



UNIVERSITY OF
WINCHESTER

Student Disciplinary Procedures

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| Description | |
| <p>This document collates the strategies, regulations and guidelines relating to assessments and applies to all taught provision at the University and its Collaborative Partners.</p> <p>These regulations make reference to other policies, procedures and regulations which can be found here: Policies and Regulations - University of Winchester</p> | |

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1. SCOPE

- 1.1 The purpose of the Conduct Policy for Students is to set out our expectations of behaviour that create a positive working and learning environment that enriches lives and where everyone is treated with respect and dignity. The University expects the highest standards of behaviour from staff and students, whether on University premises or elsewhere.
- 1.2 Each student of the University has agreed to abide by the terms of the Conduct Policy for Students which sets out some overarching expectations of behaviour. It also sets out in more detail the types of behaviour that the University will consider as misconduct, and how the University will deal with it.
- 1.3 These Disciplinary Procedures should be read in conjunction with the Conduct Policy for Students. Both documents form part of the student's contract with the University and as such are legally enforceable documents.
- 1.4 Misconduct includes non-exhaustive examples given within these procedures, and breach of the provisions of Freedom of Speech Policy, Sexual harassment, Violence and Misconduct Guidance, ICT Acceptable Use Policy, or of any other provision or rule or regulation which provides for breaches to constitute misconduct.
- 1.5 The purpose of these Procedures is to provide a constructive framework for dealing with allegations of misconduct made against students and to ensure that disciplinary action, where necessary, is applied fairly and consistently and in accordance with Natural Justice.
- 1.6 For the purposes of the Conduct Policy for Students and these Procedures, a student is a person registered on a programme of study at the University, including those attending for a limited time (such as on credit-bearing short courses), studying for apprenticeships, and those on placement or volunteering modules. A student's registration ends on the date of the deadline for an appeal against a Progression and Award Board decision to confer an award or the exit of a student or the formal withdrawal of a student via the University's processes.
- 1.7 These Disciplinary Procedures apply to non-academic misconduct and do not apply to allegations of academic misconduct, e.g. plagiarism, cheating in examinations etc. Procedures for such matters will be considered under the University's [Student Academic Integrity Procedures](#) but allegations of behaviour related to the process around academic integrity may be considered, for instance falsification of evidence.
- 1.8 Students registered for a University of Winchester award but studying at a partner institution shall normally be subject to the student conduct and disciplinary procedures of that institution or as otherwise set out in the Memorandum of Agreement between it and the University of Winchester. Students who are the subject of an allegation of misconduct in a placement or workplace setting as part of their programme of study may, in the first instance, be subject to the disciplinary procedures of the provider. However, the University reserves the right to also take action under these or other relevant University policies as it considers appropriate.
- 1.9 Reports made by former students in relation to events that occurred while they were registered and against a student still registered at the University may be investigated.

- 1.10 There are a range of other policies and procedures which may be used to address student conduct issues instead of or in addition to these Disciplinary Procedures. The Academic Registrar will determine which is the appropriate route and policy. These include, without limitation:

Student Complaints Policy
Data Protection Policy
Drug and Alcohol Policy (Students)
ICT Acceptable Use Policy
Policy on Student Use and Misuse of Social Media
Exceptional Circumstances and Self-Certification Policy
Supporting Students to Succeed Procedures for Postgraduate Research Degrees
Sexual Harassment, Misconduct and Violence Guidance
Health and Wellbeing Faculty: Fitness to Practise Policy and Process
Student Residence Regulations
Health and Safety Policy
Prevent Duty Implementation and Delivery Model

- 1.11 The Academic Registrar has strategic and operational responsibility for the application and implementation of these Procedures. Governance and oversight falls under the remit of institutional committees, under the leadership of the Executive Leadership Team (ELT).
- 1.12 The Academic Registrar can delegate their power to investigate under these Procedures to other members of staff. The person nominated to investigate the case will be referred to in these Procedures as the 'Investigating Officer' and will have the appropriate level of authority to determine investigation outcomes.
- 1.13 The Academic Registrar can extend authority to allow investigatory and determining powers under these provisions to Deans, Directors of Professional Services, Senior Managers or other staff members and teams with appropriate or required levels of expertise applicable to individual cases.
- 1.14 Allegations of non-academic misconduct may be brought by students of the University, staff of the University and the general public. The person (or persons) making an allegation against a student will be referred to as 'the Reporting Party' and the student who is the subject of the allegation will be referred to as the 'Responding Student'.
- 1.15 Where an allegation is received by the University, the University will normally only undertake an investigation with the consent of the Reporting Party or any other party whom it is alleged has been impacted by potential breach of policy. Under special circumstances, determined by the Academic Registrar, in order to ensure individuals, property, institutional reputation and third party stakeholders are protected wherever possible, consent will not always be required. Further details about this can be found in the University's ['Consent to Investigate or Report Externally Statement'](#) located on the University's Report + Support online reporting tool.
- 1.16 Anonymous allegations will not normally be considered under these Procedures. If a Reporting Party has legitimate concerns about their identity being disclosed as part of a disciplinary investigation, they should make those concerns known in the process of

reporting the misconduct, so that the University can consider whether appropriate steps can be taken to safeguard the rights of the Reporting Party as well as the student(s) against which allegations are being made. If the University does decide to consider an anonymous allegation the complainant will be the University.

