

NON-ACADEMIC MISCONDUCT PROCEDURE

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Non-Academic Misconduct Procedure

Introduction and scope

1. This Procedure sets out the ways in which the University will manage concerns about non-academic student misconduct. Concerns relating to academic misconduct, including cheating, plagiarism and collusion should be referred to the University's [Academic Misconduct Procedure](#). Concerns about a student's fitness to practise should be referred to the University's [Fitness to Practise Procedure](#). Concerns about a student's ability to effectively engage with their studies should be referred to the [Extraordinary Support for Study Procedure](#).
2. This Procedure should be read in conjunction with [Senate Regulation 6 – Student Conduct \(Academic and Non-Academic\)](#).
3. This Procedure applies to all students from the point that the University confirms their acceptance of an offer of a place on a programme at the University. The Procedure applies at all times and is not restricted to conduct during term time, on University premises, or in respect of University or University-related activities. Accordingly, potential misconduct which occurs off campus (including on a placement or field trip) and/or is related to matters arising from a student's personal or private activities or interactions may also be considered under this Procedure.
4. In developing this Procedure, the University has considered the following sources of external guidance:
 - a) [The Office of the Independent Adjudicator's Good Practice Framework on Disciplinary Procedures](#); and
 - b) [Guidance For Higher Education Institutions, How To Handle Alleged Student Misconduct Which May Also Constitute A Criminal Offence \(Pinsent Masons and UUK\)](#).
 - c) [Condition E6: Harassment and sexual misconduct - Office for Students](#)
5. The University expects good conduct from all students and has clear expectations around this as set out in the Student Code of Conduct (the 'Code') and relevant University policies as listed within the Code.
6. All members of the University have a responsibility to support the maintenance of good order and a safe environment which is conducive to study, research, living and working. Members of staff are encouraged to address minor cases, such as general or low level anti-social behaviour or micro-aggressions, through early intervention, positively supporting students to develop their understanding of what constitutes acceptable behaviour as set out in the [Code of Conduct](#) before circumstances escalate towards disciplinary action.
7. Under this Procedure, students who make allegations of non-academic misconduct against another student or students are known as the 'reporting student' or 'reporting students' and students who have allegations of non-academic misconduct made against them are known as the 'reported student' or 'reported students'.
8. This Procedure is intended to address non-academic misconduct by students rather than to resolve disputes between individuals. As universities do not have jurisdiction to make determinations about criminal matters, this procedure is also not to be used to determine if a criminal offence has been committed.

Legal duties

9. In operating this Procedure, the University will remain mindful of its legal obligations, including in performing its contractual obligations, exercising a duty of care, applying the principles of natural justice, upholding human rights, and complying with its obligations under

the Equality Act 2010 (including to make reasonable adjustments for disabled students) and under the Data Protection Act 2018.

Timeframes

10. The non-academic misconduct process will be conducted as quickly as possible and normally within 90 calendar days from the start of the investigation. The University timeframes do not include the time taken for police investigations or criminal proceedings.

Relationship with other University Procedures

11. Whilst the University anticipates that most matters involving non-academic misconduct concerns will be dealt with under this Procedure, matters may arise where it is appropriate for the University to implement other University processes (such as its Fitness to Practise Procedure, Academic Misconduct Procedure, and/or Extraordinary Support for Study Procedure) as an alternative or in addition to this Procedure, and the University is not prevented from doing so at any time.

12. Where a matter has both non-academic misconduct and fitness to practise concerns, the University will normally follow its procedures relating to fitness to practise to investigate, consider and determine the outcome of all the concerns arising rather than following separate fitness to practise and misconduct procedures. However, the University reserves the right to vary the procedure followed where appropriate and reasonable.

13. The University may suspend its consideration of a matter under this Procedure to allow another University process to take place, including:

- a) assessing whether a student needs extraordinary support for study under Senate Regulation 11; and/or
- b) considering a student's academic appeal against the outcome of an assessment or examination, or their progression, under Senate Regulation 12: Academic Appeals.

However, where a non-academic misconduct concern arises, this Procedure should usually be invoked first to ensure that the student is aware of the concern, even if the Procedure is then suspended whilst another process takes place.

14. This procedure interrelates with the University's Student Complaints Procedure as follows:

- a) Where a non-academic misconduct concern being considered under this procedure was originally raised by a reporting student under the Student Complaints Procedure as a formal complaint, or as a complaint which reasonably could be considered to fall under the Student Complaints Procedure, the University will ensure that the reporting student receives an outcome to their complaint providing them with sufficient information to understand the decision and reasons it was made. Due to confidentiality, it may not be appropriate for the University to disclose in the complaint outcome the specific details regarding consideration of the matter under the non-academic misconduct procedure or full details of any action taken in respect of the reported student. This is because they are likely to be considered as witnesses to the alleged non-academic misconduct rather than a party to the case considered under this procedure. The extent to which information can be shared in the complaint outcome will be considered on a case-by-case basis to establish whether it would be appropriate to share any, or all information in these circumstances. Further information can be found under the heading 'The role of a reporting student' below.

- b) Where a student raises a complaint under the University's Student Complaints Procedure which is related to a non-academic misconduct concern already being considered under this Procedure, the University will usually decide to put that complaint on hold until the Non-Academic Misconduct Procedure has been concluded in full. Complaints relating specifically to a placement provider should normally be reported to the placement provider, who should normally consider the matter under their own complaints procedure.

15. Concerns about safeguarding should in the first instance normally be considered under the [Safeguarding Children and Vulnerable People Policy](#).

Disclosure of concerns to third parties and related external procedures

16. Information disclosed during, or resulting following the instigation of this Procedure will be treated with the appropriate degree of confidentiality.

17. When dealing with non-academic misconduct concerns, or where these concerns have been dealt with, the University may, at its discretion and without notifying the student, discuss and/or refer matters and/or their outcomes to relevant third parties. This may be appropriate, for example, where a student is an immediate risk of harm to themselves or others, or to prevent a further crime taking place. The University will only in exceptional circumstances report an alleged crime to the Police contrary to the wishes of the reporting student, but, in deciding whether to make such a disclosure and in deciding what information to disclose, the University will consider any potential harm that the unauthorised disclosure may cause to the reporting student. Relevant third parties may include the Police, employers, placement providers, sponsors, grant providers, research funding bodies or Professional Statutory and Regulatory Bodies (PSRBs).

