police and would usually lead to no more than a caution. In such cases, the university will normally use its internal procedures, even when there has been neither police investigation nor prosecution. Examples of such offences might be slight damage to, or theft of, one library book; slight damage to other university property; a minor scuffle. In cases where the police or the courts have become involved, the university may choose to await the outcome of any proceedings before deciding whether to take any further action internally (although this may involve considerable delay). Once legal action has begun, any decision to proceed with internal action will be taken by the Vice-Chancellor.

### **3.4 Cases where internal action is deferred**

The university recognises that there are offences of such seriousness that substantive internal action prior to police investigation is out of the question. Allegations of rape and other sexual assaults, other serious offences against the person and the supplying of controlled drugs are examples of cases that must be investigated by the police and considered by the prosecuting authorities before they can be handled internally, even if the student suspect or victim/complainant or both express a strong preference for the matter to be dealt with internally. Equally, there is a further range of offences which, although not as serious as those mentioned, would nevertheless warrant full police investigation. In all these cases, the disciplinary process may be instituted but should then be deferred immediately, except for the possibility of suspension as provided for in section 1.2.2 of the *Student Disciplinary Procedure*.

The university takes this view for two major reasons:

- (a) there may be factual conflict relevant to penalty which the hearing is unable to resolve satisfactorily;
- (b) there may be subsequent challenges caused by a change of mind of one of the parties.

In cases where the university institutes and then immediately defers its disciplinary proceedings pending a police investigation, the student's Head of School will also write to any professional body which accredits the course or part of the course and inform them of the situation. Likewise, the outcome of any criminal proceedings should be communicated to the professional body in writing.

In circumstances where a criminal prosecution is not taken then exceptionally the university may decide to proceed internally, but only where it is clear that the decision not to prosecute is based upon some special factor which has nothing to do with the quality of the evidence.

## **4 Referral to the police**

The university recognises three basic propositions regarding reporting a possible criminal offence:

- (a) anyone may report such matters to the police; moreover, anyone may launch a private prosecution;
- (b) as a corollary to this, no one may prevent anyone else from reporting or referring;
- (c) there is generally no legal obligation or requirement to report alleged or suspected crimes to the police in virtually all circumstances.

Where an incident has taken place which has not been reported to the police by any victims or third parties then the Vice-Chancellor may decide, having due regard to the seriousness and sensitivity of the matter and after any appropriate consultation, to report the matter to the police. In circumstances where there is a victim other than the university, it will normally be for that person to report the matter, or for the university to act on his/her behalf. Only in exceptional circumstances will the university report an alleged crime to the police contrary to the wishes of the victim. This approach is based on the grounds that otherwise there might be students who would not inform the university of the allegation and would therefore forgo the support and care which they might need.

The university can envisage some situations where the public interest makes the circumstances of such an exceptional nature that it may have to report the allegation to the police, or to some other statutory body as appropriate (such as the Office of the Information Commissioner).

The policy of the university is to encourage students who are victims of serious crimes to report the incidents to the police.

In circumstances where a victim will not report a matter to the police or will not co-operate in their enquiries, the university will not use its internal procedures.

## **5 Action following a criminal hearing**

The university is free to take disciplinary action following a court hearing. The court's verdict will be accepted in so far as it is relevant. A penalty may be imposed by the university itself, despite any criminal penalty imposed following a court conviction. The Vice-Chancellor shall determine whether any formal disciplinary action shall commence in such circumstances.

## **Appendix 3 Penalties**

### **1 Penalties for breaches of disciplinary procedures**

#### **1.1 Summary**

The following penalties are available to the university for breaches of its disciplinary regulations:

##### **For serious misconduct:**

- permanent exclusion;
- temporary exclusion;
- a financial penalty.

These penalties may only be decided on by a panel.

##### **For minor misconduct:**

- introduction of a revised contract with the student;
- withdrawal of access to specified services or locations of the university for a specified period of time;
- reprimand.