- 1.17 The University has a positive duty where behaviour becomes known and which contravenes the Conduct Policy for Students. Under these circumstances, determined by Senior Leaders and Managers, there will not be a specific requirement for formal reporting of an incident or incidents of policy breach. The University shall be the complainant in these situations.
- 1.18 All those involved in the Disciplinary Procedures for Students, including the Reporting Party and the Responding Student, are advised to remember that the University's Conduct Policy for Students expects all those in the University community to treat each other with respect. Details of the complaint, the investigation and the outcome should not normally be shared with anyone other than those directly involved or who are providing support or advice to the Reporting Party or the Responding Student, except in circumstances where an investigation's determinations extend beyond the named parties for the protection of other persons, property and institutional reputation. See section 2.9.
- 1.19 Allegations about misconduct within Winchester Student Union venues, associated activities, and societies will normally be dealt with through the [Union's own procedures](#). However, reports received about serious misconduct will be referred, by agreement on a case-by-case basis, to the University for investigation.
- 1.20 The University will normally only investigate misconduct which occurs on premises and facilities owned or operated by the University. However, the University reserves the right to investigate allegations which occur off its campuses if it considers that a student's behaviour may have a detrimental impact on members of the University, property or institutional reputation. The University is not empowered to act on behalf of third parties, for example private landlords, but may under the direction of the police, assist with their investigations.
- 1.21 Students are subject to the University's Conduct Policy for Students and these Procedures from the moment they have completed all required stages of enrolment or re-enrolment. However, where it is determined that alleged behaviour or conduct could have a detrimental impact on other persons, property or institutional reputation whilst a future student is still an applicant, certain restrictions may be deemed applicable. These could include rescinding of an offer to study or subsequent withdrawal from study. This includes any conduct that raises concerns for Fitness to Practise or professional standing as determined by Professional, Statutory or Regulatory Bodies (PSRB).
- 1.22 These Procedures are not intended as a mechanism for conciliation, negotiation, arbitration or mediation of disputes and disagreements between students (see 3.1.2b below).
- 1.23 The Academic Registrar or delegated authority is responsible for determining any issues of interpretation and for providing any clarification about these Procedures.

2. PRINCIPLES

2.1 General principles

- 2.1.1 The following principles apply when implementing these Procedures to help ensure that everyone involved is treated fairly, consistently, appropriately and transparently and that matters are dealt with effectively and efficiently in the best interests of all.

2.2 Disclosures and Counter allegations

- 2.2.1 No one should expect to suffer any disadvantage, recrimination or reprisals for either making a complaint or submitting evidence in good faith.
- 2.2.2 If a counter-allegation is submitted against a Reporting Party whilst the disciplinary process is ongoing, the Academic Registrar or delegated authority will decide on a case-by-case basis whether to wait for the initial case to conclude before then considering the counter allegations or whether to investigate both reports concurrently, whichever is deemed most appropriate.

2.3 Decisions about the nature of the investigation

- 2.3.1 Where more than one student is involved in a case of suspected misconduct, the Academic Registrar or delegated authority may choose whether to take joint or separate action against each student under these Procedures.
- 2.3.2 The Academic Registrar or delegated authority reserves the right not to proceed with any investigation following an allegation against the behaviour of a student if it is considered that there are insufficient grounds and/or evidence to do so.
- 2.3.3 The University will not normally act on allegations of misconduct which following an initial investigation, it considers to be solely vexatious, spurious or malicious.

2.4 Timeframes

- 2.4.1 These Procedures will be conducted in a timely, objective and thorough manner. In extraordinary circumstances where the complexities or potential interdependencies of a particular case are evident from an initial review, it may be necessary under the authority of the Academic Registrar to inform all relevant parties that an investigation may exceed standard timescales and service level agreements. Under such circumstances all parties will be informed in writing.

- 2.4.2 All parties are expected to comply with reasonable deadlines set by the University and advise the University about any difficulties they may face during the investigation in meeting any deadlines. Where students fail to respond or engage with the misconduct process in a timely fashion, the University may proceed to reach conclusions in the absence of the student.
- 2.4.3 Any action taken under these Procedures will be concluded as efficiently as possible and normally within 90 days from the start of the investigation. This time frame would exclude any time taken by a criminal investigation or prosecution outside the scope of the University's authority.
- 2.4.4 In cases where there are special circumstances which require variance from specified time limits, students will be informed of the reasons for this by the Investigating Officer or the Secretary of the Panel. Any party requiring additional support or reasonable adjustments should inform the Investigating Officer at the earliest opportunity in order for these to be considered and applied where deemed appropriate by the Academic Registrar or delegated authority. (See also 2.8 below)
- 2.4.5 The University reserves the right to adjourn any investigation or Panel and reconvene at a later date. For example, in some cases action may be deferred over the period of a vacation, if it is not practicable to gather evidence or interview people.
- 2.4.6 Where Responding Students withdraw from the University prior to the conclusion of these Procedures or may be on a period of leave from the University when these Procedures are instigated, then the case will not normally go ahead in the student's absence unless it is considered reasonably necessary to do so in order to mitigate against or protect other persons, property or institutional reputation from already determined ongoing impact from the nature of the allegations. The University will, where practicable, resume any misconduct procedures should the student return to study at the University in the future.

2.5 Environmental Investigations

- 2.5.1 Where there are a number of reports concerning unacceptable behaviour, the University may conduct an environmental investigation with staff and/or students within a department or Faculty to understand the behaviours in more detail and identify and target appropriate support and interventions.
- 2.5.2 An environmental investigation will involve an agreed terms of reference with the department, and interviews and/or focus groups with students and/or staff to ascertain the key concerns and possible solutions.

2.6 Multiple processes

- 2.6.1 Where any part of the proceedings is a matter that is subject to Professional, Statutory or Regulatory Body (PSRB) rules, these procedures will be modified in order that those rules are adequately considered and if necessary, consultation with the relevant PSRB undertaken. Where appropriate, these Procedures will be combined with those of the University's Fitness

to Practise procedures, with a single panel Hearing to determine outcomes for both. This may result in different outcomes under each Procedure.

- 2.6.2 Where misconduct matters arise under another University process, for instance academic integrity or academic appeals, that process may be paused or combined under a single investigation, at the discretion of the Academic Registrar or delegated authority, in order to investigate the alleged misconduct first.

2.7 Sharing of details and evidence

- 2.7.1 The Responding Student has the right to be informed of and to respond to the allegations made against them.
- 2.7.2 The University shall ensure that the Responding Student has access to all of the appropriate evidence the University has in respect of the case, as well as the summary report, drafted by the Investigating Officer.
- 2.7.3 Where it may be identified by the Investigating Officer and authorised by the Academic Registrar, it may be deemed necessary to restrict the sharing of some or all sensitive information that has been disclosed by the Reporting Party in order to prevent continuing or new detrimental impact on the Reporting Party, other persons, property or institutional reputation. Under these extraordinary circumstances the Responding Student will be informed that information is being restricted but that where practicable, this information would have no bearing on them being able to mount a defence.
- 2.7.4 The Reporting Party will normally have access to the summary report, drafted by the Investigating Officer. They may also be given access to some, or all, of the evidence gathered, subject to data protection principles for sensitive materials. This will be determined on a case-by-case basis, with the final decision resting with the Academic Registrar or delegated authority.

