

## **8. DISCIPLINARY PROCEDURES FOR STUDENTS**

### **INTRODUCTION**

- 8.1 Throughout these Disciplinary Procedures for Students (subsequently referred to as 'Disciplinary Procedure') the person raising an allegation is referred to as the 'Reporting Party', and the person against whom the allegation is made is referred to as the 'Respondent'.
- 8.2 Students are encouraged to seek guidance and support in relation to these Disciplinary Procedures from Student Services and/or the Students' Union.
- 8.3 Where necessary for fair investigation and consideration of a disciplinary case, the University may share information internally and with the Students' Union.
- 8.4 The disciplinary procedures will be used where a student has allegedly committed an act of misconduct on University premises or outside of University premises when there are engaged in activity related to their course; they are representing the University as a University of Bath Student or identifiable as a University of Bath student; or when this act of misconduct is perpetrated against the University itself, a student, staff member or visitor at the University of Bath.

### **Delegation of responsibilities**

- 8.5 Any of the functions of the Vice-Chancellor under these Regulations may be delegated to a Deputy Vice-Chancellor, Pro-Vice-Chancellor or the Vice-President (Student Experience).

### **Principles**

- 8.6 The purpose of this procedure is to protect members of the University community by upholding appropriate standards of behaviour, as outlined in Regulation 7.
- 8.7 The University will seek to protect the privacy and confidentiality of individuals involved in this procedure, where this does not compromise its ability to properly investigate an allegation or to safeguard members of the University community.
- 8.8 Respondents will normally be expected to represent themselves at all stages of the Disciplinary Procedure.
- 8.9 Respondents and Reporting Parties will be entitled to be accompanied by an adviser, family member or friend.
- 8.10 At all stages of this procedure, if it is not possible to attend in person, the University will make reasonable efforts to allow the Respondent, Reporting Party and/or witnesses to participate in investigatory meetings and committee hearings by other means.
- 8.11 Those determining issues under these Regulations should be satisfied on the balance of probabilities of the evidence before them rather than 'beyond reasonable doubt'.
- 8.12 If the Reporting Party or Respondent are students of the University of Bath and wish to raise a concern about the service they received at any stage of the Disciplinary Procedure they may use the Student Complaints policy.

### **OVERVIEW OF PROCEDURES**

- 8.13 The outcome of the Disciplinary Procedure will be normally be communicated in writing to the Respondent and Reporting Party (and all those directly involved) within 60 days of the Respondent being informed of the allegation against them.

### **Witnessed Misconduct (Category A)**

- 8.14 If a member of Security Services) witnesses misconduct which can be classified as Category A, according to the categorisation outlined in Regulation 7.5, they may take one of the following actions:
- a) Issue a verbal warning which is accepted by the student;
  - b) Issue a fixed penalty notice of £50. If a student does not wish to accept the fixed penalty notice or is not in a condition to understand the process, they will be referred to the Director of Student Services (see 8.16). A student may receive no more than two fixed penalty notices in any twelve-month period. A third offence will result in an automatic referral to the Director of Student Services.

### **Allegations**

- 8.15 Allegations of misconduct will be addressed in one of the following ways:
- a) By the University Librarian, Chief Digital and Information Officer and/or the Director of Sport in accordance with Regulation 10, or the Students' Union in accordance with the [Students' Union Disciplinary Procedure](#);
  - b) By referral to the Director of Student Services (see section 8.16);
  - c) Through referral directly to the Police.

### **Referral to Director of Student Services**

- 8.16 An allegation will be considered by the Director of Student Services (or nominated delegated authority) to establish if it meets the definition of misconduct as outlined in Regulation 7. They will decide one of the following:
- a) To investigate the allegation, including initial categorisation of the misconduct as Category A, B or C (see Regulation 7.5);
  - b) To refer the reporting party to an alternative procedure;
  - c) To dismiss the allegation, with the consequence that no further action will be taken.
  - d) To address the allegation through an alternative procedure, for example Fitness to Study.
- 8.17 The Reporting Party may appeal against this decision using the Student Complaints Procedure.