These penalties may be decided on by either a panel or a Head of School.

In addition, any of these penalties might be suspended for a specified period, coming into effect only in the event of a further transgression. Temporary or permanent exclusion is action taken formally by the Vice-Chancellor. All panels are attended by a member of Registry staff who, acting on behalf of the Registrar and Secretary, will advise on procedures; in addition, Heads of School are expected to consult the Registrar and Secretary on procedures for hearings. This is to ensure consistency across the institution. The penalties are discussed in more detail below.

#### **1.2 Permanent exclusion**

The university reserves the right to permanently exclude students on disciplinary grounds. If a student is excluded for disciplinary reasons when on a placement away from the university, the Registrar and Secretary will write to the body concerned informing them of the university's decision and instructing the student's immediate withdrawal from that placement.

#### **1.3 Temporary exclusion**



The university reserves the right to exclude from the institution for a specified period a student found guilty of serious misconduct. As exclusion from all university property and services withdraws the student from their learning environment, both in terms of academic classes and in terms of other academic services (such as access to the libraries or computer facilities) and might also remove the student's right to a grant, this will be a rarely used penalty. Panels minded to impose a penalty of temporary exclusion will consider carefully whether such a penalty can be imposed without seriously damaging the student's prospects of continuing and completing the course.

#### **1.4 Financial penalty**

The university is aware of the financial hardship of many students, and hopes that the existence of this possible penalty will serve as a deterrent, and that such penalties will not need to be used on a regular basis. The Vice-Chancellor should, from time to time, determine the maximum level of fine. The precise level of any fine will be determined by the Panel taking into account the advice of the Registrar and Secretary and may take into account any loss to the university. Such revenue as is raised through the levying of financial penalties should be added to the Student Hardship Fund.

#### **1.5 Introduction of a revised contract with the student**

In some circumstances, it may be considered that the most appropriate action would be to revise the contract between the university and the student. This might be done in a number of ways, for instance by: introducing additional attendance requirements; requiring a deposit to be lodged with Information Services before the facilities are used, as a surety against possible damage; introducing shorter loan periods for books; or any other similar measures which appear appropriate.

#### **1.6 Withdrawal of access to specified services or locations of the university for a specified period of time**

It may be that, in certain circumstances, withdrawal of access to certain services or locations of the university for a specified period of time would serve as an appropriate penalty. This would be particularly relevant where damage or disturbance was caused on a site not regularly used by the student, or not essentially used as a part of the student's course. However, as in the case of temporary exclusion from the institution (see 1.3 above), care must be taken to ensure that the student's capacity for learning and for attempting meaningful academic work is not lessened in an unintended way. However, some services might reasonably be withdrawn in some cases. The student's Head of School will liaise with the Head of the service provider department, e.g., the Head of Information Services.

#### **1.7 Reprimand**

The Head of School or panel may issue a reprimand. This will remain on the student's record throughout their time at the university, and will normally be taken into account when a subsequent reference is written to an employer. In particular, the university has a legal duty to inform potential employers during a sandwich year of any misconduct on the part of the student.

### **1.8 Payment for damage**

A student may be required to pay for any damage to, or loss of, property of the university or a member of it as a result of their actions. The extent of any such payment for damage or loss will be determined by the university. The procedure for dealing with those in debt to the university is included in section 4D.

## **2 Failure to comply with a penalty**

Failure to comply with the outcomes of any disciplinary action is a disciplinary offence in its own right, as stated in Appendix 1, section 2 (xvi).

## **3 BSMS Students**

### **3.1 Misconduct**

BSMS students shall be subject to the University of Brighton's regulations and procedures for addressing alleged misconduct, save that in respect of disciplinary issues arising from interference with the grounds, halls or property of the University of Sussex, or interference with the well-being of staff or students of the University of Sussex, the disciplinary procedures of the University of Sussex will apply.