2.8 Support, representation and reasonable adjustments

- 2.8.1 The University's department of Student Support and Success is available for support for any student affected by issues related to a reported incident. Students can make an appointment via the department's intranet pages. Staff making reports can access advice and support from their Head of Department, the recognised Trade Union, the University's Wellbeing Officer or from Care First.
- 2.8.2 All students dealt with under these Procedures will also be encouraged to seek advice and support from the [Winchester Student Union Advice Centre](#).
- 2.8.3 Reporting Parties and Responding Students both have the right to be accompanied to any meeting or disciplinary hearing by a member of the University community who must be independent to the allegation and may be a student, Student Union representative or staff member. The role of the support person is to provide moral support during a meeting or hearing. They cannot make representations or cross-examine witnesses and must also not

be a witness themselves. The support person is not normally permitted to speak unless complying with previously agreed reasonable adjustments to help the student make representations.

- 2.8.4 Non-members of the University community (for example family members) are not normally permitted to accompany students at meetings and panel hearings, and the University does not permit the recording of meetings. However, requests for reasonable adjustments for declared disabilities will be considered by the Academic Registrar or delegated authority as appropriate.
- 2.8.5 Legal representation is not normally permitted, unless exceptionally and at the discretion of the Academic Registrar. Students and the University may consult with a lawyer outside of those events if they wish. The University will not normally respond to or correspond with lawyers in these circumstances except where legally obliged.
- 2.8.6 Where students have disclosed a disability to the University, the Investigating Officer will normally arrange for a member of the Disability team or the Mental Wellbeing team to attend meetings and hearings as an additional support person. These teams can also provide practical advice and assistance to students who may require additional reasonable adjustments to these Procedures as a result of a disability.
- 2.8.7 Staff would not normally be accompanied at any meetings or disciplinary hearings, but requests will be considered by the Academic Registrar or delegated authority as appropriate.
- 2.8.8 Students and staff who are asked to provide witness statements for misconduct investigations should not attend any meetings or disciplinary hearings as a support person for the Reporting Party or the Responding Student.
- 2.8.9 In appropriate circumstances as determined by the Academic Registrar or delegated authority, the Reporting Party and the Responding Student, or witnesses may attend the meeting or panel by alternative means (for instance MS Teams).

2.9 Confidentiality

- 2.9.1 An appropriate level of confidentiality is fundamental to the operation of an effective misconduct process and must balance transparency and the requirements of Natural Justice against a legitimate expectation of personal privacy. In order to ensure the integrity of the process all parties involved in the operation of these Procedures including the Responding Student and Reporting Parties, any witnesses and members of University staff must ensure that they maintain an appropriate level of confidentiality.
- 2.9.2 In imposing an expectation of confidentiality, the University recognises that it may be necessary and therefore appropriate for those involved in these Procedures to share certain confidential information with third parties, as set out below.
- 2.9.3 The University may disclose information:
 - to those who need to know in order to discharge their responsibilities at work and ensure effective investigation and support;

- where it considers that disclosure is necessary in the interests of health and safety at work or the welfare of other staff, students or the public interest;
- where disclosure is required by law;
- to witnesses and/or attendees at the meetings within these Procedures.

2.9.4 Students and staff members may disclose information:

- with professional advisers for the purpose of obtaining advice;
- with family members and support services for the purpose of obtaining guidance and support;
- with relevant sector bodies such as the Office of the Independent Adjudicator (OIA) or the University's regulator, the Office for Students.

2.9.5 Expectations around confidentiality will be discussed with the Reporting Party and the Responding Student in their initial meetings with the Investigating Officer. Where any person is subsequently found to have made contact with the Reporting Party, Responding Student or named witnesses in relation to the allegations made or the disciplinary process, it may be seen as retaliation against the allegation and may lead to further action, potentially at level three of these Procedures (Gross misconduct).

2.9.6 Where the Reporting Party requests that certain information remains confidential and is not shared with relevant parties as part of the investigation, the Academic Registrar or delegated authority, may need to inform the Reporting Party that the investigation could be limited, inhibited or not practically able to proceed should said information be withheld. In such circumstances, there will still be a determined outcome but it may not be just for any sanctions to be applied in line with principles of Natural Justice.

2.10 Outcomes and Sanctions

2.10.1 These Procedures do not seek to reproduce elements of criminal law or the criminal justice system. It is not a formal legal process, although the University has legal obligations which will apply to these Procedures: for instance, the University has the duty to act fairly and reasonably in relation to all parties in the application of these Procedures. The rules of evidence in English law do not apply; the standard of proof required is the balance of probabilities: that is, it is more likely than not that the alleged misconduct occurred.

2.10.2 All investigations are conducted impartially and are undertaken because a qualifying allegation has been made - they are not undertaken on behalf of the Reporting Party. A student will be presumed innocent of any allegation until proven otherwise on the balance of probabilities.

2.10.3 The University is limited in what action can be taken in relation to disputes in private sector student houses.

2.10.4 Sanctions imposed under these procedures shall be reasonable, proportionate and consistent; aggravating and mitigating circumstances will be considered and reasons for sanctions will be given. Consideration will also be given to the impact of sanctions on a student's wider circumstances.

2.10.5 Aggravating factors may include but are not limited to:

- Offences which directly or indirectly cause a physical or mental injury;
- Offences for which a student has received a previous warning or sanction;
- Offences where there is a power relationship between the Reporting and Responding parties, where this power is abused;
- Offences which may be considered to constitute domestic abuse;
- Offences which include the use of force/violence/threats/intimidation;
- A pattern of misconduct which has been founded previously;
- Evidence of intoxication caused by drink or drugs.

2.10.6 Mitigating factors may include but are not limited to:

- Evidence that the offence was committed without the intent to cause harm, damage or upset;
- The student has demonstrated sincere remorse for the offence;
- The student has clearly accepted responsibility for the offence;
- The student took immediate steps to remedy the effects of the offence.

2.10.7 If there is information held about students who may have been involved in previous incidents of misconduct, this may be taken into account when applying sanctions.

2.10.8 Responding Students will be given fully reasoned details of the outcome, including a rationale for any sanction imposed. Reporting Parties will normally be informed of the steps taken to investigate, information relating to evidence considered, people involved in decision making, and the outcome. Subject to data protection considerations, sanctions may be shared with the Reporting Party.