### **Investigatory Process**

- 8.18 If the allegation can be investigated as misconduct, as defined in Regulation 7, the Director of Student Services will initiate the investigatory process, which will be conducted by trained investigators and overseen by a Deputy Director of Student Services.
- 8.19 The Respondent will be told in writing at the beginning of this process about the allegation against them.
- 8.20 Category A or B alleged misconduct will normally be considered by the Director of Student Services (see 8.24). Category C alleged misconduct will normally be considered by the Disciplinary Committee (see 8.30).
- 8.21 At the conclusion of the investigation, an Investigation Report will be produced. This will include confirmation of the categorisation of the alleged misconduct in accordance with Regulation 7.5.
- 8.22 Using the Investigation Report, the Director of Student Services will determine one of the following:
- a) That the Respondent is in breach of Regulation 7 (see 8.24);

- b) That there has been no breach of Regulation 7, concluding the Disciplinary Procedure. A Completion of Procedures Letter will be sent to the Respondent within 14 calendar days of the dismissal. This will include information on how the student could submit a complaint to the Office of the Independent Adjudicator (OIA) for review;
  - c) That the case should be referred to Disciplinary Committee (see 8.30);
  - d) That the case should be addressed through an alternative procedure, for example Fitness to Study.
- 8.23 If the allegation under investigation is upheld by determination of either the Director of Student Services (8.24) or Disciplinary Committee (8.40) previous breaches may be considered when deciding on sanctions. Information on previous breaches will not be provided prior to a determination on whether the Respondent has committed the breach.

### **Category A or B Misconduct Disciplinary Process**

- 8.24 If the Respondent has been found guilty of Category A or B misconduct as a result of the investigatory process, the Director of Student Services will decide the sanction(s) to be applied.
- 8.25 The Respondent and Reporting Party will be informed of the Director of Student Services decision in writing, including any sanction(s) to be applied, and the time-frame in which they will apply.
- 8.26 The Respondent may request a copy of the Investigation Report, though confidential or sensitive information may be redacted (see section 8.7).
- 8.27 A Respondent may appeal against the decision of the Director of Student Services. An appeal must be in writing and must be submitted within 14 calendar days to [disciplinary-appeals@bath.ac.uk](mailto:disciplinary-appeals@bath.ac.uk). A Respondent may only make an appeal on one or more of the following grounds:
- a) That there was procedural error in the conduct of the investigation of such a nature as to cause doubt as to the determination reached;
  - b) That new evidence has been made available which the Respondent could not reasonably have provided during the investigatory process;
  - c) That there was bias during the procedure of such a nature as to cause doubt as to the determination reached;
  - d) That the sanction imposed was disproportionate.
- 8.28 An Appeal must include:
- a) A completed University Disciplinary Appeals form, indicating the outcome(s) against which the Respondent is appealing, the ground(s) on which the Appeal is based, and the Respondent's desired action following consideration of the Appeal;
  - b) All evidence available to the Respondent in support of the Appeal.
- 8.29 Two Pro-Vice-Chancellors, or delegated authorities, will consider the Appeal Case and decide on an appropriate response. They should be independent of the disciplinary case and have not been involved in any previous stage of the Disciplinary Procedure. They will decide on one of the following options:
- a) To dismiss the appeal on the grounds of not meeting the criteria outlined in 8.27, with the consequence that no further action will be taken. This will conclude the Disciplinary Procedures for Students, and a Completion of Procedures Letter will be sent to the Respondent within 14 calendar days

of the dismissal. This will include information on how the student could submit a complaint to the Office of the Independent Adjudicator (OIA) for review;

- b) To uphold the Appeal and amend the outcome/sanctions as appropriate;
- c) To refer the case to the Senate Appeals Committee.

### **Category C Misconduct Disciplinary Committee Process**

- 8.30 On recommendation from the Director of Student Services a Disciplinary Committee will be convened, with the responsibilities and composition outlined in the Disciplinary Committee's Terms of Reference.
- 8.31 The Respondent(s) and Reporting Party(ies) will normally receive at least 7 calendar days' notice of any hearing. The notification will inform them of the time and place of the Disciplinary Committee Hearing, and will also provide them with:
  - a) The Investigation Report, though confidential or sensitive information may be redacted (see section 8.7);
  - b) The names and roles of the Disciplinary Committee members.
- 8.32 Respondents and Reporting Parties may be accompanied by a friend, family member or adviser, whose identity must be provided to the Chair of the Disciplinary Committee at least 3 days after notification of the Hearing. Any accompanying individuals will not be entitled to speak on the Respondent or Reporting Parties behalf during the hearing.
- 8.33 The Respondent will have 3 calendar days after receiving notice of the Disciplinary Committee Hearing to submit any evidence additional to that included in the Investigation Report, or in response to the findings of the Investigation Report. Inclusion of any additional evidence outside the timeframe, including if the respondent requests more than 3 days to submit additional evidence, will be at the discretion of the Chair. Any accepted additional evidence will be shared with all parties involved in the case, including the Reporting Party. This may result in the Disciplinary Committee being rescheduled.
- 8.34 If the Respondent fails to attend the Disciplinary Committee Hearing (either in person or virtually), having had appropriate notice of the Hearing's time and place, the Disciplinary Committee will consider the case in the Respondent's absence.
- 8.35 The Respondent will not be able to send a representative or spokesperson in their place, other than in exceptional circumstances and as agreed by the Chair of the Disciplinary Committee.