18. The University may disclose details of a case where a student has been subject to the Non-Academic Misconduct Procedure as part of a reference to other higher education providers and/or prospective employers. Any disclosure will be limited to factual information and subject to the University's obligations under the Data Protection Act 2018.

19. The University does not have to follow third party outcomes in its own decision making under this Procedure as it is an independent process. However, it may take such outcomes into account if considered relevant. Accordingly, the University may act under this Procedure if the Police decide not to investigate, or the Crown Prosecution Service (CPS) decides not to prosecute a potential criminal offence, and whether a student is convicted or acquitted in criminal proceedings. Indeed, under this Procedure, the student is not being charged with a criminal offence, the evidence that can be considered may be different, the standard of proof is different and the penalties available are different. Although the University is not bound by the outcome of any criminal prosecution, it may at its discretion take any penalty imposed by a criminal court into consideration in determining any outcome under this Procedure.

20. Where a reporting student decides not to make a report to the police about a non-academic misconduct concern which could also be considered a criminal offence, the reporting student may request that the university deals with the matter under this Procedure. In such circumstances, the reporting student will be reminded that the University will deal with the allegations as potential breaches of the non-academic rules of misconduct as set out in SR6.19 and not as criminal offences.

21. The University may choose to take action under this Procedure against the reported student even if the reporting student does not wish to make a formal allegation of potential non-academic misconduct.

Suspending or pausing this Procedure

22. The University may suspend consideration of a non-academic misconduct concern under this Procedure with good reason. For example, where a third party, including the Police,

commences action arising from or related to the non-academic misconduct concern, it may be necessary to suspend or delay acting under this Procedure until such action has been concluded. This may occur, for example, where the alleged conduct could also constitute a criminal offence and is being dealt with within the criminal process. The criminal process must take priority and the University could prejudice the criminal process if it were to start investigating the alleged conduct by interviewing witnesses and drafting witness statements¹.

23. Where the University suspends action under this Procedure, it will, where possible, inform the reporting student(s) and the reported student(s) about the decision and keep them regularly updated. However, where the Police, for example, request that the University do not disclose to the reported student(s) the existence of the Police action, it will not normally be possible to give reasons to them for the suspension of University action under this Procedure.

24. Precautionary action under the process stated in Senate Regulation 16: Precautionary Action may still be taken by the University, even if action under this Procedure is suspended.

25. The University's consideration of a matter under this Procedure may normally be resumed at any stage should the University deem it fair, reasonable and appropriate in the circumstances and subject to the restrictions imposed by any ongoing external / third party action, such as a related criminal process referred to in Paragraph 19.

Variation

26. Any variations to this Procedure for students studying with partner institutions will be set out in the relevant student contract and guidance to students. Otherwise, this Procedure applies in its entirety.

27. In exceptional cases the University reserves the right at any stage of this Procedure to vary the process it follows in the interests of fairness and/or health and safety.

Standard of proof

28. This Procedure is an internal disciplinary process and any case of non-academic misconduct considered under this Procedure is a civil matter based upon an allegation that a student has breached the university's rules of non-academic misconduct as set out in SR6.19. The standard of proof applied at every stage of this Procedure is the balance of probabilities, which means that for an allegation to be proved it must be found that it was more likely than not that the facts and matters relating to the allegation occurred and that the non-academic misconduct rules have been breached.

Burden of proof

29. It is for the University to show that it is more likely than not that the student committed the misconduct, but the burden of proof switches to the student at the appeal stage.

Nominees

30. Any reference to a specific member of staff under this Procedure (for example, the Registrar) should be read as including alternate reference to the member of staff's delegate or nominee.

The Office for Student Complaints, Conduct and Appeals (OSCCA)

31. Potential non-academic misconduct concerns should be reported to the Office for Student Complaints, Conduct and Appeals (OSCCA) which is responsible for managing, handling and, normally, investigating cases under this Procedure. Reports can be made in a number of ways, including through:

¹ For further detail about the reasons why a University should not normally undertake any disciplinary action against a student until the conclusion of the related criminal process see [Guidance for Higher Education Institutions, How to Handle Alleged Student Misconduct Which May Also Constitute a Criminal Offence \(UUK and Pinsent Masons\)](#)

- a) [Report + Support](#) – OSCCA would then be alerted to the concern by the Student Support and Welfare Team;
- b) Brunel Security (01895 255786) – OSCCA would then be alerted to the concern by the Security Team;
- c) By submitting a complaint under the Student Complaints Procedure.
- d) Directly by email to Investigating.Officer@brunel.ac.uk.

32. In handling an allegation of non-academic misconduct, OSCCA may decide it is reasonable and appropriate to take no further action under this Procedure and close the matter by sending the student a Matter of Concern letter (a 'MoC'). This may be appropriate, for example, where the reported student admits to a minor offence. A MoC will normally set out the allegations made, inform the student that no further action is to be taken, remind the student about the standards of behaviour expected by the University under the Code of Conduct and confirm that their alleged non-academic misconduct may be considered in future cases about their misconduct under this Procedure.

Student representation

33. Any student subject to this Procedure will be entitled to be accompanied and/or represented.

34. If someone is **representing** the student, then they may speak on the student's behalf at any meeting or hearing held under this Procedure, and with consent, may correspond with the University on the student's behalf. The student may only normally be represented by:

- a) a current student or a member of staff of the University;
- b) an advice worker from the Union Advice Service (UAS) in the Union of Brunel Students; or
- c) a relevant individual in the case of reasonable adjustments being made for a disabled student, such as a sign language interpreter.

35. If someone is **accompanying** the student, then they may not speak on the student's behalf, and may not correspond with the University on the student's behalf, but may advise and support the student and, with consent, be copied into any correspondence between the University and the student. In addition to the individuals listed at Paragraph 34 above, the student normally also may be accompanied by:

- a) any health professional or disability support worker;
- a friend or relative.