2.10.9 Where a Responding Student fails to attend a misconduct meeting or provide their response to an allegation of misconduct when requested to do so by the University, this may itself lead to further disciplinary proceedings. When the Responding Student refuses to engage despite the reasonable attempts of the University, the case may be concluded in their absence and reasonable inference may be drawn from non-engagement. For cases where a student withdraws from the University whilst a misconduct investigation is ongoing, the case may be concluded in the student's absence at the discretion of the Academic Registrar.

2.10.10 All sanctions must be carried out by the Responding Student themselves. On occasions when a reasonable adjustment might allow the student to be accompanied (for instance for a mediation, or restorative justice session) the accompaniment will be provided through Student Support and Success.

2.11 Appeals

2.11.1 Responding Students shall have the right of appeal in relation to the outcome and/or sanctions given. Grounds for appeal can be found in section 3.8 of these Procedures.

2.11.2 Dissatisfaction with the outcome of a matter or sanction does not itself constitute grounds for appeal.

- 2.11.3 Reporting parties cannot appeal a disciplinary outcome, but if they believe that the University has not followed its processes, they should make a complaint under the [Student Complaints Policy](#).

2.12 Communication and Data handling

- 2.12.1 Unless agreed otherwise by the University, communication with students will usually be via their Unimail address and with staff will be via their University staff email address.
- 2.12.2 A summary record shall be kept of all meetings and telephone/Teams calls and retained in a confidential file.
- 2.12.3 Details of the University's data retention policy in relation to these Procedures can be found on the University's Report + Support platform, under '[Privacy Notice](#)'.

2.13 Criminal Offences and Legal Proceedings

- 2.13.1 The University recommends that allegations of criminal acts, such as physical assault, rape or sexual assault, are reported to the police immediately. The University may report allegations of criminal activity to the police in cases where there is a legal obligation to report and where there are serious safeguarding concerns and risk to others.
- 2.13.2 In cases where the alleged misconduct might also constitute a criminal offence or where police, criminal or other legal investigation or proceedings are likely, the University may defer action until any criminal procedures have been concluded. However, there may be circumstances in which the processes run concurrently, particularly where there is an immediate risk to people or property. The University may consult with the relevant external agencies before determining how to proceed.
- 2.13.3 Where a matter is also being considered by the police or other external body it is not appropriate for their staff to form a judgement on or to offer advice or an opinion about how the University investigates and determines cases under the Disciplinary Procedures for Students. These Processes operate independently.
- 2.13.4 In such cases, a member of the Executive Leadership Team may apply an interruption of studies and measures as defined under section 2.14.4 of this document to the student under these Procedures pending the outcome of any police, criminal or other legal proceedings.
- 2.13.5 When there is a criminal investigation, the Investigating Officer will make regular contact with the Reporting Party and the Responding Student and/or police to review any progress and/or change in status regarding the case.
- 2.13.6 In cases where a student is convicted of an offence and given a sentence (custodial or non-custodial), the matter must be reported by the student to the Academic Registrar as soon as possible.

- 2.13.7 The Academic Registrar shall refer the matter to a member of the Executive Leadership Team who will determine:
- a) whether or not to invoke or defer the University's Disciplinary Procedures
 - b) whether the student should be withdrawn from the University temporarily, have their registration terminated or any restrictions placed upon their continued registration.
- 2.13.8 Such matters shall be decided on a case-by-case basis taking into account the alleged crime or offence committed and any previous relevant misconduct. The safeguarding of students and staff will be the guiding principle in this process.
- 2.13.9 In reaching their decision, the member of the Executive Leadership Team may take advice internally and externally as appropriate.
- 2.13.10 The Responding Student shall be notified in writing of the decision of the University and whether and how the student may be able to apply for re-admission if their registration is terminated.
- 2.13.11 A student or former student who has served a custodial sentence or period of remand may wish to return to the University to complete their studies. They are required to formally request re-admittance in writing to the Academic Registrar and provide as much information as possible about the conviction and terms of release. The Academic Registrar shall gather such information as necessary, including the student's previous academic position, and take advice internally and externally as appropriate on risk.
- 2.13.12 The Academic Registrar shall consult with University staff as appropriate.
- 2.13.13 The Academic Registrar shall consider the nature of the offence, any particular circumstances, potential risks to the University and any other pertinent issues and shall decide on re-admission, the timing of it and any conditions attached to such re-admission.
- 2.13.14 If a Responding Student is acquitted of a criminal offence the University may still take disciplinary action against them if it appears that misconduct under the Conduct Policy for Students has occurred.

2.14 Mitigating Risk

- 2.14.1 In cases where the alleged offence may pose a risk to staff and students, these Procedures should be used to assess and manage such risk.
- 2.14.2 Following a risk assessment, the University may put in place measures appropriate to manage the risks to the parties involved or to manage the behaviour of or contact between any or all of the parties. These measures may remain in place throughout the process even if no misconduct is found.
- 2.14.3 The arrangements and the reasons for the decision will be conveyed to all affected parties in writing. These measures are not sanctions and do not imply that any decision has already been made about the allegations; any such measures will be for no longer than the

University deems necessary to complete the investigation(s) into the allegation(s) and/or to hold a hearing. These measures will normally be reviewed every 20 days.

2.14.4 Where the Academic Registrar believes that a Responding Student poses a serious risk to one or more of the following:

- a) their own health, safety and/or that of others;
- b) University property;
- c) the reputation of the University and its proper functioning;

they may make a recommendation to a member of the Executive Leadership Team that the student have a temporary interruption of studies and/or access to facilities. The member of the Executive Leadership Team acting under delegated authority from the Vice-Chancellor, will be guided by a principle of safeguarding staff and students and may, pending the outcome of action taken under these procedures:

- i. impose an interruption of studies on the student for a specified time;
- ii. exclude the student from all or part of the University's premises and University managed accommodation and from University and Student Union activities for a specified period of time.

2.14.5 The decision to temporarily interrupt studies and access to facilities, and the reason why this action is being taken, may be communicated orally in the first instance. Where this is the case, written confirmation outlining the reasons for this decision and outlining the right to appeal should be sent to the student within two working days.

2.14.6 Any interruption shall include any arrangements to be put in place to minimise the impact on the student's academic studies.

