

# STUDENT DISCIPLINARY PROCEDURE

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# **Student Disciplinary Procedure**

## **Introduction**

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](#).
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.
4. 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.
5. 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, through early intervention, positively supporting students to develop their understanding of what constitutes acceptable behaviour before circumstances escalate towards disciplinary action.
6. Where appropriate, the University reserves the right to refer a concern raised under this procedure for consideration either separately or simultaneously under any other relevant University regulation or procedure at any time.
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.
8. In operating this procedure, the University will remain mindful of its legal obligations including its duty of care, its obligation under the Equality Act 2010 (including to make reasonable adjustments for disabled students), and its obligations under the Data Protection Act 1998.

## **General policy**

9. The standard of proof applied in operating this procedure is the balance of probabilities.
10. If a student's conduct may be in breach of the law, the University may at its discretion refer the matter to the police and/or other suitable authorities. In addition, where a police or other external investigation or criminal proceedings have been or may be initiated in relation to an alleged act of misconduct, the University may suspend its consideration of the matter under this or any other Regulation (at any stage) until such investigation and/or proceedings have been concluded. The University's consideration of a matter under this procedure may be resumed at any stage should the University deem it to be appropriate in the circumstances.

11. The University may take action in respect of a student under this procedure notwithstanding the student's conviction or acquittal in criminal proceedings. The University is not bound by the outcome of any criminal prosecution although the University may in its discretion take any penalty imposed by a criminal court into consideration in determining any outcome to be imposed under this procedure.
12. Any student subject to this procedure will be entitled to be accompanied by and/or represented at any stage by a staff member, current student of the University, or member of the Advice and Representation Centre in the Union of Brunel Students. Neither the University nor the student will normally be permitted to be represented by a legal practitioner at meetings or hearings held under this procedure.
13. Outcomes of any cases considered under this procedure and a record of the proceedings will be kept by the Secretary to the Misconduct and Professional Suitability (MPS) Board.
14. The University may disclose the existence of an investigation or the outcome of a case considered under this procedure to relevant external bodies. This may include, but is not limited to, disclosure to employers, placement providers, sponsors, grant providers, research funding bodies or Professional Statutory and Regulatory Bodies (PSRBs).
15. Where applicable, the University may withhold granting an award to a student subject to this procedure until its consideration of a matter of concern is complete. This may include withholding information that indicates an award is forthcoming.
16. Any reference to a specific member of staff under this procedure (for example, the Academic Registrar) should be read as including alternate reference to the member of staff's delegate or nominee.
17. The University may proceed with any steps under this procedure in the absence of the student, or if the student withdraws from the University, or if the student does not engage with the procedure.
18. The University may suspend consideration of a matter of concern under this procedure with good reason.
19. 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 matter of concern under this procedure is concluded.
20. Communications relating to matters of concern 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.

## **Definitions**

21. 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 under this Regulation. This includes but is not limited to the following:

- a) Failing to comply with the [Student Code of Conduct](#), or with other University policies and regulations as set out in the [Terms and Conditions](#).
- b) Breaking the law.
- c) Threatening or engaging in violence, harassment, bullying or abuse, either physically, verbally or by way of the Internet or social media.
- d) Sexual misconduct.
- 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 or misappropriating property.
- h) Theft.
- i) Inappropriate use of IT equipment, the Internet or social media, including breaches of the [Brunel Acceptable Computer Use Policy](#).
- j) Failing to disclose relevant criminal convictions in line with the [Policy on the Acceptance of Ex-Offenders](#).
- k) Preventing or interfering with lawful freedom of speech or belief.
- l) Bringing the University into disrepute.
- m) Obstructing or interfering with a member of the University.
- n) Obstructing or interfering with the good order, functioning or reputation of the University.
- o) Failing to comply with the terms of a temporary suspension and/or exclusion from the University.
- p) Failing to comply with a decision taken or penalty imposed under the Student Disciplinary Procedure and/or the Academic Misconduct Procedure.

### **Reporting of concerns**

**22.** A concern that a student has committed non-academic misconduct should first be reported to the Clerk to the MPS Board.

**23.** The Clerk to the MPS Board 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, they will appoint an Investigating Officer to investigate the concern.
- b. Where the concern does not fall within the scope of this procedure, they may either dismiss the concern, or refer it for consideration under any other relevant University regulation or procedure.