### **3.2 Procedure**

Initial evidence of a student's alleged misdemeanour will be forwarded to the Registrar and Secretary of the University of Brighton. The Registrar and Secretary will inform the Academic Secretary of the University of Sussex and thereafter commission a report on the allegation from the Dean of BSMS or relevant Head of Department. On the basis of this report the Registrar and Secretary of the University of Brighton will decide whether the case should be dealt with by the Dean or by a Disciplinary Panel. In cases where it is necessary to consider temporary suspension or exclusion, then the decision will be taken jointly by the Vice-Chancellors of both Universities. The Disciplinary Panel will be chaired by the Dean of BSMS (unless he or she is implicated in the alleged misdemeanour) and will include two members of academic staff, from a different School in each university and two student members, one each appointed by each university's Students' Union. Should the defendant be found guilty of a misdemeanour which calls into question their fitness to practise, the Disciplinary Panel will refer the case to the BSMS Fitness to Practise Committee. Should the decision of the Disciplinary Panel (and/or the Fitness to Practise Committee) recommend that the student be

excluded, then the decision to exclude must be agreed by the Vice-Chancellors of both universities.

### **3.3 Appeal**

In the event that a student wishes to appeal against the decision of the Disciplinary Panel an Appeals Panel will be convened following the procedure at 1.4 of the Student Disciplinary Procedure above save that any such Appeals Panel will comprise representatives of both Universities at the appropriate level (e.g. for Appeals against exclusion the panel will comprise members of the University of Brighton's Board of Governors and the University of Sussex Council).

### **3.4 Office of the Independent Adjudicator (OIA)**

The Office of the Independent Adjudicator for Higher Education (OIA) provides an independent scheme for the review of student complaints which includes the right to appeal against a final decision by a disciplinary or appeal body. Where a student has completed all the available processes under this procedure, the University will issue the student with a 'Completion of Procedures Letter'. A student will need to submit his/her application to the OIA within three months of the date of the Completion of Procedures letter. Further information about procedures for referring a matter to the OIA is available from the Legal Adviser or the Students' Union or can be accessed via the OIA's website [www.oiahe.org.uk](http://www.oiahe.org.uk).

## **Appendix 4      Disciplinary procedures for students in Halls of Residence and university-managed housing**

### **1      Introduction**

While the university's right to take disciplinary action against student residents in Halls of Residence or in private sector accommodation managed by the university is established through the general definition of misconduct in the disciplinary code, the regulations which follow apply specifically to misconduct which occurs in the buildings, grounds of halls or the managed property.

Where the student is a member of a partner college, the student is nevertheless subject to the University's Formal Regulations, in addition to being subject to the partner college's regulations. The university may take disciplinary action itself against a partner college student who is in breach of his or her obligations in this agreement and/or refer the matter to the partner college for such action as it deems appropriate.

Some behaviour constitutes a serious disciplinary offence (defined as serious misconduct in the general regulations), and will be handled as such (see 3.4 below). Serious misconduct is misconduct for which exclusion from the university or a financial penalty is a possible outcome if the student is found guilty.

The Head of Residential and Catering Services, who may delegate his or her responsibilities to a senior member of the residential staff, will normally deal with cases of minor misconduct as an internal offence. The decision as to whether misconduct shall be treated as minor (internal) or serious is made by the Head of Residential and Catering Services or nominee in consultation with the Registrar and Secretary.

### **2      Definition of misconduct**

There is no exhaustive list of the types of behaviour which are unacceptable for residents in a Hall of Residence and university-managed housing. However, in general, all students should abide by the definition of misconduct in the general *Student Disciplinary Procedure* and its appendices, especially noting that 'obstruction of, or improper interference with, the functions, duties or activities of any student, member of staff or other employee of the university or any visitor to the university' constitutes misconduct. Any misconduct by a student resident on the premises of a Hall of Residence or a managed property will be investigated under these procedures. Further, the behaviour of a guest of a student resident is the responsibility of the student resident, who may therefore be required to answer for their guest and may be liable to disciplinary action, including payment for any damage caused and/or a further penalty for the behaviour itself.

