SENATE REGULATION 16: Precautionary Action

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SR16 Precautionary Action

Introduction and scope

1. Where a serious concern has been raised about a student, whether occurring on or off campus, it may be necessary for the University to take precautionary action in order to manage potential or actual risk to, for example, the safety, security, health, wellbeing, teaching and learning, day-to-day activities, good order or reputation of the student, the University, its members, a placement provider and/or to the wider community. In addition, precautionary action may be necessary to ensure that a full and proper investigation can be carried out (either by the University or an external body, such as the Police or Placement Provider).

2. The University may take the decision to temporarily suspend and/or exclude a student, including from placement, for a defined period of time (which may be extended) or until a matter can be considered under the relevant University procedures, in particular, but not limited to Senate Regulation 6 – Student Conduct (Academic and Non-Academic), Senate Regulation 11 – Extraordinary Support for Study and Senate Regulation 14 – Fitness to Practise. This Regulation sets out how this risk will be managed.

3. A temporary suspension and/or exclusion is precautionary; it is not a penalty or sanction and does not indicate that the University has concluded that the concerns raised about a student have been proven. Such a step will normally only be taken where the risk level is high and where there are no alternative measures that could be put in place to mitigate that risk.

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;

b. Guidance For Higher Education Institutions, How To Handle Alleged Student Misconduct Which May Also Constitute A Criminal Offence (Pinsent Masons and UUK).

Legal duties

5. In operating this Procedure, the University will remain mindful of its legal obligations including performing its contractual obligations, exercising a duty of care, applying the principles of natural justice, upholding human rights, and its obligations under the Equality Act 2010 (including to make reasonable adjustments for disabled students) and under the Data Protection Act 2018.

Variation

6. 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.

7. 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.

Nominees

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

Student representation

9. Students dealt with under this Procedure will be entitled to be supported and/or represented.

10. If someone is **representing** the student, then, with consent, they 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.

11. If someone is **supporting** the student, then they 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 10 above, the student normally also may be supported by:

a. any health professional or disability support worker;

b. a friend or relative.

12. Neither the student nor the University shall normally be represented by a legal practitioner during the course of this Procedure. In exceptional cases where one party wishes to have legal representation, notice should be given to the other party as soon as possible. The Registrar will then make a final decision as to whether legal representation is permitted. Where it is agreed that a student may be represented by a legal practitioner, a legal representative from the University may also then be appointed.

Fair dealing

13. When implementing this Procedure, the University will ensure that students are kept regularly updated and that they have an opportunity to respond to the action taken. Any decisions made under this Procedure will be taken in a confidential, independent, impartial, fair and transparent manner by someone who has not previously been involved in the concern raised.

Student support

14. 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 B).

15. In providing information and support to students under this Procedure, the University will consider academic, housing, finance, health and well-being issues and, where appropriate, assist students to access specialist support services provided by external agencies.

16. Under this Procedure, consideration should be given as to whether reasonable adjustments 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 will normally refer to the OIA Guidance on Supporting Disabled Students: Providing Support: Flexible policies and procedures.

Communication

17. Communications relating to action taken under this Procedure will normally be sent to a student's Brunel University London email address. However, where precautionary action is taken to temporarily suspend or exclude the student's access to their Brunel email account, communications will only be sent to the student's personal email address. Any variations to this policy will be communicated to the student.

Temporary suspension and exclusion

18. Where the Vice-Chancellor determines that there is a potential or actual risk to, for example, the safety, security, health, wellbeing, teaching and learning, day-to-day activities, good order or reputation of the student, the University, its members, a placement provider and/or to the wider community, they can decide to take precautionary action to manage the risk until such time as the matter is considered under the relevant University procedures.

19. Where the Vice-Chancellor determines that such a risk exists, they may take precautionary action as follows:

a. **Temporarily suspend a student from all or part of their studies or research.** This means their registration at the University is suspended and may include suspension from lectures, seminars, placement or any other University activity, including sitting examinations or tests. It also may mean the student cannot formally be told if they have resits or be given information about grades/results, re-sit questions, progression to the next level or module choices for the next level/ academic year. The student's access to their Brunel network account and Brunel email address may also be suspended; and / or

b. **Temporarily exclude a student from using all or particular University services or facilities and/or entering all or part of the University campus.** This may also include temporarily withdrawing or amending a student's access to their Brunel network account or Brunel email address, and / or excluding them from particular University activities;

c. **Temporarily apply restrictions to a student's access, or activity on the University campus.** This may include requiring a student to not contact another student, or students, require a student to move accommodation and or require a student to not access particular buildings, rooms or facilities.

20. The decision to take precautionary action will not affect a student's legal rights under any license agreement with Brunel Accommodation Services. However, where it is necessary to remove a student from their University accommodation, suitable alternative temporary accommodation will be found for the student.

21. The Vice-Chancellor may impose conditions on a temporary suspension and/or exclusion, and where reasonable, practicable and appropriate will also make arrangements to minimise the effect of precautionary action on a student, such as allowing students to sit examinations or to study remotely using online resources, where such arrangements are available.

22. Where a student who is the subject of precautionary action requires access to the University campus for any reason, the student should write to the Secretary to the Misconduct and Fitness to Practise Board to ask for permission, giving at least 1 working days' notice.

23. When taking precautionary action to temporarily suspend and/or exclude a student from a placement, the Vice-Chancellor will have regard to any obligations the University may have under a Placement Management Agreement with respect to a placement provider.

24. Where urgent action is taken by a delegate at Department level to temporarily suspend and/or exclude a student on a programme listed in Senate Regulation 14 – Fitness to Practise, the decision shall be subject to confirmation by the Vice-Chancellor before full formal written notification of the action is sent to the student.

