



Student Disciplinary Procedure

V1.0

Responsible Office	University Secretary's Office
Responsible Officer	University Secretary
Approving Authority	Board of Governors
Date of Approval	16 September 2019
Effective Date	23 September 2019
Related Procedures	Student Complaints Procedure
Related University Policies	Academic Misconduct Policy Student General Regulations Harassment Policy Data Protection Policy
Amended (if applicable)	N/A
Supersedes	N/A
Next review due	July 2020

1. Introduction

1.1 Purpose

This document details the procedures that Bath Spa University ('the University') will use to consider allegations of non-academic misconduct by students. It defines what counts as misconduct and explains the various roles involved in considering allegations, the range of penalties that may be imposed, avenues of appeal and reporting and monitoring arrangements.

1.2 Scope

The Procedure applies to those students who are enrolled at the University, or who were enrolled at the University at the time of the alleged misconduct (and have since withdrawn either on a temporary or permanent basis and who intend to return), including those who are suspended for whatever reason.

1.3 Principles

The following principles shall apply in the application of this Procedure:

- a. The standard of proof to be applied shall be the balance of probabilities (i.e. more likely than not);
- b. This Procedure is intended to address misconduct by students rather than to resolve disputes between individuals;
- c. The University shall not act on allegations of misconduct which it considers to be vexatious, spurious or malicious;
- d. A student who is alleged to have committed an act of misconduct shall have the right to be informed of and to respond to the allegations;
- e. Sanctions imposed under this Procedure shall be reasonable, proportionate and consistent;
- f. The person bringing the allegation only has the right to know about the outcome of a case in line with the terms of data protection law and appreciating the rights of the responding party.

1.4 Support

Students who are either reporting or responding to an allegation under this Procedure are strongly encouraged to seek advice and support regarding this Procedure from the Students' Union Advice Centre, which is independent of the University.

Students are also encouraged to seek support from their personal tutor/supervisor and from the University's Student Wellbeing Service, as appropriate.

Students considering making a report which concerns allegations of bullying and

harassment, discrimination, hate crime, sexual harassment or sexual assault are encouraged to use the 'report and support' web page where further information and details for accessing support can be found:

<https://reportandsupport.bathspa.ac.uk/>

1.5 Delegation of authority

Unless the context indicates otherwise, references in this Procedure to any University officer shall be construed to refer to a person or persons nominated by them to act on their behalf.

2. Misconduct

2.1 Definition of misconduct

Any act or omission, whether occurring on University premises or elsewhere (including electronically and on social media), which improperly interferes with the functioning or activities of the University or of those who work or study in the University or otherwise improperly damages the University or its reputation, shall constitute misconduct under this Procedure and the General Student Regulations. Misconduct shall include but not be limited to the following:

- a. Disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the University;
- b. Obstruction of, or improper interference with, the functions, duties, activities of any student or member of staff of the University, or any visitor to the University;
- c. Violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language, whether expressed verbally or in writing, including in electronic form;
- d. Engaging in any sexual activity without consent, including kissing without consent, inappropriate touching, or making unwanted remarks of a sexual nature;
- e. Bullying, harassment or unacceptable behaviour of any student or member of staff of the University, or any visitor to the University, on the grounds of sex, race, religion or belief, disability, sexual orientation, gender reassignment, age or other grounds;
- f. Fraud, deceit, deception or dishonesty in relation to the University or its staff, students or visitors;
- g. Theft, misappropriation or misuse of University property, or the property of its staff, students or visitors;
- h. Misuse or unauthorised use of premises owned or operated by the University;
- i. Damage to University property, or the property of the University's staff, students or visitors, caused intentionally or recklessly;

- j. Action likely to cause injury or impair safety on University premises, at University organised events or on any other site associated with the University;
- k. Failure to respect the rights of others to freedom of belief and freedom of speech;
- l. Breach of the provisions of any University code, rule or regulation including any student code of conduct;
- m. Failure to disclose personal details to a member of staff of the University in circumstances in which it is reasonable to require that such information be given;
- n. Failure to comply with a reasonable instruction relating to discipline, issued by the Vice-Chancellor, the Deputy Vice-Chancellor, the University Secretary, or by a member of staff acting with the authority of these post-holders.
- o. Conduct (on or off campus) which has damaged or could have damaged the reputation of the University;
- p. Failure to comply with the terms of an order for suspension, or with any penalty issued under this Procedure.
- q. Conduct which is considered unlawful or criminal activity to include drug abuse and associated behaviours.