### **3 Types of misconduct**

#### **3.1 Unreasonable behaviour**

Some behaviour is unreasonable rather than being a genuine instance of misconduct. Such offences include unacceptable noise levels, or untidiness in a communal area. This behaviour will normally be dealt with informally, for example by a Residential Advisor or another member of staff within Residential and Catering Services. All residents in halls and university-managed housing are expected to behave with due consideration for others, be they students, staff, neighbours or visitors to the premises, and to take such others into account at all times<sup>2</sup>.

#### **3.2 Persistent unreasonable behaviour**

If a student continues to behave unreasonably after receiving due warning from a member of residential staff, this will be treated as an internal disciplinary offence (hereafter 'internal offence'). Such behaviour should be reported to a senior member of residential staff, who will determine whether there is a prima facie case to answer. If there is, the senior member of staff should follow the procedure described at 4 below.

#### **3.3 Behaviour which is causing concern**

Some types of behaviour are not acceptable although not serious enough to warrant treatment as 'serious misconduct' under the university's formal disciplinary procedures. This includes behaviour which clearly breaches the Tenancy Agreement signed by the student. Instances of such behaviour should be reported to a senior member of residential staff, who will decide whether there is a prima facie case to answer. If there is, the senior member of staff should follow the procedure described at 4 below.

#### **3.4 Serious misconduct**

If the allegation made against a student resident is such that a finding against the student might result in a financial penalty or exclusion from the university, the senior member of residential staff should refer the matter immediately to the Registrar and Secretary, who will institute proceedings under the general Student Disciplinary Procedure. In cases where the offence might lead to a serious criminal charge, or where the senior member of residential staff or the Head of Residential and Catering Services judges that the life or health of the student concerned, other students, members of staff or visitors might be endangered, the student may be required to leave the residences with immediate effect, pending the establishment of a formal disciplinary hearing. This move is entirely at the discretion of the Head of Residential and Catering Services, who will report the action in writing to the Registrar and Secretary within two working days. Suspension from halls of residence or university-managed housing pending a formal hearing will not be added to the student's record, and does not constitute an indication of guilt.

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<sup>2</sup> It should be noted that a resident whose behaviour is influenced by alcohol or any other substance, whether legal or restricted, will not be treated more leniently as a result. The same rules, and hence the same notional penalties, apply to all students at all times. While circumstances may be taken into account in each case, the fact that a student was under the influence of alcohol or other substance will not normally constitute grounds for a more lenient consideration of their case.

#### **4 Procedure for dealing with internal offences**

The senior member of residential staff to whom the internal offence has been reported will conduct an investigation into the circumstances which gave rise to the allegation, or will nominate another member of staff from the Hall to do so, and will conclude this process with an interview with the student. A friend or advisor may accompany the student at this interview.

The student will be sent written notification of the date and time of the interview, and should normally be given five working days' notice. The substance of the allegation, together with any written evidence which is to be considered, will be made available to the student and the student's friend or advisor at least three working days before the hearing. In cases where the student might pose a danger to themselves or to other residents, interviews can be held at shorter notice; approval for this must be gained from the Head of Residential and Catering Services.

After the interview, the senior member of residential staff should reach a decision based on the evidence, giving the student the benefit of any reasonable doubt. The student will be informed orally of the penalty which is to be recommended to the Head of Residential and Catering Services, or possible future penalties which their behaviour might warrant. This recommendation will be sent to the Head of Residential and Catering Services, together with the rationale for the decision; the Head of Residential and Catering Services will then send formal written notification of the penalty to the student within five working days of the hearing.