36. Neither the student nor the University shall normally be represented by a legal practitioner at meetings or hearings held in accordance with this Procedure. In exceptional cases where one party wishes to have legal representation, notice should be given to the other party normally at least 5 working days prior to the meeting or hearing if possible. The Head of Student Affairs and Casework will then make a final decision as to whether legal representation is permitted in order to ensure fairness and natural justice. When deciding whether to permit legal representation in a non-academic misconduct case under this procedure, account will be taken of: the seriousness of the allegations against the reported student and potential penalty, whether any points of law are likely to arise, the capacity of the reported student to understand the case against him or her, any procedural difficulties, the need to avoid delay, the need for fairness between the reported and the reporting party. Where it is agreed that a student may be represented by a legal practitioner, a legal representative from the University may also attend any meeting/hearing held under this procedure and paragraph 80 will apply.

Fair dealing

37. It is expected that students, their representatives (where applicable) and staff will act reasonably and fairly towards one another, and treat the process with respect. If inappropriate behaviour is displayed, further action may be taken under Senate Regulation 6 and/or the University may consider the matter via written representations only.

38. Where one student has made an allegation against another student, the University will treat the reporting student and the reported student fairly and not make any presumptions about either party.

39. When implementing this Procedure, the University will ensure that reported students are kept regularly updated; that they have an opportunity to respond to the non-academic misconduct concern and that any decisions made under the process are fair, unbiased and impartial. Any investigation conducted under this Procedure will be handled in a confidential, independent, impartial, fair and transparent manner and, wherever possible, by someone who has not previously been involved in the concern raised.

40. Where appropriate, the University may verify the authenticity of any documents submitted under this Procedure, and may refer the matter for further investigation under Senate Regulation 6 if there are concerns about authenticity.

41. If students provide evidence under this Procedure in a language that is not English they will normally need to arrange for these documents to be formally translated. Evidence in a language other than English, where formal translations have not been provided, will not normally be considered.

Student support

42. When dealing with both reporting students and reported students under this Procedure, University staff will consider what support and guidance may be signposted and offered to students at all stages of the Procedure. Students will be reminded of the support services provided by the University through Student Services, including Student Support & Welfare, Student Wellbeing, the Sexual Violence Liaison Officer (SVLO) within the Security team (where relevant and appropriate), and also by the Students' Union Advice Service, and will be encouraged, where appropriate, to seek support from relevant external sources (e.g. local GPs or mental health services (see Appendix C).

43. Under this Procedure, consideration should be given as to whether reasonable adjustments in relation to the non-academic misconduct process are necessary and appropriate for students who have disabilities or other health issues (particularly relating to their mental health). In making decisions about reasonable adjustments for students under this Procedure, staff should refer to the OIA Good Practice Framework on Supporting Disabled Students.

The role of a reporting student

44. Where the non-academic misconduct concern was raised by a reporting student they will be informed once the case has been concluded, however, they will not be provided with a copy of the outcome or decision made. The extent to which a reporting student can be informed about the specific details about the outcome will be considered on a case-by-case basis to establish whether it would be appropriate to share any, or all information in these circumstances. This is because the reporting student is a witness to the alleged non-academic misconduct and is not a party to the case being considered under this Procedure.

45. Where the non-academic misconduct concern was raised by a reporting student they will be informed once the case has been concluded, however, they will not be provided with a copy of the outcome or decision made. The extent to which a reporting student can be informed about the specific details about the outcome will be considered on a case-by-case basis to establish whether it would be appropriate to share any, or all information in these circumstances. This is because the reporting student is a witness to the alleged non-academic misconduct and is not a party to the case being considered under this Procedure. This also

means the reporting student will not be permitted to question a reported student during a Non-Academic Misconduct Hearing.

46. Where, however, a reported student is found to have had an adverse impact on the reporting student then the University shall, where reasonable and practicable, consider offering an appropriate remedy for that impact.

47. If the reporting student is dissatisfied with the outcome of the non-academic misconduct process, the University will inform them what steps they can take. As a witness under this Procedure, the reporting student cannot appeal the outcome of the process, but they may be able to make a complaint under the Student Complaints Procedure if they have concerns about how the matter was handled, or the outcome.

Record keeping

48. All staff involved in dealing with alleged student misconduct which may also constitute a criminal offence should be aware that any notes that are made or documents that are created could be requested by the Police as part of a criminal investigation and individuals could be called to give evidence. Consequently, reasonable steps should be made to ensure that written records, including those detailing the basis for decisions taken, are clear, accurate and appropriate.

49. Notes will normally be made of any meeting held under this Procedure, and a copy will be made available to the student. A record will also be made of any Non-Academic Misconduct Hearings. Written outcomes of cases considered by a Vice Chancellor's Representative or a Non-Academic Misconduct Hearing will be kept by OSCCA and retained permanently. The rest of the file relating to a student case considered under this Procedure will be retained for 6 years.

Impact of student non-participation

50. Should a student without good cause be unwilling or unable to participate at any stage of this Procedure or attend a meeting/hearing, the University may nonetheless follow the Procedure in their absence. This may include where a student withdraws from the University.

51. Where a student withdraws (or is withdrawn) from their studies once this Procedure has been initiated, the University may choose to continue to investigate and consider a case. Should the University choose not to proceed with a case, a note will be placed on the student file and the case will be re-activated should the student re-apply to the University.

Communication

52. Communications relating to matters considered under this Procedure will normally be sent to a student's Brunel University London email address. Any variations to this policy will be communicated to the student.

Impact of Procedure on the granting of awards, provision of services and admissions

53. Where applicable, the University may withhold granting an award to a student subject to this Procedure until its consideration of a non-academic misconduct concern is complete. This may include withholding information that indicates an award is forthcoming.

54. The University may refuse admission to any programme of the University, or the provision of any other service or facility, to a student until consideration of a non-academic misconduct concern under this Procedure is concluded.