**24.** It may be necessary to temporarily suspend 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 *Appendix B*.

## **Investigation**

25. The Investigating Officer will first write to the student(s) involved to notify them of the investigation and will normally:

- a) Inform the student of the nature of the concern that has been raised, the purpose of the investigation and will provide a copy of this procedure and Senate Regulation 6.
- b) Inform the 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.
- c) Copy this communication to the student's Head of Department.

26. The investigation may include the gathering of written, oral and other information from relevant sources.

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

- a) Inform the student of the purpose of any such meetings in advance.
- b) Give the student at least 5 working days' notice of any such meetings.
- c) Inform the student of their entitlement to be accompanied to and/or represented at any such meetings in accordance with Paragraph 12 of this procedure.

28. 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.

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

30. At the conclusion of the investigation, the Investigating Officer will provide a report and copies of any relevant information to the Clerk to the MPS Board. The report should be copied to the student.

## **Referral to the Misconduct and Professional Suitability Board**

31. Following receipt of the Investigating Officer's report, the Clerk to the MPS Board will take one of the following actions:

- a) Dismiss the concern and take no further action.
- 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 Disciplinary Panel 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)**

- 32.** The Vice-Chancellor's Representative (VCR) is a senior member of University staff appointed to consider concerns relating to non-academic misconduct.
- 33.** Where a concern is to be referred to the VCR, the Secretary to the MPS board will first write to the student with 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 student, with reference to Paragraph 21 of this procedure.
  - c) A copy of the evidence and documentation in support of the allegation that will be submitted to the VCR.
- 34.** The 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 33.
- 35.** The student will be informed that if they do not respond to the allegations within this timeframe, then the referral to the VCR may continue.
- 36.** The VCR will consider the case, including the student's written response, and may gather additional information, or seek advice or guidance, from the relevant parties either in writing or in person. 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 34.
- 37.** 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 Disciplinary Panel Hearing.
  - e) Refer the case to an earlier stage of this procedure.
- 38.** Where the VCR considers that the student has committed non-academic misconduct, the VCR will determine which, if any, penalty as set out in Appendix A should be applied.
- 39.** The VCR may take into account any mitigating circumstances presented by the student when applying any of the penalties set out in Appendix A, and will apply a penalty that is appropriate in all the circumstances.
- 40.** The Secretary to the MPS Board will inform the 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.

41. Where the VCR applies a penalty under Appendix A, the student may submit a request for an appeal against the decision in line with Paragraphs 66-81 of this procedure.

42. The Head of the Student's Department and/or of the relevant University service will be informed of the decision of the VCR.

### **Disciplinary Panel Hearings**

43. A concern may be referred to a Disciplinary Panel Hearing by the Clerk to the MPS Board under Paragraph 31, or by the VCR under Paragraph 37.

44. The Clerk to the MPS Board will appoint a member of University staff to act as the University Representative, who will present the concern regarding the student to the Panel.

45. Where a case involves multiple students, the Clerk to the MPS Board 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.

46. 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.

47. 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.

48. The Secretary to the MPS Board 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.

49. The Secretary to the MPS Board will normally contact the student at least 10 working days prior to the date of the Disciplinary Panel Hearing and set out in writing the following:

- a) The date, time and place 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 the provisions in Paragraph 12 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 Paragraph 21 of this procedure.
- 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 44.
- g) The student's right to call witnesses to appear at the hearing.

50. The student will be invited to make a written submission in advance of the hearing in response to the University's case and the allegation of non-academic misconduct. The student will be asked to provide this written submission to the Secretary to the MPS Board no later than five working days before the scheduled

date of the hearing, together with details of any witnesses they are intending to call.

**51.** The University Representative may submit additional information to the Secretary to the MPS Board in advance of a hearing. A copy of the information should normally also be provided to the student in advance. In accordance with Paragraph 46, the admissibility of additional information will be at the discretion of the Chair to the Panel.

**52.** Where a student chooses not to acknowledge the date of a hearing or provide a written submission in advance, the hearing may still proceed.

**53.** A student may request to the Secretary to the MPS Board 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 Secretary to the MPS Board or otherwise. The final decision to postpone a hearing will be taken by the Chair of the Panel.