Procedure for temporary suspension and/or exclusion

25. Although the Vice-Chancellor may take urgent action to temporarily suspend and/or exclude a student with immediate effect prior to providing the student with formal written notification, the student may sometimes have an opportunity to make representations to the Vice-Chancellor before the decision to take precautionary action is made. However, where that is not possible or appropriate due to the urgent or sensitive nature of the matter, the student will be able to make representations as soon as possible thereafter by submitting an appeal.

26. A risk assessment will be undertaken to support the decision made by the Vice-Chancellor. This will assess the potential and actual risk presented by the student in relation to the safety, security, health, wellbeing, teaching and learning, day-to-day activities, good order or reputation of the student, the University, its members, a placement provider and/or to the wider community. The Vice-Chancellor will formally notify a student in writing of their temporary suspension and/or exclusion. The communication will explain the reasons for the decision to suspend and/or exclude them and the associated procedure that will be used to investigate the concerns along with any relevant conditions of the suspension and exclusion. It will also explain how the student may appeal the decision and give details of sources of support.

27. A temporary suspension and/or exclusion will apply for a defined period of time (which may be extended). The suspension shall only last for the period that the University, acting reasonably, considers necessary to manage the risk identified and no longer. Suspension or exclusion should be a last resort when the risk outweighs the potential impact on the student.

28. Where a student is temporarily suspended and/or excluded under this Regulation, the Vice-Chancellor will review at regular intervals whether it is reasonable for the suspension/exclusion to continue or whether it should be revoked or extended for a further specified period of time, and whether its terms should be maintained or varied. It is expected that the initial risk assessment is also reviewed and updated, where necessary at this time.

29. The student may request a review by the Vice-Chancellor under Paragraph 28 at any time by making written representations in respect of the terms of the temporary suspension and/or exclusion should there be a material change in the student's circumstances. As part of their review, the Vice Chancellor may reasonably require the student to produce satisfactory medical and/or other evidence, including, for example, from the University Occupational Health Physician, psychiatrist, GP or mental health support worker). Following any review, the temporary suspension and/or exclusion may be lifted, changed and /or extended for an additional defined period.

Failure to comply with precautionary action

30. Failure to comply with the terms of a temporary suspension and/or exclusion may be considered a disciplinary offence under Senate Regulation 6.19o**.** In addition, such a failure is likely to trigger a review of the precautionary action and may result in more serious measures being put in place.

Appeals against precautionary action

31. The student will have the opportunity to appeal to the Registrar within 10 working days of the communication of the decision taken by the Vice-Chancellor to temporarily suspend and/or exclude them.

32. An appeal to the Registrar should be made on the following grounds:

a. That there is new material evidence which the student can demonstrate was for good reason not previously available;

b. That there has been a procedural irregularity;

c. That there was bias on the part of the decision-maker;

d. That the decision is unreasonable and/or disproportionate.

33. The student has the right to request a copy of the documentation used in the decision to suspend and exclude them. The documentation should be requested this documentation within five working days of the date of the notification of their suspension and exclusion. The documentation may be subject to Schedule 2, Part 1, para 2 of the 2018 Data Protection Act which means the University may be unable to release it. Any documentation will be suitably redacted to remove the personal data relating to other students.

34. The Registrar will consider the student's appeal and will:

a. Maintain the terms of the temporary suspension and/or exclusion;

b. Vary the terms of the temporary suspension and/or exclusion;

c. End the temporary suspension and/or exclusion.

Office of the Independent Adjudicator (OIA)

35. When all internal procedures regarding the appeal are complete, students may be issued with a Completion of Procedures Letter, and may then request an independent review of their case by the OIA. If a student is not issued with a Completion of Procedures Letter they may request one within 20 working days of the decision of their appeal.

Appendix A – Delegation of powers relating to precautionary action
The arrangements for the delegation of powers of the Vice-Chancellor as set out in this regulation shall be:

Regulation / Procedure / Paragraph	Action	Action normally taken by	Deputy in the non-availability of normal action-taker	In the non-availability of either normal action-taker or deputy
SR6 para 8	Where allegations of potential student misconduct are made, the University may in appropriate cases use its powers to temporarily suspend and/or exclude a student for a defined period of time (which may be extended) or until a matter is considered under the relevant University procedures. The imposition of a temporary suspension and/or exclusion is precautionary. It is not a penalty and does not indicate that the University has concluded that the student has breached its rules regarding student conduct.			
SR16 para 19	Temporary suspension or exclusion of a student from all or part of their studies or research	Executive Dean of the student's College	Pro-Vice-Chancellor	An Executive Dean who is not the Executive Dean of the student's College
SR16 para 24	Action by Delegate at Departmental level to urgently suspend or exclude a student prior to providing the student with formal written notification	See next page	See next page	See next page
SR16 para 24	Review of action taken by Departmental Delegate to urgently suspend or exclude a student prior to issue of full written notification	Executive Dean of the student's College	Pro-Vice-Chancellor	An Executive Dean who is not the Executive Dean of the student's College

Departmental Delegates under this regulation:

Paragraph	Action	Action normally taken by	Deputy in the non-availability of normal action-taker	In the non-availability of either normal action-taker or deputy
Department of Education				
SDP para B9, and AMP para B9	Action by Delegate at Departmental Level to urgently suspend or exclude a student	Head of Department	Departmental Director for Teaching and Learning	Deputy-Dean (Academic Affairs)
Department of Clinical Sciences				
SDP para B9, and AMP para B9	Action by Delegate at Departmental Level to urgently suspend or exclude a student	Head of Department	Departmental Director for Teaching and Learning	Deputy-Dean (Academic Affairs

Appendix B – Sources of support and guidance

The University appreciates that it may be a difficult and stressful time for students who are temporarily suspended and/or temporarily excluded 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