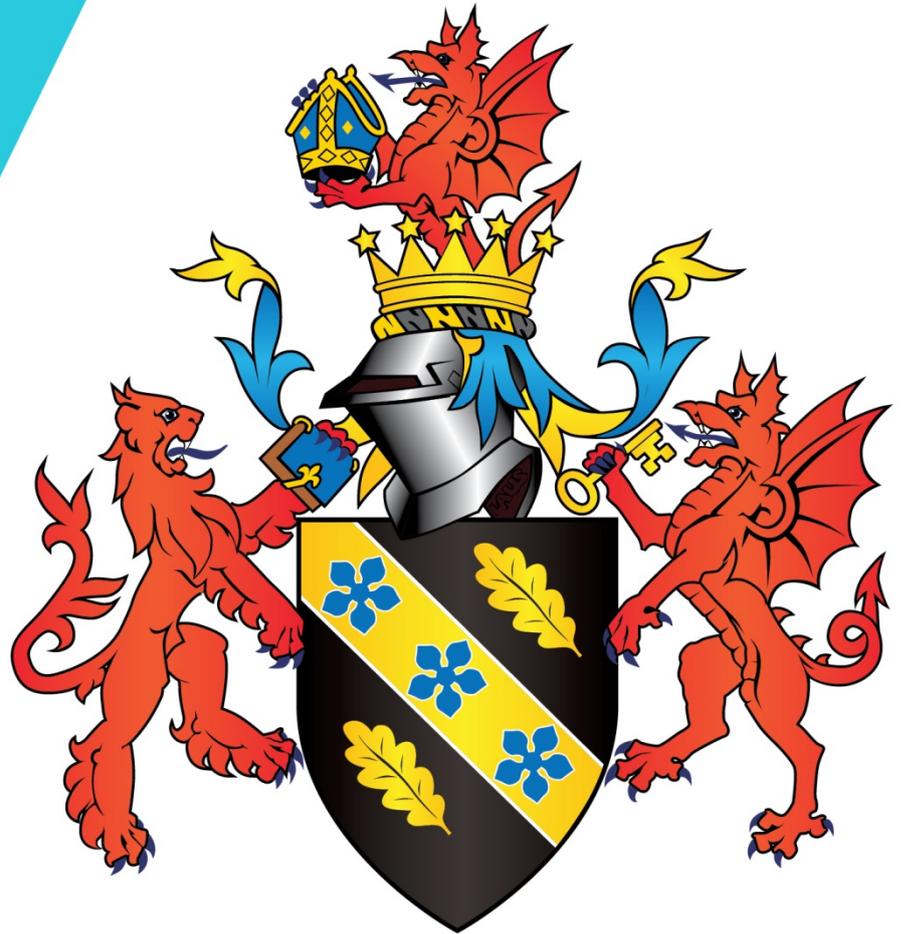




Prifysgol Cymru  
Y Drindod Dewi Sant  
University of Wales  
Trinity Saint David



# Non-Academic Misconduct Policy

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## 1 Introduction

- 1.1 This policy covers the University's procedures in relation to non-academic misconduct by students and outlines the procedures that should be followed when an allegation of non-academic misconduct has been made. This includes allegations of bullying and harassment, as well as other forms of misconduct.
- 1.2 The policy adopts the principles and good practice from a number of sector documents:
  - OIA: The Good Practice Framework: Disciplinary Procedures (2018);
  - Universities UK and Pinsent and Mason: Guidance for Higher Education Institutions: How to Handle Alleged Student Misconduct Which May Also Constitute a Criminal Offence (2016);
  - Universities UK: Changing the Culture: Report of the Universities UK Taskforce examining violence against women, harassment and hate crime affecting university students (2016);
  - Universities UK: Changing the Culture: One Year On: An assessment of strategies to tackle sexual misconduct, hate crime and harassment affecting university students (2018).
- 1.3 The Non-Academic Misconduct Policy and Procedure is an internal procedure and is not a legal process. The University advises students to use the services of the Students' Union (UWTSDSU) who are independent from the University and have a full understanding of the university's processes and procedures. UWTSD does not normally use legal professionals in the handling of cases and does not expect that students will need to do so either. The engagement of legal professionals by students is normally not permitted.

## 2 Purpose

- 2.1 The purpose of this policy is to foster a culture where non-academic misconduct is not tolerated and to provide an inclusive, supportive, and safe learning environment in which all students and staff can flourish and are able to fulfil their personal potential.
- 2.2 The policy also aims to ensure that procedures for non-academic misconduct are conducted in a fair and transparent manner, that the University exercises an appropriate duty of care, applies principles of natural justice, and complies with equal rights, human rights and all other relevant legislation in this area.