A copy of this notification should also be sent to the senior member of residential staff who conducted the interview. It is open to the senior member of residential staff to decide that the case is more serious than at first alleged, and is an instance of serious misconduct which should be referred to the Registrar and Secretary. In such cases, the senior member of residential staff should inform the student orally of their decision, and send a written report of the interview to the Registrar and Secretary, who may either:

- (i) refer the matter back to the member of residential staff and Head of Residential and Catering Services for a penalty to be imposed, if he/she does not deem it to be a matter of serious misconduct; or
- (ii) institute formal disciplinary proceedings at a university level if he/she deems that it may be a matter of serious misconduct.

Formal written notification of the Registrar and Secretary's decision should be sent to the Head of Residential and Catering Services, the senior member of residential staff who conducted the interview and the student within two working days of the referral.

## **5 Penalties for internal offences**

### **5.1 Reprimand**

In most cases, a reprimand may be the most appropriate penalty. A reprimand will be put on the student's residence record, and will remain there throughout their time at the university. Reprimands will normally be mentioned on any future housing reference; further, a student who has received a reprimand for an internal offence will not normally be considered for any university owned or managed accommodation in future.

While reprimands are often appropriate, a record of previous reprimands may indicate the need for a more serious penalty. Members of residential staff should be aware that, even in cases where a reprimand might normally be appropriate, a stronger penalty might be required if a student has already given cause for concern.

### **5.2 Removal of certain specified privileges**

There may be cases where certain privileges are taken away from a resident student. For example, if difficulties follow visits by guests, a student might be forbidden to have further visits or overnight stays by guests. The removal of such privileges, which may or may not be of a specified duration, should be clearly related to the offence for which this is a penalty.

### **5.3 Withdrawal of access to certain specified locations or services of the Halls of Residence or university**

There may be occasions where the most appropriate penalty would be the withdrawal of access to certain specified locations or services of the Halls of Residence or the university, which may or may not be for a specified period of time. In Halls of Residence, services which might be withdrawn may include use of the bar and/or common room facilities, computing facilities or the launderette. Such penalties should be clearly related to the offence for which this is a penalty. Members of residential staff should be aware that such a penalty should only be introduced if it can be enforced satisfactorily.

## **6 Penalties for offences of serious misconduct**

A disciplinary panel convened to consider a case of serious misconduct by a resident student may impose any penalty available under the university's main student disciplinary procedure. Additionally, the panel has available to it the following further penalty.

### **6.1 Notice to leave**

Failure to comply with the terms of the Tenancy Agreement may, in the case of a serious breach, result in the termination of the Agreement and exclusion from the accommodation on terms that the university shall determine, as set out in the Agreement signed by the student. Notice to such effect should be formalised, in writing, by the Head of Residential and Catering Services within 24 hours of the interview with a senior member of residential staff. This letter will also inform the student of their right to appeal. A written report must also be sent within 24

hours to the Registrar and Secretary. Varying amounts of notice may be given, depending on the nature of the offence. Notice to leave will be in accordance with current legislation.

## **7 Appeals**

Students are entitled to appeal against the decision of the Head of Residential and Catering Services (in the case of an internal offence) or of a disciplinary panel (in a case of serious misconduct). An appeal may be against either the finding of the hearing, or the severity of the penalty imposed. The appeal process to be followed is as set out in section 1.4 of the *Student Disciplinary Procedure*.

In determining the membership of a panel to hear an appeal by a resident student found guilty of misconduct in, or connected with, Halls of Residence or university-managed housing, the Registrar and Secretary shall seek to ensure that the staff member of the panel (who shall not be from the same School as the student) has current or recent experience of a supervisory role. The student member of the panel may not be from the same Faculty as the appellant, nor have been a resident of the Halls or university-managed housing where the appellant is resident.

## **8 Students' Union Disciplinary Procedures**

Disciplinary action can also be taken by the Students' Union, as approved by the Board of Governors. Copies of the Students' Union constitution are held in Students' Union offices, libraries, School offices and university Student Offices.