Non-academic misconduct defined

55. Concerns that represent a potential or actual threat to the safety, security, good order, or reputation of the University, its members or members of the public, or to the maintenance of a safe environment conducive to study, research, living and working will normally be considered non-academic misconduct offences for the purpose of this Procedure. Examples

of unacceptable conduct are set out in the Student [Code of Conduct](#), and include but are not limited to the following:

- a. Failing to comply with the [Code of Conduct](#), or with other University regulations, policies, rules and procedures as referred to in the [Student Contract](#);
- b. Breaking the law;
- c. Threatening or engaging in violence, harassment, hate crime, bullying or abuse, either physically, verbally or by way of the Internet or social media, including, but not limited to, bullying and harassment as set out in the University's Single Comprehensive Source of Information: Harassment and Sexual Misconduct Support and as defined in the University's:
 - [Bullying and Harassment Policy](#)
 - [Online Harassment Policy](#)
 - [Sexual Violence and Sexual Harassment Policy](#)
 - [Policy to Support Students, Apprentices and Doctoral Researchers with Disabilities, Long-term Health Conditions, Mental Health Concerns and Neuro Diverse Conditions](#)
 - [Student Religion & Belief Policy](#)
- d. Sexual misconduct, as defined in the University's [Sexual Violence and Sexual Harassment Policy](#), and including, but not limited to the types of sexual violence set out in Appendix A to the University's Sexual Violence and Sexual Harassment Policy.
- e. The possession, use or supply of drugs (including the misuse of prescription drugs or legal highs), or weapons;
- f. Anti-social behaviour, including but not limited to anti-social behaviour as a result of intoxication through alcohol or drugs;
- g. Damaging, misappropriating, or misusing property, including unauthorised entry onto or the unauthorised use of premises;
- h. Theft.
- i. Breaches of the [IT Acceptable Usage Policy](#) and [Student Bring Your Own Device Policy](#), inappropriate use of IT equipment, the University network, the Internet or social media, including inappropriate messaging or posting on both personal, or University-related chat or message groups or online gaming platforms, visiting inappropriate websites, uploading/downloading inappropriate content and the transmission of computer viruses;
- j. Failing to disclose relevant criminal convictions in line with the [Admissions Policy](#);
- k. Preventing or interfering with lawful freedom of speech or belief, or failing to uphold the principles of the University's [Freedom of Speech Statement](#);
- l. Bringing the University into disrepute;
- m. Obstructing, disrupting or interfering with a member of the University, including with their functions, duties or activities;
- n. Obstructing, disrupting or interfering with the good order, functioning or reputation of the University, including with academic, administrative, sporting or social activities;
- o. Failing to comply with the terms of a temporary suspension of studies and/or exclusion from the University;

- p. Failing to comply with a decision taken or penalty imposed under the Non-Academic Misconduct Procedure and/or the Academic Misconduct Procedure;
- q. Causing a Health or Safety Concern.

Reporting of concerns

56. A concern that a student has committed non-academic misconduct should first be reported to OSCCA as a student complaint under the Student Complaints Procedure or directly via email to Investigating.Officer@brunel.ac.uk.

57. OSCCA will determine whether the concern falls within the scope of this Procedure, and may gather further information in order to do so:

- a) Where the concern does fall within the scope of this Procedure, an Investigating Officer will be assigned to investigate the concern. The investigator who is appointed must not have been involved in the incident or know any of the parties involved. This ensures independence and avoids conflicts of interest arising;
- b) Where the concern does not fall within the scope of this Procedure, OSCCA may either dismiss the concern, send a MoC letter as outlined in Paragraph 32 above, and/or refer it for consideration under any other relevant University regulation or procedure.

58. It may be necessary to take precautionary action to temporarily suspend a student's studies and/or exclude a student from the University following the report of a concern about non-academic misconduct. Such decisions and any action will be taken in line with Senate Regulation 16: Precautionary Action.

Investigation

59. The Investigating Officer will first write to the reported student to notify them of the investigation and will normally:

- a) Inform the reported student of the nature of the concern that has been raised, the scope and purpose of the investigation and will provide them with a copy of this Procedure and Senate Regulation 6;
- b) Inform the reported student that if they do not engage with the investigation, including attending any meetings when requested, the investigation may continue in the student's absence;

60. The Investigating Officer will usually meet with the reporting student promptly in order to clarify the facts and explain the remit of the investigation and to answer any questions.

61. The investigation may include the gathering of written, oral and other information from relevant sources, including obtaining witness accounts.

62. The Investigating Officer may request to meet with the reported student on one or more occasions during the course of investigation and will normally:

- a) Inform the reported student of the purpose of any such meetings in advance;
- b) Give the reported student at least 5 working days' notice of any such meetings;
- c) Inform the reported student of their entitlement to be accompanied to and/or represented at any such meetings in accordance with Paragraphs 33-36 of this Procedure.

63. Notes will normally be kept of any meetings held with the student during the course of the investigation. A copy of such notes will be made available to the student and, if possible, agreed with the student.

64. Where appropriate, the Investigating Officer may invite the reported student to provide a written response to the concerns and to present any supporting information and evidence. The Investigating Officer will normally give the student 10 working days to do so.

65. At the conclusion of the investigation, the Investigating Officer will provide a report and copies of any relevant information and evidence to the Manager of OSCCA. The report should be copied to the reported student.

66. Following receipt of the Investigating Officer's report, the Manager of OSCCA will take one of the following actions:

- a) Dismiss the concern and take no further action, in which case a Matter of Concern letter may be sent in accordance with Paragraph 32 above;
- b) Where it is considered to be less serious, refer the concern for consideration by the Vice-Chancellor's Representative (VCR);
- c) Where it is considered to be more serious, refer the concern for consideration at a Non-Academic Misconduct Hearing;
- d) Refer the concern back to the Investigating Officer for further investigation;
- e) Refer the concern for consideration under another University regulation or procedure.

The Vice-Chancellor's Representative (VCR)

67. The Vice-Chancellor's Representative (VCR) is a senior member of University staff appointed to consider concerns relating to non-academic misconduct.

68. Where a concern is to be referred to the VCR, OSCCA will first write to the reported student and provide the following:

- a) A copy of this Procedure and Senate Regulation 6;
- b) A statement setting out the University's case and the allegation of non-academic misconduct that is being made against the reported student, with reference to Senate Regulation 6.19;
- c) A copy of the evidence and documentation in support of the allegation that will be submitted to the VCR.

69. The reported student will normally have 5 working days to respond to the allegation in writing, and to provide written comment on the evidence provided under Paragraph 68.