2.14.7 A student may, within ten working days of the date of the written notification of a decision to interrupt studies, appeal in writing against the decision under the Procedures set out in section 3.8 below. The student will be notified of the decision within 15 working days of the receipt of the letter requesting an appeal.

2.14.8 Where a student has had a temporary interruption or exclusion in accordance with this section, every 10 working days, the appointed member of the Executive Leadership Team shall review whether it is reasonable for the interruption/exclusion to continue.

3. PROCEDURES

3.1 Disciplinary Action at Level One

3.1.1 Level One normally involves intervention by Faculty or Professional Services staff when an incident occurs which is relatively contained and minor.

3.1.2 Examples of Level One misconduct include, but are not limited to:

- a) minor disruption of or interference with academic, administrative, sporting, social or other activities of the University;
- b) incidents between students or students and staff which show a lack of respect or courtesy or where informal attempts to deal with the behaviour have failed;
- c) minor misuse of social media but not including matters that might relate to harassment or discrimination under the Equality Act;
- d) minor misuse or unauthorised use of University property;
- e) minor damage to University or other property
- f) 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
- g) minor incidents relating to poor behavior such as undertaking covert recording;

3.1.3 All allegations of misconduct should normally be made via the University's Report + Support online reporting tool. Where the Academic Registrar or delegated authority concludes that the allegation should be considered at Level One, details of the report will be forwarded to the Dean of Faculty or Director of Professional Services responsible for the area where the misconduct is alleged to have taken place.

3.1.4 Where allegations relate to misconduct within a teaching and learning environment, cases will normally be heard by the Head of Department. Where allegations relate to more than minor, or repeated, misconduct within a teaching and learning environment, cases will normally be heard by a Dean.

3.1.5 The Dean of Faculty (or their nominee) or Director of Professional Service (or their nominee) may obtain further information before deciding whether to consider the complaint under the Disciplinary Procedures for Students.

3.1.6 The Dean of Faculty (or their nominee) or Director of Professional Service (or their nominee) shall normally notify the student who is subject to the allegation within five working days of deciding to consider the complaint under the Disciplinary Procedures, issue them with a copy of these Procedures and invite them to respond usually by meeting and normally within five working days. The student will be advised that they should not discuss the case with the Reporting Student or anyone else involved.

3.1.7 The Dean of Faculty (or their nominee) or Director of Professional Service (or their nominee) shall consider the allegation of misconduct, may meet with the student who is subject to the allegation of misconduct and others involved, review the evidence and share it with the

Responding Student who shall be invited to comment on it and discuss with others involved as appropriate.

3.1.8 Following the conclusion of the Procedure outlined above, the Dean of Faculty (or their nominee) or Director of Professional Service (or their nominee) will determine the outcome as follows:

- i. Dismiss the allegation;
- ii. Uphold the allegation and offer advice as to future conduct and consequences;
- iii. Conclude that the alleged misconduct is such that it should be considered under Level Two or Three of these procedures, in order to impose an appropriate sanction.

3.1.9 Complaints or allegations about misconduct at Level One may also fall within the scope of other University policies or procedures such as those listed in section 1 above. In such cases, it may be more appropriate for an alternative procedure to be used.

3.1.10 The student shall normally be notified by email of the outcome within fifteen working days of their response to the allegation or their meeting with the Dean of Faculty/Director of Professional Service (or nominee), whichever is later.

3.1.11 The Reporting Party shall normally be notified (by email) of the outcome.

3.1.12 Investigation at Level One will not be recorded as disciplinary action on the student's record.

3.2 Examples of Misconduct at Level Two

3.2.1 Level Two is used for cases where allegations are considered to be too serious to be dealt with at Level One. Level Two may also be used where alternative procedures at Level One have failed to resolve the matter.

3.2.2 The Academic Registrar or delegated authority shall manage action under this Level.

3.2.3 Examples of alleged misconduct which may be considered at Level Two include, but are not limited to:

- Discrimination (as defined under the Equalities Act 2010);
- Harassment: which occurs where there is unwanted behaviour or conduct [including of a sexual nature] which has the purpose or effect of violating any person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment, regardless of their personal characteristics, and it is reasonable in all the circumstances of the case for the conduct to have that effect. A single sufficiently serious act may amount to harassment depending on the circumstances of the case;
- Bullying: which is offensive, intimidating, malicious or insulting behaviour which intentionally or unintentionally undermines, humiliates, denigrates or injures the recipient, and where it is reasonable in all the circumstances for it to have that effect. Bullying is normally characterised by a pattern of behaviour but a single incident could be considered as bullying behaviour;
- Physical, written or verbal abuse or intimidation;

- Actions which bring or threaten to bring the University's reputation into disrepute;
- Fraud or personation;*
- More than minor, or repeated, disruption of, or interference with, academic, administrative, sporting, social or other activities of the University;
- Misuse of alcohol, drugs and legal highs;
- Misuse of social media;
- Malicious allegations against other students, staff or members of the public;
- Misuse or unauthorised use of University property;
- Damage to University or other property;
- Breaches of Westminster Government Guidelines in response to any local, national or global emergency;
- Failure to declare a criminal conviction to University of Winchester, subject to the Rehabilitation of Offenders Act;
- Breach of confidentiality in relation to these Procedures;
- Misconduct relating to the academic appeal or academic integrity process. E.g. intimidation/coercion of witnesses or falsification of evidence.

*Personation in relation to the completion of assessments (for example sitting exams) may be dealt with under the Student Academic Integrity Procedures.

3.2.4 If the alleged misconduct is such that it may be more appropriate for it to be considered under another University policy or procedure, the Academic Registrar or delegated authority shall refer the allegation as appropriate.

3.2.5 If the alleged misconduct is such that it should be considered gross misconduct, the Academic Registrar or delegated authority shall follow the procedures at Level Three.