3. Misconduct in student residences and in the community

3.1 Local rules and regulations

The Student Accommodation Manager and any other member of staff authorised by the Vice-Chancellor may draw up and publish local rules and regulations for student behaviour in University residences and in the community.

3.2 Breaches of local rules and regulations

The Student Accommodation Manager and any other member of staff authorised by the Vice-Chancellor may exercise summary disciplinary jurisdiction and to impose penalties for breaches of local rules and regulations for student behaviour in University residences and in the community.

The Student Accommodation Manager will report annually to the University Secretary's Office with details of all misconduct dealt with and penalties imposed under this section.

3.3 Penalties for breaches of local rules and regulations

If a student is found to have breached local rules and regulations for student behaviour in University residences and in the community, the persons

described in section 3.2 of this Procedure may impose one or more of the Disciplinary Powers of the Vice-Chancellor outlined in section 9 of the [General Student Regulations](#).

In the case of serious misconduct, the matter shall be referred initially to the University Secretary's Office for consideration under section 6 of this Procedure and a broader range of penalties may be imposed where it has been established that misconduct has occurred.

Where the misconduct is also a breach of the terms of residence of University accommodation, the student may also be referred to the Director of Estates and Facilities who may take steps to evict the student.

4. Involvement of the police and the criminal courts

4.1 Misconduct which is also a criminal offence

Behaviour that may amount to a criminal offence is usually best dealt with by the police, Crown Prosecution Service, and the criminal courts in the first instance. The following provisions will apply where the allegation of misconduct, if proved, would also constitute an offence under criminal law.

4.2 Offences that may be dealt with internally

Where the University considers it appropriate, having regard to the seriousness of the alleged misconduct, the matter may be dealt with internally. If the offence is reported to the police, the University will normally defer taking action, except for taking any necessary precautionary measures, until the police and courts have dealt with the matter or a decision not to prosecute has been taken.

4.3 Offences which are not reported to the police

The University has the right to report any alleged criminal offence to the police. However, if a person claims to be the victim of an offence committed by a student but does not wish the police to be involved, the University may in its discretion agree not to report the matter to the police. In such circumstances the University will not normally proceed with internal disciplinary measures unless there are grounds for continuance of the procedure such as it being necessary for resolution on the part of the person or to ensure the safety and wellbeing of the University community. The University may also take disciplinary action over other related offences.

4.4 Imposition of penalty after sentence imposed by a criminal court

Where a student has been convicted of a criminal offence the University

may rely upon the conviction to establish a disciplinary offence under this Procedure, to the extent that the conviction was based on the same facts as the alleged misconduct. The penalty imposed by the criminal court will be taken into account in deciding the penalty under this Procedure.

4.5 Acquittal

If a student is acquitted of a criminal offence the University may still take disciplinary action against the accused student if it appears that misconduct under this Procedure has occurred.

5. Suspension of students as a precautionary measure

5.1 Power to suspend

A student who is the subject of an allegation of misconduct, or against whom a criminal charge is pending, or who is the subject of a police investigation, may be suspended from the University by the Vice-Chancellor, the Deputy Vice-Chancellor, the University Secretary or the Duty Senior Executive Officer, pending the conclusion of the disciplinary or any criminal process.

5.2 Definition of suspension

A student who is suspended from the University under this Procedure has restricted rights to enter University premises and to take part in University activities. The terms of the suspension will be notified in writing to the student.