70. The reported student will be informed that if they do not respond to the allegations within this timeframe, then the referral to the VCR may continue.

71. The VCR will consider the case, including the reported student's written response, and may gather additional information, or seek advice or guidance, from the relevant parties either in writing or in person. When considering cases involving multiple students, the VCR will decide whether to deal with students individually, or jointly, depending on the facts of the case. Where additional information has been gathered by the VCR, the student will be presented with a record and invited to comment in line with the procedure set out in Paragraph 68.

72. Once their consideration of the case is concluded, the VCR will normally take one or more of the following actions:

- a) Dismiss one or more of the allegations, either because the student had no case to answer or because the allegation has not been proven, and determine that no further action should be taken.
- b) Determine that one or more of the allegations has been proven and that the student has committed non-academic misconduct.

- c) Refer the case for consideration under another University regulation or procedure.
- d) Refer the case for consideration at a Non-Academic Misconduct Hearing.
- e) Refer the case to an earlier stage of this Procedure.

73. Where the VCR considers that the reported student has committed non-academic misconduct, the VCR will determine which, if any, penalty as set out in Appendix A should be applied. At this stage the VCR may be informed about the reported student's previous misconduct record as it is likely to be relevant to decisions about penalty.

74. The VCR may take into account any mitigating circumstances presented by the reported student when applying any of the penalties set out in Appendix A, and will apply a penalty that is appropriate in all the circumstances. Mitigating factors might include, but are not limited to, those set out in Appendix B.

75. OSCCA will inform the reported student in writing, normally within 5 working days of the decision, of the outcome of the case and will set out the reasons for the VCR's decision.

76. Where the VCR applies a penalty under Appendix A, the reported student may submit a request for an appeal against the decision in line with Paragraphs 102-111 of this Procedure.

77. The Head of the reported student's Department and/or of the relevant University service will be informed of the decision of the VCR.

Non-Academic Misconduct Panel Hearings

78. A concern may be referred to a Non-Academic Misconduct Panel Hearing by the Manager of OSCCA under Paragraph 66, or by the VCR under Paragraph 72.

79. OSCCA will appoint a member of University staff to act as the University Representative, who will present the concern regarding the student to the Panel.

80. If legal representation has been permitted for the reported student as outlined in paragraph 36 above, consideration should be given by Panel Chair as to whether any safeguards need to be put in place for the other participants. These may include requiring questions for witnesses to be put to the Chair who will then filter those questions before putting them to the witnesses. Additionally, if it is anticipated that the legal representative may seek to make complex legal submissions, the university may consider whether it wants to engage a solicitor or barrister to advise the Panel and potentially engage another solicitor or barrister to advise the person presenting the case (this could be an in-house lawyer).

81. Where a case involves multiple reported students, OSCCA will determine whether each student's case should be heard at the same or at different panel hearings, and by the same or different panels. In so doing, OSCCA will consider that usually:

- a) All reported students should have an equal opportunity to hear and respond to what the other/s have said or evidence they have provided.
- b) All reported students should also be given an opportunity to speak to the panel privately so that they can raise confidential or sensitive matters relating to mitigation.
- c) the same Panel will consider the case against all the reported students involved whether at a joint hearing or individually.
- d) A decision should be made for each reported student individually, taking their particular circumstances into account, but there should be broad consistency in the penalty given to all reported students who commit the same offence with similar circumstances.

82. The ruling of the Chair of the Panel on the admissibility of any evidence at a hearing or on any point of procedure relating to the conduct of a hearing will be final.

83. A Panel will be made up of three impartial members. The membership will include a Chairperson and normally one member of the Union of Brunel Students.

84. OSCCA will appoint a Panel Secretary to each Panel Hearing, who will act as note taker and advise the Panel on procedural matters. The Panel Secretary will not take part in the Panel's decision making.

85. Non-Academic Misconduct Panel Hearings will normally take place virtually, unless an in-person meeting is requested by the reported student for a good reason, such as a request for reasonable adjustments.

86. The Panel Secretary will contact the reported student normally at least 10 working days prior to the date of the Non-Academic Misconduct Panel Hearing and set out in writing the following:

- a) The date, time and location (if applicable) of the hearing, and the name of the Panel members;
- b) The student's right to be accompanied to and/or represented at the hearing in accordance with Paragraphs 33-36 of this Procedure;
- c) A copy of this Procedure and Senate Regulation 6;
- d) A statement setting out the University's case and the allegation of non-academic misconduct that is being made against the student, with reference to Senate Regulation 6.19;
- e) A copy of the evidence and documentation in support of the allegation that will be submitted to the Panel;
- f) The name of the person acting as the University Representative under Paragraph 79;
- g) The student's right to call witnesses to appear at the hearing.

87. The reported student will be invited to make a written submission and submit any supporting evidence in advance of the hearing in response to the University's case and the allegation of non-academic misconduct. The reported student will be asked to provide this written submission to the Panel Secretary no later than five working days before the scheduled date of the hearing, together with details of any witnesses they are intending to call.

88. The University Representative may submit additional information to the Panel Secretary in advance of a hearing. A copy of the information should normally also be provided to the reported student in advance. In accordance with Paragraph 82, the admissibility of additional information will be at the discretion of the Chair of the Panel.

89. Where a reported student chooses not to acknowledge the date of a hearing or provide a written submission in advance, the hearing may still proceed. Further, if a student chooses not to attend a hearing held under this Procedure, having previously been given due notice of the date of the hearing, the hearing may proceed in the student's absence. The decision to proceed in the student's absence will be taken by the Chair.

90. A reported student may request to the Panel Secretary that a hearing is postponed, and should provide a good reason for the request supported by evidence. The Chair may also determine that a hearing should be postponed, either on the recommendation of the Panel Secretary or OSCCA or otherwise. The final decision to postpone a hearing will be taken by the Chair.

91. Notice of any witnesses to be called by the reported student and/or the University Representative at the hearing should normally be given in writing to the Panel Secretary at least 5 working days in advance of the date of the hearing, normally with a written statement prepared by the witness setting out the contribution that they will make. If applicable, the Panel Secretary will provide a copy of each party's witness notice and statements to the other party

normally 3 days in advance of the hearing. In accordance with Paragraph 82, the admissibility of any witnesses will be at the discretion of the Chair of the Panel.