### **Conduct of a Disciplinary Committee Hearing**

- 8.36 The Disciplinary Committee will consider the Investigation Report. They will invite the Respondent to answer questions from the Committee. The Committee will also invite the Reporting Party (and may invite witnesses) to answer questions from the Committee.
- 8.37 Reporting Parties, Respondents and witnesses (including any friends, family members or advisors accompanying them in the Hearing) will not be entitled to question or cross-examine each other's statements, or to call witnesses additional to those named in the Investigation Report and invited by the Disciplinary Committee.
- 8.38 The Chair, in consultation with members of the Committee, will determine the order of proceedings and the conduct of the hearing.
- 8.39 The Disciplinary Committee will determine either:
  - a) That the Respondent is in breach of Regulation 7;

- b) That there has been no breach of Regulation 7.
- 8.40 If the Respondent is found to be in breach of Regulation 7, the Disciplinary Committee will then decide on the sanction(s) to be applied using the University's Sanctioning guidelines.
- 8.41 The Respondent and Reporting Party will be informed of the Disciplinary Committee's decision in writing, including how they have breached Regulation 7, any sanction(s) to be applied, and the time-frame in which they will apply.

### **Appeal Process**

- 8.42 If the Respondent wishes to appeal against the decision of Disciplinary Committee they may do this by submitting a written appeal to [disciplinary-appeals@bath.ac.uk](mailto:disciplinary-appeals@bath.ac.uk) within 14 days of receiving the Disciplinary Committee's decision. A Respondent may make an Appeal Case on one or more of the following grounds:
  - a) That there was procedural error in the conduct of the investigation of such a nature as to cause doubt as to the determination reached;
  - b) That new evidence has been made available which the Respondent could not reasonably have provided during the investigatory process;
  - c) That there was bias during the procedure of such a nature as to cause doubt as to the determination reached;
  - d) That the sanction imposed was disproportionate.
- 8.43 Appeals may be heard by Senate Appeals Committee or Council Appeals Committee. Appeals in relation to a decision to expel a student from the University will be considered by the Council Appeals Committee (see Statutes Section 27.2). The process for appealing against a decision to expel a student is as outlined in 8.42 and 8.44.
- 8.44 An Appeal Case must include:
  - a) A completed University Disciplinary Appeals form, indicating the outcome(s) against which the Respondent is appealing, the ground(s) on which the appeal is based, and the Respondent's desired action following consideration of the appeal;
  - b) All evidence available to the Respondent in support of the Appeal.
- 8.45 If a student is appealing against the sanctions imposed on them as a result of the Disciplinary Process, those sanctions will normally still be applied. Any precautionary measures (see 8.54) will still apply during the Appeals process.
- 8.46 The Deputy Director (Academic Governance & Compliance) (or a delegated authority) and the Chair of Senate or Council Appeals Committee will assess the Appeal Case against the criteria in 8.42 and determine whether there are grounds for appeal. They will decide on one of the following options:
  - a) To dismiss the Appeal Case on the grounds of not meeting the criteria in 8.42, with the consequence that no further action will be taken. This will conclude the University Disciplinary Procedure, and a Completion of Procedures Letter will be sent to the Respondent within 14 calendar days of the dismissal. This will include information on how the student could submit a complaint to the Office of the Independent Adjudicator (OIA) for review;
  - b) To refer the case to the Senate or Council Appeals Committee (see 8.48)
- 8.47 The outcome of the Appeal process will be communicated in writing to the Respondent (and all those directly involved) within 30 days of the Appeal being lodged.

### **Senate or Council Appeals Hearing**

- 8.48 When an appeal is determined to be eligible (see 8.46) or referred by two Pro-Vice-Chancellors (see 8.29) the Senate or Council Appeals Committee will be convened, with the responsibilities and composition outlined in their Terms of Reference.
- 8.49 The Senate or Council Appeals Committee will consider the appeal case. The Senate or Council Appeals Committee may invite the Respondent to provide a verbal or written statement and answer questions from the Committee. The Reporting Party and any witnesses will not normally be invited to attend a Senate or Council Appeals Hearing. The Chair of the Disciplinary Committee may be invited to explain the decision of the Disciplinary Committee.
- 8.50 Respondents (and, if invited, Reporting Parties) may be accompanied by a friend, family member or adviser.
- 8.51 The Senate or Council Appeals Committee will decide on an appropriate response to the appeal. They will decide on one of the following options:
- a) To reject the appeal case, confirming the original outcome and sanctions;
  - b) To uphold the appeal case, and amend the outcome or sanctions appropriately;
  - c) To conduct additional investigative activities of new evidence, up to and including a re-hearing of the original allegation. In this instance, the Senate Appeals Committee will take the role of the Disciplinary Committee.
- 8.52 If an appeal is not submitted within 14 calendar days the student can request a Completion of Procedures letter. A Completion of Procedures letter can be requested within 28 days of the disciplinary outcome being communicated.
- 8.53 At the completion of the Senate Appeals Process an outcome and Completion of Procedures Letter should be sent to the Respondent within 14 days. This will include information on how the student could submit a complaint to the Office of the Independent Adjudicator (OIA) for review.