The terms of suspension may include (but are not limited to) a requirement that the student shall have no contact with a specified person or persons and include a total or selective prohibition on:

- Attendance at the University;
- Access to University facilities;
- Participation in University activities;
- Exercising the functions or duties of any office or committee membership in the University or the Students' Union.

5.3 Orders to be made as a precautionary measure only

Orders for suspension are to be used only where the University considers it necessary as a precautionary measure; for example, to protect a member or members of the University community, or the property of the University or the property of a member or members of the University community, or to aid the facilitation of an investigation, or where the issues involved are of a highly sensitive nature. Written reasons for the decision will be recorded

and made available to the student.

5.4 Representations

Unless the matter is deemed to be urgent by the University, no student shall normally be suspended under this Procedure unless they have been given an opportunity to make representations. In cases deemed to be urgent by the University, a student may be suspended with immediate effect. An opportunity will be given to the student to make representations as soon as reasonably practicable.

5.5 Initial review

A decision to suspend a student under this Procedure shall be subject to review at the request of the student after four weeks. Such a review will not involve a hearing, but the student will be entitled to make written representations. The review will normally be conducted by the Vice-Chancellor and the outcome of the review will be communicated to the student.

5.6 Periodic review

In addition to the initial review, the Vice-Chancellor shall review the suspension on receipt of evidence of altered circumstances which might affect the order.

5.7 Impact of suspension

Following a period of suspension, if the outcome of the case is to permit the student to return to the University, this will be subject to the student's academic status and return to the programme being at a time deemed academically appropriate. The decision will be taken in consultation with the student's School of study.

Students should be aware that following a period of suspension, a return to their programme might incur additional financial costs in relation to their tuition fees and/or accommodation.

International students who are sponsored to study at Bath Spa University on a Tier 4 visa or equivalent may be subject to restrictions due to their immigration status and as a result of a suspension may find themselves unable to meet the conditions of their leave to remain in the UK. The University's Compliance Team will assess this on a case by case basis, taking into account the duration and nature of the suspension, and issue advice to affected students accordingly

6. Summary procedure

6.1 Dismissal

Allegations of misconduct made by staff, students or members of the public under this Procedure should be submitted in writing to the University Secretary's Office within 10 working days of the incident, or the last in a series of incidents. Allegations will only be considered outside of this timeframe in exceptional circumstances at the discretion of the University Secretary.

The University Secretary may dismiss the allegation immediately if they believe there is no case to answer or that it is for some other reason appropriate to do so.

6.2 Preliminary interview

If the allegation is not so dismissed, the University Secretary may conduct a preliminary interview with the student against whom the allegation has been made in order to hear the student's initial response to the allegations of misconduct. Where a preliminary interview is conducted the student will normally be made aware of the allegations in advance. At the interview, the student may be accompanied by a member of the Students' Union Advice Centre, a friend from within the University, or a family member.

Following the preliminary interview, the University Secretary may at their discretion decide to take no further steps under the Procedure or may find that there is no case to answer and will notify the student accordingly.

Allegations reported to the University Secretary concerning a student who holds any office within Bath Spa University Students' Union will normally be notified to the Chief Executive of the Students' Union.

6.3 Failure to attend preliminary interview

If the student fails to attend a preliminary interview without good reason the University Secretary may deal with the case summarily in the student's absence.

6.4 Decision to deal summarily

If the University Secretary decides to take further action in respect of the allegations of misconduct, the following principles shall apply:

- a. If the student agrees, the University Secretary may deal with the case summarily, without recourse to a Disciplinary Panel, provided that they consider it appropriate to do so.
- b. In all other cases the University Secretary will refer the case to a Disciplinary Panel in accordance with section 7 of this Procedure.

6.5 Procedure

If the matter is dealt with summarily, the University Secretary will consider written or oral evidence as they think fit. The University Secretary will find the student actions equate to misconduct if, on the balance of probabilities, they are satisfied of such. If the disciplinary is upheld, they may impose any of the penalties set out in section 8.3 of this Procedure, other than expulsion from the University.