92. A Panel cannot compel a witness to appear at a hearing. It is the responsibility of the party calling the witness to ensure that they attend.

93. A full copy of the evidence and documentation that will be considered by the Panel, including the student's written submission and evidence under Paragraph 87, will be sent to the University Representative in advance of the hearing.

94. Where a Panel considers that it has insufficient information to reach a decision, the Chair may adjourn the hearing, for a defined period, to allow either the reported student or the University Representative to gather further information. The reported student and University Representative will be informed of the date, time and location of the reconvened hearing with a notice period of not less than 2 working days.

95. The order of proceedings at a hearing will normally be as follows:

- a) The Chair will introduce the proceedings;
- b) The University Representative will present the University's case and the allegation of non-academic misconduct that is being made against the reported student, and may call witnesses. The University Representative and any witnesses will answer any questions from the Panel and the reported student. Where the reporting student is a witness, the reported student should address their questions to them through the Panel Chair, who will filter those questions before putting them to the reporting student. Where appropriate, and at the Panel Chair's discretion, arrangements may also be made to safeguard the reporting student witness at the hearing, by, for example, allowing them to have their camera off during an online hearing or appear behind a screen at an in-person hearing. Likewise, these arrangements may be required for the reported student too, so that the reporting student witness does not see or hear the reported student during the hearing.
- c) Where a witness, including the reporting student does not attend the Panel hearing and cannot be questioned by the Panel or reported party, the Panel will consider whether it is fair and reasonable to allow their witness statement to be admitted. In reaching a decision, the Panel will consider: whether the statements are the sole or decisive evidence in respect of the allegations; the nature and extent of the challenge to the content of the statement; whether there is any suggestion that the witness had any reason to fabricate the allegations; the seriousness of the allegations, taking into account any impact of an adverse finding on the reported student; whether there is good reason for the non-attendance of the witness; whether the university has taken steps to secure their attendance; whether the reported student has had notice that the witness is not going to attend and that the written statement would be relied upon.
- d) The reported student, or reported student's representative, may respond to the University's case and the allegation of non-academic misconduct and supporting evidence, and may call witnesses. The reported student and any witnesses will answer questions from the Panel and the University Representative;
- e) The University Representative may make a closing statement;
- f) The student may make a closing statement;
- g) The Panel will retire in private to consider the case.

96. Once its consideration of the case is concluded, the Panel will normally take one or more of the following actions:

- a) Dismiss one or more of the allegations, either because the reported student has no case to answer or because the allegation has not been proven, and determine that no further action should be taken;
- b) Determine that one or more of the allegations has been proven and that the student has committed non-academic misconduct;
- c) Refer the case for consideration under another University regulation or procedure;
- d) Refer the case to an earlier stage of this Procedure.

97. Where it considers that the allegation has been proven, the Panel will determine which, if any, penalty as set out in Appendix A should be applied. At this stage the Panel may be informed about the reported student's previous misconduct record as it is likely to be relevant to decisions about penalty.

98. The Panel may take into account any extenuating circumstances presented by the reported student when applying any of the penalties set out in Appendix A, and will apply a penalty that is appropriate in all the circumstances. Mitigating factors might include, but are not limited to, those set out in Appendix B.

99. The Panel Secretary will inform the reported student in writing, normally within 5 working days of the decision, of the outcome of the case and will set out the reasons for the Panel's decision.

100. The Head of the reported student's Department and/or of the relevant University service will be informed of the outcome of the Non-Academic Misconduct Panel Hearing.

101. Where the Panel applies a penalty under Appendix A, the reported student may submit an appeal against the decision in line with Paragraphs 102-111 of this Procedure.

Appeals

102. If a reported student is dissatisfied with the decision of the Vice-Chancellor's Representative or Non-Academic Misconduct Panel to apply a penalty under Appendix A, they should submit a Non-Academic Misconduct Appeal form to Conduct@brunel.ac.uk within 10 working days of the outcome letter sent under Paragraph 75 or 99.

103. Where an appeal is received outside of the timeframe set out in Paragraph 102, and where no explanation or evidence of a good reason for the delay is presented by the student, the Associate Director of Academic and Student Administration may dismiss the appeal and issue a Completion of Procedures Letter.

104. A student may appeal on one or more of the following grounds:

- a) That there is evidence that could not have been, or for good reason was not made available previously, and that sufficient evidence remains that the appeal warrants further consideration;
- b) That there is evidence of a procedural irregularity on the part of the University in considering the non-academic misconduct, and that sufficient evidence remains that the appeal warrants further consideration;
- c) That there is evidence of prejudice or bias on the part of those responsible for investigating or considering the non-academic misconduct;
- d) That, giving due consideration to the documentation previously provided, the decision of the Vice-Chancellor's Representative or the Non-Academic Misconduct Panel was unreasonable.

105. Upon receipt of an appeal, the Associate Director of Academic and Student Administration will consider the appeal and may refer to other available documentation where necessary. The Associate Director of Academic and Student Administration will determine

whether the ground(s) for appeal have been met. Where they have, a Review Panel will be convened; otherwise the appeal will be dismissed and a Completion of Procedures Letter issued.

106. The student will be informed of the decision of the Associate Director of Academic and Student Administration in writing, normally within 10 working days of receipt of the appeal.

107. Where a Review Panel is convened, this will normally comprise two senior Officers of the University, neither of whom will have been previously involved in the non-academic misconduct case, supported by a member of the Office of Student Complaints, Conduct and Appeals, acting as Secretary to the Panel. The Review Panel shall normally meet within 10 working days of the decision to refer the appeal to it.

108. Once its consideration of the case is concluded, the Review Panel will determine one or more of the following outcomes:

- a) Dismiss the appeal, either in whole or in part;
- b) Uphold the appeal, either in whole or in part.

109. Where an appeal is upheld, either in whole or in part, the Review Panel will take one or more of the following actions:

- a) Set aside the previous decision of the VCR or Non-Academic Misconduct Panel and replace it with one of its own;
- b) Refer the case back to the VCR or Non-Academic Misconduct Panel for further consideration, with or without commentary;
- c) Refer the case to a different VCR or a new Non-Academic Misconduct Panel for fresh consideration, with or without commentary.