### **PRECAUTIONARY MEASURES**

- 8.54 The University will take appropriate action to protect the safety and wellbeing of its members. Any interventions will be identified through a risk assessment conducted by trained members of University Staff.
- 8.55 Precautionary measures may include, but will not be limited to, one or more of the following options:
- a) Referral to an appropriate support service, such as Student Services, the Students' Union, or an external organisation;
  - b) A 'no contact' agreement to be put in place between the alleged Respondent, Reporting Party, and/or any witnesses;
  - c) Changes to the accommodation of the alleged Respondent, Reporting Party, and/or any witnesses;
  - d) Exclusion from certain parts of the University (see 8.59)
  - e) Suspension from the University (see 8.58)
- 8.56 These precautionary measures will be regularly reviewed throughout these Disciplinary Procedures. They do not constitute a sanction, and make no presumption as to whether or not the Respondent has committed the alleged misconduct.

### **Suspension or exclusion as a precautionary measure**

- 8.57 A Student who fits one or more of these categories:
- a) Has been accused of misconduct;

- b) Has a criminal charge pending against them;
- c) Is the subject of police investigation;
- d) Has failed to comply with precautionary measures (see 8.54);

may as a precaution be suspended from any academic activities or excluded from any part of the University by the Vice-Chancellor or delegated authority (see 8.5), who will determine the period of such suspension or exclusion. Any such exclusion or suspension will be reported to Senate at its next meeting.

- 8.58 The precautionary suspension of a student involves a total prohibition on attendance or access to the University and on any participation in University activities including placement, study abroad or exchange activities. However, it may be subject to qualification such as permission to attend for specified academic purposes or for limited and prescribed access to the University for the purpose of obtaining information relating to a disciplinary or court hearing.
- 8.59 Exclusion of a Student involves prohibition on entering certain areas of the University and exercising the functions or duties of any office or committee membership in the University or the Students' Union. The details would be specified in writing by to the student.
- 8.60 Where a decision has been made to temporarily exclude or suspend a student as a precautionary measure, the student will not normally be able to Appeal this decision until the Disciplinary Process is concluded.
- 8.61 A request may be made to the Students' Union that the student be excluded from Students' Union premises or activities.

### **Involvement of the Police and Criminal Courts**

- 8.62 If there is an allegation which could also constitute an offence under criminal law, the University may refer this directly to the police. The University may also become aware through other means, of criminal cases involving University students. In either instance, any University disciplinary action will be put on hold until the criminal case is concluded, to prevent prejudicing a criminal investigation. Where relevant necessary precautionary measures (see 8.54) will be implemented.
- 8.63 Where an allegation which may constitute a criminal offence has been raised the Reporting Party will have a choice as to whether to report to the police, other than in circumstances where there is a risk to the safety of the University or wider community, or a legal obligation to report a particular allegation. In these cases the University's decision to refer to the police will be explained to the Reporting Party.
- 8.64 After Court proceedings have been completed the Vice-Chancellor will determine whether internal disciplinary action will be taken.
- 8.65 Where an allegation has been proven and the Respondent has also been sentenced by a Court for the same incident, the penalty of the Court will be taken into consideration in determining the sanction under these Disciplinary Procedures. The University may impose additional sanctions according to its own Discipline Procedure.
- 8.66 The University may still proceed with the Disciplinary Procedure even if the police decide not to investigate an incident or if the Respondent is found not guilty. This is because those determining issues under this Procedure must make those judgements on the balance of probabilities, as opposed to beyond reasonable doubt, which is the burden of proof required for criminal cases.

### **Records and notification**

- 8.67 The Deputy Director (Academic Governance & Compliance) will keep a record of hearings held by the Disciplinary Committee or Senate Appeals Committee. The Head of Strategic Governance will keep a record of hearings held by the Council Appeals Committee.
- 8.68 The outcome of Disciplinary Committees, Senate Appeals Committees and Council Appeals Committees will be reported to the Senate at its next meeting.

To be considered by Senate 5 February 2020