6.6 Consultation

In line with paragraph 1.5 of this procedure, the University Secretary has discretion to delegate authority to nominated persons in the consideration of proceedings. Where a matter may require specialist knowledge or expertise, for example in cases of sexual misconduct or where mental health may be a consideration, the University Secretary will seek appropriate advice and guidance or refer the matter, with informed consent if applicable, to an internal specialist for consultation. If an internal specialist cannot be identified expertise will be sought from organisations known to the University.

6.7 Report

At the end of the proceedings, the University Secretary will write a short report. In the event of the disciplinary being upheld, the report will set out the misconduct alleged, a brief summary of the evidence received, the grounds for the finding, the penalty imposed, and the factors taken into account in deciding the penalty. A copy of the report will be sent to the student.

6.8 Referral to a Disciplinary Panel

If the University Secretary does not consider it appropriate to deal with the matter summarily, or if the student does not agree to its being dealt with in that way, then it shall be referred to a Disciplinary Panel in accordance with section 7 of this Procedure.

7 Disciplinary Panel

7.1 Composition

The Vice-Chancellor shall appoint the members of the Disciplinary Panel and invite one of them, who shall not be a student member, to act as its Chair. The Panel will have three or five members at the discretion of the Vice-Chancellor. The members will normally include both a member of the academic staff of the University and a student of the University who will usually be an officer of the Students' Union. Where the context of the matter calls for specialist expertise a relevant officer will be invited to the panel. The Vice-Chancellor shall have regard to the need to ensure that all members of the Panel are impartial.

7.2 Assistance to the Panel

A person will be appointed to act as Clerk to the Disciplinary Panel, to provide procedural advice and to assist the Panel as it thinks fit. The Clerk will arrange for a note of the proceedings to be taken.

7.3 Representation

The student may be present at all disciplinary hearings, and may be represented by another student of the University or, where the student is on a programme leading to professional registration, a member of their professional organisation. Legal representation will not normally be permitted, except with the permission of the Chair of the Panel.

Additionally, the student may be accompanied by a family member or a friend from within the University.

If a student does not attend without good reason for their failure to attend, the hearing may take place in the student's absence. The student's absence will not invalidate the proceedings.

7.4 Standard of proof

The Panel will find the disciplinary 'Upheld' if, on the evidence before it, it is satisfied on the balance of probabilities of the student's actions were misconduct. This means that the Panel must be satisfied that, on the evidence available, the student's actions is more likely misconduct than not.

7.5 Majority findings

If the members of the Panel cannot agree, the findings of the Panel will be that of the majority of its members. Members shall deliberate in private, normally in the presence of the Clerk.

7.6 Procedure

Subject to the provisions of this Procedure, the order of proceedings shall be at the

discretion of the Chair of the Panel. The Panel may at its discretion ask for additional enquiries to be undertaken, and may call for any witnesses to attend.

7.7 Joint hearings

If two or more students are involved in allegations of misconduct which are related, the Panel may at its discretion deal with their cases together.

7.8 Witness evidence

Witness evidence presented at the hearing will normally be oral, given by witnesses appearing in person. The Panel may accept a witness's written statement in evidence where it is impracticable for the witness to attend, or where in the opinion of the Panel it is for some other reason in the interests of justice to do so.

7.9 Presentation of the case

The Vice-Chancellor will appoint a member of University staff to present the allegation against the student.

7.10 Written allegations

The Clerk, on behalf of the Panel, will ask the case presenter to set out the allegation(s) in writing in advance of the hearing. A copy will be sent to the student normally at least two weeks before the hearing.

7.11 Written witness statements in advance of the hearing

The Clerk, on behalf of the Panel, may call for written witness statements in support of the allegation in advance of the hearing. If such statements are obtained, members of the Panel will be entitled to see them in advance of the hearing and copies will be made available to the student and to the case presenter normally at least one week before the hearing.