**54.** Notice of any witnesses to be called by the student and/or the University's Representative at the hearing should normally be given in writing to the Secretary to the MPS Board at least 5 working days in advance of the date of the hearing together with a written statement prepared by the witness setting out the contribution that they will make. The Secretary to the MPS Board will provide a copy of each party's witness notice and statements to the other party normally 3 days in advance of the hearing.

**55.** 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.

**56.** A full copy of the evidence and documentation that will be considered by the Panel, including the student's written submission under Paragraph 50, will be sent to the University Representative in advance of the hearing.

**57.** 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.

**58.** 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 student or the University Representative to gather further information. The 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.

**59.** 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 student, and may call and question witnesses. The University Representative and any witnesses will answer any questions from the Panel and the student.
- c) The student, or student's representative, may respond to the University's case and the allegation of non-academic misconduct and supporting evidence, and may call and question witnesses. The student

and any witnesses will answer questions from the Panel and the University Representative.

- d) The University Representative will make a closing statement.
- e) The student may make a closing statement.
- f) The Panel will retire to consider the case.

**60.** 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 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.

**61.** 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.

**62.** The Panel may take into account any mitigating circumstances presented by the student when applying any of the penalties set out in Appendix A, and will apply a penalty that is appropriate in all the circumstances.

**63.** The Panel Secretary will inform the 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.

**64.** The Head of the Student's Department and/or of the relevant University service will be informed of the outcome of the Disciplinary Panel Hearing.

**65.** Where the Panel applies a penalty under Appendix A, the student may submit a request for an appeal against the decision in line with Paragraphs 66-81 of this procedure.

## **Appeals**

**66.** A student may submit a request to appeal against the following decisions made under this procedure:

- a) The decision of a Vice-Chancellor's Representative to apply a penalty under Appendix A.
- b) The decision of a Disciplinary Panel to apply a penalty under Appendix A.

**67.** A student may request to appeal on one or more of the following grounds:

- a) That there has been a procedural irregularity.
- b) That there was bias on the part of the decision-maker or decision-making body.
- c) That the decision is unreasonable and/or that the penalty is disproportionate.

- d) That there is new material evidence which the student can demonstrate was for good reason not previously available.

**68.** A request to appeal should be submitted in writing to the Secretary to the MPS Board within 10 working days of the date of written notification of the decision being appealed.

**69.** In the request to appeal the student should specify the grounds as set out in Paragraph 67 that the student wishes to rely on.

**70.** Where a request to appeal is received outside of the timeframe set out in Paragraph 68, and no evidence of a good reason for the delay is presented by the student, the Academic Registrar may dismiss the appeal and issue a Completion of Procedures Letter.

**71.** The Academic Registrar will consider the request to appeal and may refer to other available documentation where necessary. The Academic Registrar may seek the advice of a designated member of staff who shall have no previous involvement in the case.

**72.** The Academic Registrar will take one of the following actions:

- a) Determine that one or more of the grounds as set out in Paragraph 67 has been disclosed.
- b) Determine that none of the grounds as set out in Paragraph 67 have been disclosed, in which case the request to appeal will be dismissed and a Completion of Procedures Letter will be issued.

**73.** The student will be informed of the decision of the Academic Registrar in writing, normally within 10 working days of the date of receipt of the appeal request by the Secretary to the MPS Board.

**74.** Where the Academic Registrar considers that grounds have been disclosed, the appeal and a copy of the file from any earlier stages of this procedure will be referred to a Deputy Vice-Chancellor (DVC), who will invite the student to submit in writing, within a specified timeframe, their substantive appeal with respect to the disclosed grounds. The DVC will normally consider and determine the case based on the available documentation.

**75.** Where the DVC considers it appropriate, the DVC may invite the student to a meeting to discuss their appeal. An invitation to a meeting will be communicated in line with the procedure set out in Paragraph 27.

**76.** Once their consideration of the case is concluded, the DVC 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.

**77.** Where an appeal is upheld, either in whole or in part, the DVC will take one or more of the following actions:

- a) Quash the decision of the VCR or Disciplinary Panel and determine that no further action should be taken against the student.
- b) Apply a different penalty as set out in Appendix A.
- c) Refer the case back to the original decision maker or decision making body for further consideration.

- d) Refer the case to a different VCR or a new Disciplinary Panel for fresh consideration.
- e) Refer the concern for consideration under another University regulation or procedure.