3.3 Examples of Misconduct at Level Three (Gross Misconduct)

3.3.1 The Academic Registrar or delegated authority shall manage action under this Level.

3.3.2 Examples of alleged misconduct which may be considered at Level Three (Gross Misconduct) include, but are not limited to:

- Criminal activities that affect the student's participation in their programme of study or pose a risk to themselves or others or the reputation of the University or its functioning;
- Violence, including sexual violence and assault;
- Harassment: which occurs where there is unwanted behaviour or conduct [including of a sexual nature] which has the purpose or effect of violating any person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment, regardless of their personal characteristics, and it is reasonable in all the circumstances of the case for the conduct to have that effect. A single sufficiently serious act may amount to harassment depending on the circumstances of the case;
- Sexual harassment including publication of revenge pornography and cyber-flashing;
- Bullying: which is offensive, intimidating, malicious or insulting behaviour which intentionally or unintentionally undermines, humiliates, denigrates or injures the recipient, and where it is reasonable in all the circumstances for it to have that

effect. Bullying is normally characterised by a pattern of behaviour but a single incident could be considered as bullying behaviour;

- Incidents involving weapons;
- Repeated misconduct;
- Failure to respond to or comply with disciplinary sanctions imposed under these or other University procedures or policies;
- Breach of confidentiality in relation to these Procedures, which includes intimidation or threatening behaviour;
- Vexatious or malicious allegations against other students, staff or members of the public;
- Any serious breach of standards of conduct and behaviour that has, or may have, a serious adverse effect on the University, its students, staff or members of the public;
- Very serious, or repeated breaches of Westminster Government Guidelines in response to any local, national or global emergency.

3.4 Misconduct Investigation at Levels Two and Three

3.4.1 Allegations of misconduct should be made via the University's Report + Support online reporting tool. The Academic Registrar or delegated authority will nominate an Investigating Officer who will normally meet with the Reporting Party to clarify the details of the complaint and take a written statement.

3.4.2 Following this meeting, the Investigating Officer will advise the Academic Registrar or delegated authority if the allegations may pertain to gross misconduct. The Academic Registrar or delegated authority will decide if the allegations will proceed at this level. The Investigating Officer may recommend to the Academic Registrar that a Level Two alleged offence should escalate to a Level 3 investigation in circumstances where the evidence or alleged impact of the offence in question would require a panel hearing to determine the outcome.

3.4.3 The Responding Student will be notified in writing* of the allegation normally within five working days of approval of the written statement by the Reporting Party. They will be issued with a copy of these Procedures and informed of the level of Procedures at which the case is being investigated (i.e. Level Two or Level Three). The Responding Student will be invited to meet with the Investigating Officer within five working days in order to respond to the allegation(s). The Responding student will be advised that they should not discuss the case with the Reporting Party or anyone else involved.

* The Investigating Officer may first inform the Responding Party of the allegations in person, rather than in writing, if there are welfare concerns about the student or where the allegations pertain to gross misconduct and the outcome of the investigation could be withdrawal from the University with or without an exit award.

3.4.4 Following this meeting, the Investigating Officer will contact any witnesses named by the Reporting Party and the Responding Student and gather any other evidence that is available. They will then draft a summary report of the case.

- 3.4.5 Prior to determination, and subject to confidentiality expectations, all of the evidence gathered, and the Investigating Officer's report shall be shared with the Responding Student who shall be invited to comment on it.
- 3.4.6 Where covert recordings are submitted as evidence, the recording shall be passed to an independent member of staff appointed by the Academic Registrar, to determine whether it should be included.
- 3.4.7 The Investigating Officer's report shall normally also be shared with the Reporting Party who shall be invited to comment on it. They may also be given access to the evidence gathered, depending on the nature of the investigation.
- 3.4.8 If the Responding Student does not engage with the investigation, the procedures will still go ahead and the student shall be informed that this will happen.
- 3.4.9 Where the alleged misconduct comes under both these Procedures and the University's Fitness to Practise procedures, there will normally be a joint investigation. In such cases, the University will allocate a 'Lead Investigator' from either the Student Conduct team or the Faculty, depending on the nature of the misconduct.

3.5 Decision making for Investigations at Level Two

- 3.5.1 Outcomes and sanctions will be determined by a decision maker with no previous involvement and no perception of bias, who will be appointed by the Academic Registrar or delegated authority. The decision maker will consider the evidence and the Investigating Officer's report, including the Responding Student's response to the allegation.
- 3.5.2 In cases where the allegations relate to repeated or serious misconduct within a teaching and learning environment, cases will normally be decided by the Dean of Faculty.
- 3.5.3 In cases where the allegation is denied and there remains a question of fact to be determined and where the potential consequences are serious (for instance where there are PSRB implications), then the matter should be determined by a Disciplinary Panel in accordance with the provisions found in sections 3.6 of this document.
- 3.5.4 In all other cases at Level Two, the decision maker will determine the outcome and decide upon one of the following:
 - a) Dismiss the allegation;
 - b) Uphold the allegation and impose an appropriate sanction;
 - c) Conclude that the alleged misconduct is such that it should be considered gross misconduct, or that the sanctions available at Level Two are inadequate in the circumstances and refer the matter to Level Three.
- 3.5.5 Sanctions at Level Two:

Where allegations are upheld at Level Two, the decision maker may impose appropriate sanctions, such as those listed below:

- A written, or final written, warning which is recorded on the student’s record and copied to their Head of Department;
 - A requirement to enter into a “Good Behaviour” agreement;
 - Requirement for a formal apology;
 - Reparation in respect of loss caused by the misconduct;
 - A fine of up to £200;
 - Temporary restriction of access to specified University and Student Union premises, facilities and services for a stated period;
 - Requirement to undertake some action aimed at changing behaviour and understanding the effects of the misconduct;
 - Sanctions under the Student Residence Regulations;
 - Requirement to undertake specified actions which benefit the University or wider community;
 - Imposing conditions on a student’s access to University of Winchester facilities, where such restrictions are deemed necessary for the safety and security of the members of University of Winchester community.
- 3.5.6 The Responding student shall normally be notified in writing of the outcome within fifteen working days of them being sent the Investigating Officer’s report. The student will be informed of their right to appeal the decision which must be submitted within ten working days as per section 3.8 of these procedures.
- 3.5.7 The Reporting Party shall normally be notified (by email) of the decision. Sanctions will be disclosed subject to GDPR requirements.