110. The Secretary to the Review Panel will inform the student in writing, normally within 5 working days of the decision, of the outcome of the appeal and will set out the reasons for the Review Panel's decision. Where appropriate, a Completion of Procedures Letter will be issued.

111. The decision of the Associate Director of Academic and Student Administration and any subsequent Review Panel is final. There is no further right of appeal, and no right to appeal against the decision of the VCR or Non-Academic Misconduct panel if the case has been referred back for further or fresh consideration.

The Office of the Independent Adjudicator for Higher Education

112. When all internal procedures are complete, students will be issued with a Completion of Procedures Letter, and may then request an independent review of the case by the Office of the Independent Adjudicator for Higher Education (OIAHE).

Appendix A – Indicative list of penalties for Non-Academic Misconduct in relation to the decision maker

Available To	Penalty
VCR, Hearing Panel	Formal written warning.
VCR, Hearing Panel	A 'no contact restriction' meaning that the student must have no direct or indirect contact with an individual(s) immediately, including by electronic means such as email, messaging services or social media.
VCR, Hearing Panel	Exclusion of the student from specified areas of the University, or from specified University activities (including placements), services (including University IT or the University network), or facilities (including residences) for a defined period.
VCR, Hearing Panel	Recommendation that alternative accommodation is found for the student
VCR, Hearing Panel	Requirement to attend or complete relevant training programme.
VCR, Hearing Panel	Requirement to apologise to the aggrieved party.
VCR, Hearing Panel	The student is banned from attending graduation.
VCR	Requirement to pay compensation for the damage or loss caused (up to the value of £300).
VCR	A Financial Sanction of £50
Hearing Panel	Requirement to pay compensation for the damage or loss caused.
Hearing Panel	A Financial Sanction of £100
Hearing Panel	Recommendation that the student accommodation agreement is terminated
Hearing Panel	Exclusion of the student from the whole University for a defined period.
Hearing Panel	Suspension of the student's studies, in whole or in part, for a defined period.
Hearing Panel	Permanent expulsion from the University (with or without credit or award already achieved)

Appendix B: Indicative list of penalties in relation to the type of non-academic misconduct

This is a non-exhaustive list and a broad guide only and should be read in conjunction with Appendix A above. Aggravating and mitigating factors, including, but not limited to the following, may be relevant in deciding an appropriate penalty:

- Is it the first time the student has been found to have committed non-academic misconduct?
- How many rules of non-academic misconduct has the student breached this time?
- Is the offence a minor example of a serious offence, for example, minor damage to property?
- Has the student been convicted in a criminal court for a criminal offence arising from the misconduct?
- Have other individuals been impacted by the non-academic misconduct?
- Did the student intend to cause harm, or did they act recklessly or negligently?
- Did the student have compelling personal circumstances that affected their judgement? If so, did the student make these circumstances known to the University and/or seek support for these circumstances?

Non-academic misconduct offence	Examples of what the University considers unacceptable conduct	Examples of penalties that can be issued
Misconduct in relation to people		
Threatening or engaging in violence, harassment, hate crime, bullying or abuse, either physically, verbally or by way of the Internet or social media,	<ul style="list-style-type: none"> • Punching • Kicking • Slapping • Pulling Hair • Biting • Pushing • Shoving • Micro-aggressions • Threats to harm another person, including threats to spread malicious or false information about an individual • Abusive comments relating to an individual's sex, sexual orientation, religion or belief, race or nationality, pregnancy/maternity, marriage/civil partnership, gender reassignment, disability, or age. • Acting and/or speaking in an intimidating and/or hostile manner • Acts that threaten the rights and privacy of any member of the University, including repeatedly taking photos of 	<ul style="list-style-type: none"> • Formal written warning • A 'no contact restriction' • Written apology • Requirement to attend or complete relevant training programme. • Exclusion for a defined period • Suspension from studies for a defined period • Recommendation in relation to student accommodation • Ban from graduation • Expulsion for a serious first offence, or for a second offence.

	someone without their consent <ul style="list-style-type: none"> Repeatedly contacting another person by phone, email, text or on social networking sites, against the wishes of the other person Offensive images, either recirculated or created by an individual(s) including via internet social networks or similar sites 	
Sexual Misconduct, as defined in the Sexual Violence and Sexual Harassment Policy including, but not limited to the types of sexual violence set out in Appendix A to the University's Sexual Violence and Sexual Harassment Policy.	<ul style="list-style-type: none"> Engaging in a sexual act without consent Attempting to engage in sexual intercourse and/or a sexual act without consent Sharing, including by electronic means, private sexual materials about another person without consent Kissing without consent Touching people inappropriately under their clothes Inappropriately showing sexual organs to another person, including by electronic means Repeatedly following another person without good reason. Making unwanted remarks of a sexual nature, including by electronic means 	<ul style="list-style-type: none"> Formal written warning A 'no contact restriction' Written apology Requirement to attend or complete relevant training programme. Exclusion for a defined period Suspension from studies for a defined period Recommendation in relation to student accommodation Ban from graduation Expulsion for a serious first offence, or for a second offence.
Misconduct in relation to property		
Damage to Property	<ul style="list-style-type: none"> Causing damage to property of the university, students, staff, or visitors to the University. 	<ul style="list-style-type: none"> Formal written warning Written apology Requirement to attend or complete relevant training programme. Exclusion for a defined period Suspension from studies for a defined period

		<ul style="list-style-type: none"> • Compensation for damage or loss caused • Financial Sanction • Recommendation in relation to student accommodation • Ban from graduation • Expulsion for a serious first offence, or for a second offence.
Misappropriating, or misusing property, including unauthorised entry onto or unauthorised use of premises Theft	<ul style="list-style-type: none"> • Unauthorised entry or unauthorised use of university premises • Misuse of University property (for example computers or equipment) Taking property without permission 	<ul style="list-style-type: none"> • Formal written warning • Written apology • Requirement to attend or complete relevant training programme. • Exclusion for a defined period • Suspension from studies for a defined period • Compensation for damage or loss caused • Financial Sanction • Recommendation in relation to student accommodation • Ban from graduation • Expulsion for a serious first offence, or for a second offence.
Misconduct in relation to the University		
Obstructing, disrupting or interfering with a member of the University, including with their functions, duties or activities.	<ul style="list-style-type: none"> • Acts/omissions/statements intended to deceive the University • Disruption, or improper interference with the function, duties and activities of the University, students, employees, or authorised visitors to the University (including 	<ul style="list-style-type: none"> • Formal written warning • Written apology • Requirement to attend or complete relevant training programme. • Exclusion for a defined period • Suspension from studies for a defined period