78. The DVC may take into account any mitigating circumstances presented by the student when applying any of the penalties set out in Appendix A, and will apply a penalty that is appropriate in all the circumstances.

79. The Secretary to the MPS Board will inform the 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 DVC's decision. Where appropriate, a Completion of Procedures Letter will be issued.

80. The Head of the student's Department and/or of the relevant University service will be informed of the decision of the DVC.

81. The decision of the DVC is final.

### **The Office of the Independent Adjudicator for Higher Education**

82. Decisions taken under this procedure may be eligible for review by the Office of the Independent Adjudicator for Higher Education (OIA), which is an independent body set up to review student complaints. More information about the OIA can be accessed at <http://www.oiahe.org.uk/>. The OIA can be contacted at 0118 959 9813 or [enquires@oiahe.org.uk](mailto:enquires@oiahe.org.uk). Where applicable, students will be provided with a Completion of Procedures Letter and information about how to apply to the OIA for a review of a decision taken under this procedure.

## Appendix A - Indicative list of penalties for Non-Academic Misconduct

Available To	Penalty
VCR, Hearing Panel	Formal written warning.
VCR, Hearing Panel	Exclusion of the student from specified areas of the University, or from specified University activities (including placements), services, or facilities (including residences) for a defined period.
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).
Hearing Panel	Requirement to pay compensation for the damage or loss caused.
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 – Temporary Suspension and Exclusion**

**B1.** Circumstances can arise where it is necessary for the University to take precautionary action in order to manage risk to the University, its members, and/or to the wider community. This Appendix sets out how this risk will be managed.

**B2.** 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.

**B3.** Where a concern is raised relating to a student's conduct, whether on or off campus, which represents a potential or actual threat to the safety, security, health, wellbeing, good order, or reputation of the University, its members, an external organisation or placement provider, or members of the public, a member of staff may make a recommendation to the Vice-Chancellor or Vice-Chancellor's delegate that the student should be temporarily suspended and/or excluded.

**B4.** Where the Vice-Chancellor's delegate determines that such a risk exists, the Vice-Chancellor's delegate may take one or both of the following precautionary actions until such time as the matter is considered under the relevant University procedures:

- a) Temporarily suspend a student from all or part of their studies or research. This may include suspension from placement or any other University activity, including examinations, receiving information about results or progression, and re-enrolment.
- b) Temporarily exclude a student from using all or particular University services or facilities and/or entering the University campus. This may also include temporarily withdrawing or amending a student's Brunel computer account access privileges.

**B5.** The decision to impose a temporary suspension and/or exclusion will not affect a student's legal rights under any license agreement with Brunel Accommodation Services.

**B6.** 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.

**B7.** The Vice-Chancellor's delegate may impose conditions on a temporary suspension and/or exclusion, and where practicable and appropriate will make arrangements to mitigate the impact of a temporary suspension and/or exclusion on a student, such as allowing students to sit examinations in isolation or to study remotely using online resources.

**B8.** Where a student who is temporarily suspended and/or excluded requires access to the University campus for any reason, the student should write to the Secretary to the MPS Board to ask for permission, giving at least 1 working days' notice.

### Procedure for Temporary Suspension and/or Exclusion

**B9.** The Vice-Chancellor's delegate may take urgent action to temporarily suspend and/or exclude a student with immediate effect prior to providing the student with formal written notification.

**B10.** The Vice-Chancellor's delegate will formally notify a student in writing that the student is being/has been temporarily suspended and/or excluded, and will notify the student of any relevant conditions. A temporary suspension and/or exclusion will apply for a defined period of time (which may be extended).

**B11.** Where a student is temporarily suspended and/or excluded under this Appendix, the Vice-Chancellor's delegate 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.

**B12.** The student may request a review by the Vice-Chancellor's delegate under Paragraph B11 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.

#### Appeals

**B13.** The student will have the opportunity to appeal to the Academic Registrar within 10 working days of the communication of the decision taken by the Vice-Chancellor's delegate to temporarily suspend and/or exclude a student.

**B14.** An appeal to the Academic Registrar should be made on the following grounds:

- a) That there has been a procedural irregularity.
- b) That there was bias on the part of the decision-maker.
- c) That the decision is unreasonable and/or disproportionate.
- d) That there is new material evidence which the student can demonstrate was for good reason not previously available.

**B15.** The Academic 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.