7.12 Documentary evidence

Any documentary evidence must be submitted in advance of the hearing and copies will be made available to members of the Panel and to all parties normally at least one week before the hearing. Evidence submitted late will only be admitted with the permission of the Chair of the Panel.

7.13 Opening and closing addresses

The case presenter shall be entitled to address the Panel before calling witnesses, and at the conclusion of the evidence called on behalf of the student. The student, or their representative, may address the Panel before calling witnesses and after the

case presenter's final address.

7.14 No case to answer

At the conclusion of the evidence in support of the allegation against the student, the student, or their representative may submit that no case has been made out against the student which requires an answer. The case presenter has the right to reply. If the Panel finds on the evidence that there is no case for the student to answer, it must dismiss the allegation.

7.15 Time limits

The Panel may impose time limits on oral addresses and submissions as it thinks fit.

7.16 Witness evidence

The allegation against the student shall be put first. If the case proceeds, the student may then give evidence. Witnesses may be recalled only with the permission of the Chair of the Panel.

The Panel may ask questions of all those called before it. The student and the case presented will ask questions of witnesses through the Chair unless directed otherwise by the Chair.

7.17 Relevance

The Panel will refuse to admit evidence that is, in the Panel's opinion, irrelevant to the issues raised.

7.18 Adjournments

The Panel shall have the power to adjourn a hearing to another date, as it thinks fit.

7.19 Report

At the termination of the proceedings, the Chair will prepare a report on behalf of the Panel. In the event of the disciplinary matter being upheld, the report will set out the misconduct alleged, a brief summary of evidence received, the grounds for the finding, the penalty imposed, and the factors taken into account in deciding the penalty. A copy of the report will be sent to the student. Where a student who is undertaking a professional programme of study has been found to have committed misconduct under this Procedure the University may also notify the outcome to the relevant professional or regulatory body where the University considers it appropriate to do so.

7.20 Right to stop proceedings

The Vice-Chancellor has the power to suspend the activity of the Panel at any time, and to stop the proceedings against the student, if they believe it appropriate to do so. Any action of this nature will be communicated to all parties with due explanation.

8 Penalties

8.1 If a student is found to have acted in a manner deemed to be misconduct, one or more penalties may be imposed. The penalties are set out below. A student may not be expelled following an allegation unless the matter is considered by a Disciplinary Panel

8.2 Matters to be considered

When determining penalties, consideration will be given to the seriousness of the misconduct, the circumstances of the misconduct, and the general personal circumstances of the student.

8.3 Types of penalty

Where an allegation of misconduct has been upheld, the student may be subject to the penalties outlined within the General Student Regulations.

8.4 Suspended penalty

Penalties may be suspended for a fixed period of time. If the student is found to have acted in a manner of subsequent misconduct within that period the suspended penalty will immediately take effect.

8.5 Record keeping

If misconduct is upheld, details of the misconduct and the penalty imposed will be sent to the student's Head of School. A record will also be made on the student's central University file. The record will be kept on the student's files in accordance with the University's retention schedule and may be referred to for the purpose of references.

The University Secretary's Office will keep a record of student misconduct and penalties imposed and will report to the Academic Board annually for monitoring.

9 Health and Wellbeing

9.1 Evidence of impairment to Health and Wellbeing

If there is medical evidence that the student is experiencing a condition likely to impede their health or wellbeing, those dealing with the case may suspend or terminate the proceedings on a case by case basis. It may be a condition or suspension or termination of proceedings that the student seeks medical treatment. The Panel may reconvene at a later date with the necessary Reasonable Adjustments

in place for the student, considered case by case in conjunction with Student Wellbeing Services.