	<p>academic, administrative, safety, sporting and social).</p> <ul style="list-style-type: none"> • Unfounded and malicious complaints brought against a member of the University under the Student Complaints Procedure 	<ul style="list-style-type: none"> • Compensation for damage or loss caused • Financial Sanction • Recommendation in relation to student accommodation • Ban from graduation • Expulsion for a serious first offence, or for a second offence.
<p>Breaches of the IT Acceptable Usage Policy and Student Bring Your Own Device Policy and inappropriate use of IT equipment, the University network, the Internet or social media, including inappropriate messaging or posting on both personal, or University-related chat or message groups, visiting inappropriate websites, uploading/downloading inappropriate content and the transmission of computer viruses;</p>	<ul style="list-style-type: none"> • Misuse of a university network account or an account accessed via the University network • Breaches of University policies for IT use, including social media 	<ul style="list-style-type: none"> • Formal written warning • Written apology • Requirement to attend or complete relevant training programme. • Exclusion for a defined period • Suspension from studies for a defined period • Compensation for damage or loss caused • Financial Sanction • Recommendation in relation to student accommodation • Ban from graduation • Expulsion for a serious first offence, or for a second offence.
<p>The possession, use or supply of drugs (including the misuse of prescription drugs or legal highs), or weapons.</p>	<ul style="list-style-type: none"> • Use and/or possession of illegal substances with intent to supply, or offer to supply illegal substances (including giving them away for free or sharing with others), produce illegal substances, import or export illegal substances or allow a house, flat or office to be used by people to undertake any of these unlawful activities • Use of Nitrous Oxide or other substances not licenced for human consumption. 	<ul style="list-style-type: none"> • Formal written warning • Written apology • Requirement to attend or complete relevant training programme. • Exclusion for a defined period • Suspension from studies for a defined period • Compensation for damage or loss caused • Financial Sanction • Recommendation in relation to student accommodation • Ban from graduation

	<ul style="list-style-type: none"> • Possession or use of explosives, weapons and use or possession of poisons. 	<ul style="list-style-type: none"> • Expulsion for a serious first offence, or for a second offence.
Bringing the University into disrepute.	<ul style="list-style-type: none"> • Conduct which has caused damage, or which could have damaged the reputation of the University, such as inconsiderate or anti-social behaviour in the local community. 	<ul style="list-style-type: none"> • Formal written warning • Written apology • Requirement to attend or complete relevant training programme. • Exclusion for a defined period • Suspension from studies for a defined period • Recommendation in relation to student accommodation • Ban from graduation • Expulsion for a serious first offence, or for a second offence.
Failing to comply with the terms of a temporary suspension and/or exclusion from the University. Failing to comply with a decision taken or penalty imposed under the Non-Academic Misconduct Procedure and/or the Academic Misconduct Procedure.	<ul style="list-style-type: none"> • A single or repeated breach of an exclusion • A single or repeated breach of a suspension • Failure to observe a written warning • Failure to write a written apology when requested • Failure to pay compensation for damage • Failure to comply with a financial sanction 	<ul style="list-style-type: none"> • Formal written warning • Written apology • Requirement to attend or complete relevant training programme. • Exclusion for a defined period • Suspension from studies for a defined period • Compensation for damage or loss caused • Financial Sanction • Recommendation in relation to student accommodation • Ban from graduation • Expulsion for a serious first offence, or for a second offence.

Appendix C: Sources of support and guidance

The University appreciates that it may be a difficult and stressful time for students who are involved in concerns or cases being considered under this Procedure and that they may require welfare support, or advice when drafting and submitting any statements or responses. This support can be obtained **for free** from the following on-campus support services:

- The **Union Advice Service (UAS)** – The UAS in the Student's Union provides free, impartial advice to students on a number of University issues, processes and procedures, including the Non-Academic Misconduct Procedure. Information about the UAS can be found on their [website](#) and you can contact them by filling out an [Enquiry Form](#);
- **Student Support and Welfare** – If you require any additional welfare support during this process, including support due to a disability, you may wish to contact the [Student Support and Welfare Team](#):

Email	studentsupport@brunel.ac.uk
Telephone	01895 268268

- **Student Wellbeing** – The Student Support and Welfare Team can link up with [Student Wellbeing](#) and arrange for you meet with representatives from **other support services at Brunel** to access the best support for your particular needs and circumstances. For example:
 - **The University's Counselling Service** can provide you with confidential advice and support to help you work on immediate problems, developing healthy coping techniques, gaining understanding of underlying issues and, if necessary, developing a longer-term treatment plan;
 - A **Brunel Mental Health Adviser** can help you work things through in an honest, compassionate and collaborative way, providing on-going emotional support and practical advice;
 - The **Chaplaincy's listening service** provides a non-judgemental space for conversation, where you can talk about anything that is impacting or worrying you. Sessions are held with someone from the chaplaincy team and last for up to thirty minutes.
- The University's accredited **Sexual Violence Liaison Officer** can provide support if you have been affected by sexual violence, harassment or abuse.

Other forms of support include:

- [The Calm Zone](#): Free and confidential webchat and helpline;
- [The Samaritans](#): Listening support by email, phone or in person;
- [Nightline](#): A student listening service open at night and run by students;
- [The Mix](#): Essential support for under 25s;
- [Shout](#): A free, confidential, 24/7 text messaging support service.

The following sources of guidance and information may also be helpful to you:

- [Bullying and Harassment Policy](#);
- [Guidance to Support Students who have Experienced Bullying and/or Harassment](#);

- [Sexual Violence and Sexual Harassment Guide;](#)
- [Sexual Violence & Sexual Harassment Policy.](#)
- Student Hub Email: studenthub@brunel.ac.uk