3.6 Decision making for Investigations at Level Three

- 3.6.1 Where an allegation has been identified as being at Level Three, a Disciplinary Panel shall be convened, and its members shall be appointed by the Academic Registrar or delegated authority. It shall comprise three members, two staff and one representative of the student body. The representative of the student body will normally be a sabbatical officer of the Student Union. One of the staff members will be appointed as Chair. No member of the Panel will have been previously involved in the case or have any close relationship with the student or others involved in the case or have any perception of bias. Any objections to the panel membership should be made to the Academic Registrar or delegated authority, stating the reasons for the objection. [Variations to the panel membership for joint Disciplinary/Fitness to Practise panels are noted in 3.6.13 below.]
- 3.6.2 If it appears that the case may raise cultural or other sensitivities, the Chair may co-opt an additional member able to advise on these issues, or otherwise seek advice as they see fit.
- 3.6.3 The Academic Registrar or delegated authority shall appoint a Secretary to the Disciplinary Panel who shall be responsible for organising the Panel meeting and dealing with queries on procedure from the Responding Student, Reporting Party, Panel members and any others involved. The Secretary shall also ensure that information and paperwork is shared with all parties, as detailed in 3.6.5 below, and that a record of the Hearing is taken.

- 3.6.4 Once the investigation is complete, the date for the Disciplinary Panel shall be determined and the Secretary shall inform the student. The Reporting Party and the Responding Student shall normally be given at least five working days' written notice of the date, time and place of the Hearing. Where the Chair deems there are special circumstances which require a shorter period of notice to be given, the reasons for this will be explained to the parties.
- 3.6.5 The written notice shall be accompanied by:
- a) A copy of the Investigating Officer's report together with any supporting documentation;
 - b) A copy of the Responding Student's initial statement in response to the allegation, together with any supporting documentation;
 - c) A list of the names and status of all witnesses to appear before the Panel;
 - d) A copy of the Disciplinary Procedures for Students;
 - e) A copy of any other relevant documents.
 - f) Details of the composition of the panel;
 - g) Details of their right to be accompanied;
 - h) Details and arrangements for attendance by MS Teams or other means where appropriate;
- 3.6.6 The Responding Student and the Reporting Party have the right to be accompanied at the Hearing as set out in section 2.8.3 above.
- 3.6.7 In a case with multiple students who are subject to the same allegation, the Academic Registrar or delegated authority may, at their discretion, decide to convene a single Disciplinary Panel Hearing to decide the matter.
- 3.6.8 Where the Responding student is unable to attend, the Hearing may be postponed once on receipt of appropriate evidence to substantiate acceptable reasons for absence. It should be noted that Hearings may take place outside of standard term time dates and this, in itself, will not be accepted as a reason for absence. If the Responding student is unable to attend a second time, the Hearing will normally be held in their absence.
- 3.6.9 Where the Responding Student does not appear at the Hearing and/or has not provided appropriate evidence for their absence, the Panel may proceed to deal with the allegation in their absence provided the Chair is satisfied that the Secretary has properly notified the student of the sitting of the Hearing.
- 3.6.10 Staff who are the Reporting Party are normally required to attend the meeting; students who are the Reporting Party are also expected to attend. Although the Panel can proceed to deal with the allegation in the absence of the Reporting Party, appropriate weighting would be given to their evidence as a result of not being able to cross examine them.
- 3.6.11 Any witnesses invited to attend the Hearing shall also be given at least five working days' notice. Students or staff who are called as witnesses may be asked to attend for the whole panel meeting or just for part of the meeting, in order to provide a statement and answer questions. This will be confirmed in advance of the meeting by the Chair. Witnesses are expected to attend if invited, but are not required to do.

- 3.6.12 The proceedings at the Disciplinary Panel Hearing, supporting documentation and outcome are confidential to those involved. Any breach of confidentiality by students or staff may be dealt with under the relevant Disciplinary Procedures.
- 3.6.13 In the event of a joint panel Hearing for these Disciplinary Procedures and Fitness to Practise Procedures, the membership of the panel will depend on whether the misconduct is being considered at Level Two or Level Three of these Procedures. If the misconduct is being considered at Level Two, then one disciplinary decision maker will join the Fitness to Practise panel, as stated in the [Fitness to Practise Policy](#), and will solely make decisions about the outcome and possible sanctions under these Procedures. If the misconduct is being considered at Level Three, then the Chair of the Panel Hearing will be the Academic Registrar (or nominee). They will be joined on the Panel by a Sabbatical Officer from the Student Union and the third Panel member for the Disciplinary Procedures will be one of the Independent Academics from the Fitness to Practise panel membership.
- 3.6.14 Conduct of the Disciplinary Panel Hearing: the conduct of the hearing will normally be as follows but can be adapted by the Chair to suit circumstances:
- A member of the Conduct and Complaints Team (or a suitable alternative) will act as Secretary to the Panel and minute the Hearing. Minutes are confidential to those present.
 - The Panel and Secretary will meet alone to review the documentation and to discuss the case.
 - The Responding Student, the Reporting Party, their support persons (if relevant) and the Investigating Officer will then be invited to join the meeting. [The Responding Student and the Reporting Party may be attending virtually, through MS Teams.]
 - The Chair will open the meeting and summarise proceedings and ensure all attendees have received all relevant information. They shall explain the role and powers of the Panel as set out in these Procedures, confirm that all questions and statements should be put through the Chair and detail the possible outcomes of the meeting.
 - The Investigating Officer (or Chair in their absence) will outline the allegations and evidence.
 - The Panel may question the Investigating Officer.
 - The Reporting Party may make representations to the Panel and may question the Investigating Officer and the Responding Student. All questions are directed through the Chair.
 - The Panel may question the Reporting Party.
 - The Responding Student may make representations to the Panel and may question the Investigating Officer and the Reporting party. All questions are directed through the Chair.
 - The Panel may question the Responding Student.
 - If any witnesses are attending for part of the hearing, they will be invited in at this time.

- Witnesses in attendance (in person, via Teams or other appropriate means) will provide a statement and then may be questioned by the Panel, the Reporting party and the Responding Student as appropriate. All questions are directed through the Chair.
- Final comments or responses will be invited from all parties.
- The Reporting Party and the Responding Student will be advised about how/when they can expect to be informed of the decision of the Panel.
- The Responding Student, the Reporting Party, their support persons, any witnesses (if relevant) and the Investigating Officer will then withdraw.

3.6.15 The Panel will discuss the case and either make a decision or require further information or investigation. The Panel may seek support and advice from external bodies where relevant, for instance legal or specialist advice. If the members of the Panel cannot agree on an outcome or sanction, the decision of the Panel will be that of the majority of its members. If there is a split decision, the Chair will have the casting vote.