10 Appeals against the outcome of a Disciplinary Panel

10.1 Grounds of appeal

Where a student is found to have committed misconduct, the student shall be informed of their right of appeal to the Disciplinary Appeals Panel. The only grounds of appeal which will be considered are that:

- a. there is relevant evidence which was not considered by the Disciplinary Panel before the decision was taken and which may have affected the outcome. In this case, the new evidence must be included in support of any appeal at the time the request is lodged and the student must explain why they were not able to submit the new evidence to the Disciplinary Panel; no appeal shall be permitted if all the evidence submitted was considered by the Disciplinary Panel or if the new evidence could reasonably have been submitted to the Disciplinary Panel by the student before the decision was taken; or
- b. the procedures were not followed correctly prior to decisions being taken and that irregularity may have affected the outcome; or
- c. where the result of the disciplinary action was expulsion, the student shall have the right of appeal on the additional grounds that the nature of the breach of discipline does not justify expulsion.

10.2 Submission of an appeal

If the student wishes to appeal the decision of the Disciplinary Panel, they must lodge their appeal with the Vice-Chancellor within ten working days from the date of notification of the Disciplinary Panel's decision. Such appeals must be made in writing, clearly specifying the ground(s) for appeal and attaching all supporting evidence.

10.3 Consideration of an appeal

The Vice-Chancellor shall nominate a member of the University's Senior Leadership Group who has not had any previous involvement with the case to review the appeal. That individual shall decide if the appeal has a real prospect of success or if there is some other compelling reason why the appeal should be considered. If the member of the University's Senior Leadership Group decides that the appeal has a real prospect of success or that there is some other compelling reason why the appeal should be considered then it shall be referred to a Disciplinary Appeals Panel. If not, then the decision of the Disciplinary Panel will stand. The student shall be notified in writing of the decision together with the reasons for the decision as soon as practicable after the decision has been made.

11 Disciplinary Appeals Panel

11.1 Composition

Membership of the Disciplinary Appeals Committee shall consist of any three members of the Board of Governors appointed by the Chair of the Board of Governors. The Chair shall have regard to the need to ensure that all members of the Panel are impartial.

11.2 Assistance to the Panel

A person will be appointed to act as Clerk to the Disciplinary Appeals Panel, to provide procedural advice and to assist the Panel as it thinks fit. The Clerk will arrange for a note of the proceedings to be taken.

11.3 Procedure

Subject to the provisions of this Procedure, the order of proceedings shall be at the discretion of the Chair of the Panel.

At least ten working days prior to the hearing, the Clerk to the Disciplinary Appeals Panel will ensure that the student is sent the time, date and venue of the appeal hearing.

11.4 Terms of Reference

The Terms of Reference of the Disciplinary Appeals Panel shall be:

- a. to review the case presented to the Disciplinary Panel but not to re-hear the evidence (witnesses will therefore not usually be permitted at the hearing);
- b. to examine any relevant evidence which was not considered by the Disciplinary Panel before the decision was taken and which may have affected the outcome, and which the student was not able to submit to the Disciplinary Panel;
- c. to determine whether the procedures were followed correctly by the Disciplinary Panel;
- d. where the result of the disciplinary action was expulsion, to consider whether the nature of the breach of discipline justified the sanction;
- e. to determine whether or not to uphold the Disciplinary Panel's decision;

11.5 Outcome

After consideration of the appeal the Disciplinary Appeals Panel shall have the power to annul, vary or confirm the decision of the Disciplinary Panel. The decision of the Disciplinary Appeals Panel shall be final and the student shall be notified in writing of the decision, together with reasons for the decision. There shall be no further permissible appeal against the outcome.

12 Office of the Independent Adjudicator for Higher Education (OIA)

12.1 If, after the University's internal procedures have been exhausted, the student is dissatisfied with the outcome they may make a complaint to the Office of the Independent Adjudicator (OIA), subject to the rules of the OIA's independent complaints scheme.

Once the University's procedures have been exhausted, the University will issue a "Completion of Procedures" letter. Students must apply to the OIA within twelve (12) months of the issue of this letter if they wish to make a complaint. For information on how to submit a complaint to the OIA, please refer to the OIA's website:

www.oiahe.org.uk