3.6.16 The Panel shall make one of the following decisions:

- a) The allegation of gross misconduct is not proven;
- b) The allegation of gross misconduct is proven;
- c) The allegation is not proven at Level Three but is proven at Level Two or One;
- d) What, if any, sanctions to apply.

3.6.17 Possible sanctions at Level Three include, but are not limited to:

- A written, or final written, warning which is recorded on the student's record and copied to their Head of Department;
- Requirement for a formal apology;
- Reparation in respect of loss caused by the misconduct;
- Temporary or permanent removal of access to specified University and Student Union premises, facilities and services;
- Requirement to undertake some action aimed at changing behaviour and understanding the effects of the misconduct;
- Requirement to undertake specified actions which benefit the University or wider community;
- Imposing conditions on a student's access to University of Winchester facilities, where such restrictions are deemed necessary for the safety and security of the members of the University of Winchester community;
- Sanctions under the Student Residence Regulations;
- A recommendation for an interruption from studies for a specified period of time;
- A recommendation for a termination of studies, with or without an exit award.

3.6.18 For a decision other than a recommendation for interruption from studies, exclusion or termination of studies, the Chair of the Panel shall write to the Responding Student confirming the Panel's decision and any sanctions, normally within five working days of the Hearing. The Responding Student shall also be informed of their right of appeal against the

decision/sanctions and the name of the person to whom an appeal should be sent. An appeal must be received within ten working days of the date of the Chair's letter.

- 3.6.19 Reporting Parties will normally be informed of the decision (by email). Sanctions will be communicated where this complies with GDPR responsibilities.
- 3.6.20 The Chair shall confirm to the Secretary whether anyone in addition to the Reporting Student is to be informed of the decision of the Panel. All are required to keep the decision confidential.

3.7 Interruption, Exclusion and Termination of Studies

- 3.7.1 If the Disciplinary Panel recommends that a student be subject to interruption from studies, exclusion from University premises or termination of studies, the matter will be referred to a member of the Executive Leadership Team, acting under delegated authority from the Vice-Chancellor.
- 3.7.2 If the member of the Executive Leadership Team confirms the decision to interrupt studies or exclude the student for a period of time, the student shall be informed in writing to the student's Unimail address normally within five working days of the date of the decision. The Dean of Faculty and Academic Registrar shall be informed of the details of the interruption and/or exclusion. The Dean of Faculty will work with the Head of the Academic Department to devise a plan to support the student's study where possible and appropriate.
- 3.7.3 International students who are sponsored to study at the University of Winchester 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 Head of Student Visa Compliance will assess this on a case-by-case basis, taking into account the duration and nature of the suspension, and issue advice to the affected student accordingly.
- 3.7.4 If the member of the Executive Leadership Team decides that the student's studies should be terminated, the student will be informed of this in writing to the student's Unimail address normally within five working days of the date of the decision. The student will also be notified whether they are eligible for an exit award. The relevant Dean of Faculty and /or Director of Professional Service shall also be notified of the decision.
- 3.7.5 If the member of the Executive Leadership Team does not agree with a recommendation to interrupt studies, exclude or terminate the student's studies they may substitute another sanction or require the Panel to reconvene to review the sanctions imposed.
- 3.7.6 No refund of tuition fees will be given where a student has been excluded or suspended under this procedure. A partial refund of accommodation fees already paid may be possible, at the reasonable discretion of the University, depending on when in the academic year the accommodation is vacated by the student and only if the University has been able to re-let the student's accommodation following their withdrawal. It is the student's responsibility to inform themselves about the potential impact of an exclusion or suspension on any financial assistance which they may receive.

3.8 Appealing the decision

- 3.8.1 Responding Students may appeal in writing against the decisions at any level within ten working days of the issue of notification confirming the decision. The grounds for appeal are limited to:
- a) The University has failed to follow the procedures detailed within these Procedures
 - b) The decision was not consistent with the nature of the offence and associated penalties described in these procedures.
 - c) That new and credible evidence is available that would materially affect the outcome and it was not available at the time of the panel hearing.
- 3.8.2 The appeal is not an opportunity to have the case re-heard and will be limited to issues related to the clearly identified grounds of appeal above.
- 3.8.3 The appellant must submit their appeal in writing (normally by email) to report@winchester.ac.uk . Appeals will be heard by the Academic Registrar or a member of the Executive Leadership Team who was not previously involved in the case.
- 3.8.4 The appellant must clearly identify the grounds against which they are appealing and must provide evidence to support their appeal.
- 3.8.5 Once the Academic Registrar or the member of the Executive Leadership Team has considered the appeal, they shall inform the appellant of the outcome in writing to the student's Unimail address, normally within fifteen working of its receipt.
- 3.8.6 The outcome of the appeal will be one of the following:
- a) The appeal is upheld and the disciplinary sanction is reduced/replaced or removed;
 - b) The appeal is upheld and there is a request for a re-investigation or re-hearing
 - c) The appeal is dismissed and the original decision is upheld
- 3.8.7 If the Academic Registrar or the member of the Executive Leadership Team does not uphold the appeal, the Head of Complaints and Casework shall be informed and they will issue a Completion of Procedures Letter.
- 3.8.8 The decision of the Academic Registrar/member of the Executive Leadership Team shall be final and will conclude the internal procedures of the University. There is no further internal appeal against the decision of the appointed Senior Manager but see 3.9 below.

3.9 Office of the Independent Adjudicator (OIA)

- 3.9.1 A student who is dissatisfied with the outcome of these Disciplinary Procedures, and has completed all internal processes, has the right to submit an application to the Office of the Independent Adjudicator (OIA), an independent review body, for the outcome to be reviewed independently of the University.

- 3.9.2 This right may only be exercised once the University's internal processes have been exhausted.
- 3.9.3 The student must first get a Completion of Procedures letter from the Conduct and Complaints team. The letter and an OIA Scheme Application Form must be completed in order to make a submission to the OIA and this must be received within 12 months of the date of the Completion of Procedures letter.
- 3.9.4 Guidance on making an application to the OIA can be found on its website at <https://www.oiahe.org.uk/students/> and <https://www.oiahe.org.uk/students/how-to-complain-to-us/>
- 3.9.5 Students may also wish to seek advice from the Student Union about making a submission to the OIA.