## 3 Scope

- 3.1 This policy applies to all students registered directly at the University of Wales Trinity Saint David.
- 3.2 For students registered at collaborative partnership institutions or at Constituent Colleges of the University, procedures from that institution are followed in the first instance. However, such students are entitled to request that the University review the outcome of their case. See section 23 of this policy.
- 3.3 In cases where an alleged offence has been committed by a student who is both a student and a member of staff at UWTSD or a Partner Institution, a decision shall be made first as to whether student or staff disciplinary procedures shall be instigated.
- 3.4 This policy may be applied to former students of the University of Wales Trinity Saint David, particularly where proceedings were instigated while the former student was still a registered student at the University.

- 3.5 This policy covers alleged non-academic misconduct by a student occurring on or off University premises (including via social media) where the behaviour has affected the University itself, a student or employee of the University, others visiting, working or studying at the University, a member of the public or any other third party.
- 3.6 In relation to non-academic misconduct off the University premises the University may take action where the alleged misconduct occurs during University activities (e.g. on placements and field trips or while studying or using facilities at partner organisations) or take action in response to conduct which affects the University's reputation in the local community or more widely.
- 3.7 The policy describes the internal procedures and outlines how it deals with matters which may constitute criminal offences.
- 3.8 The University has the ability to take action against a student of its own volition if the reporting student or member of staff does not wish to make a formal complaint.
- 3.9 Complaints relating to the Students' Union's activities are to be directed to the Students' Union and are not considered under this policy.

## 4 Relationship and interface with other policies and procedures

- 4.1 There are a number of strategies, policies and procedures that are connected to the Non-Academic Misconduct Policy, including:
  - a. Student Code of Conduct;
  - b. Health and Safety Policy;
  - c. Fitness to Practise Policy;
  - d. Support for Study Policy;
  - e. Fraud Procedures;
  - f. Information Technology and Systems Acceptable Use Policy;
  - g. Prevent Procedures;
  - h. Professional Relationship Policy;
  - i. Safeguarding Policy;
  - j. Strategic Equality Plan;
  - k. Academic Misconduct Policy;
  - l. Third Party Involvement Policy;
  - m. Mitigating Circumstances Policy;
  - n. Academic Appeal Policy;
  - o. Student Complaint Policy.
- 4.2 Before any formal procedures are instigated, the University will consider which procedure(s) are the most appropriate to be used in relation to the alleged offence.
- 4.3 The University will reassess this as appropriate and may change or add procedures as appropriate. For example, where it becomes clear that there are underlying physical or mental health issues the Support for Study policy rather than the Non-Academic Misconduct policy may be used for alleged breaches of conduct. It may be the case that two procedures are run in parallel, for example the Information Technology and Systems Acceptable Use Policy with the Non-Academic Misconduct Policy or the Non-Academic Misconduct Policy with the Fitness to Practise Policy. Or it could be the case that the Non-Academic Misconduct Policy is followed by procedures under the Fitness to Practise Policy. Where formal processes are instigated against a student following an allegation of harassment and bullying the Non-Academic Misconduct Policy is used.

- 4.4 Where two or more policies or procedures are applicable at the same time, normally one policy will be the primary policy in terms of process.
- 4.5 Students against whom an allegation is made will be informed which policy, policies and /or procedures are used in their case.

## 5 Responsibilities

- The maintenance of discipline and good conduct is overseen by Council.
- The maintenance of discipline and good conduct is the responsibility of Senate.
- Student non-academic misconduct procedures are overseen on behalf of Senate by the Associate Pro Vice-Chancellor (Academic Experience).
- The Student Case Review Group monitors the implementation of the policy and procedures.
- The Deputy Vice-Chancellors are responsible for making decisions in relation to the total suspension or termination of studies.
- Case Officers fulfil a range of roles in relation to a disciplinary case, including undertaking any preliminary risk assessment, completing an investigation, making a recommendation as to whether a case needs to proceed to a Formal Panel, and conducting and completing processes in relation to minor offences. A case may have more than one Case Officer, each with a specific role in relation to the case.
- A Senior Officer will undertake the review of an appeal.
- Deans of Institutes and relevant Heads / Directors of Professional Services are responsible for ensuring that the procedures outlined in this policy are used appropriately for any minor alleged offences or breaches of conduct that are dealt with at a local level.

## 6 Definitions

- 6.1 A Student Code of Conduct is published which sets out expected standards of behaviour. Any behaviour that contravenes this Student Code of Conduct will amount to a breach of discipline. The Student Code of Conduct details the range of penalties that may be used in relation to the different types of non-academic misconduct.
- 6.2 Non-Academic Misconduct offences are likely to fall into one of the categories below:
- Actions which cause actual or potential **distress or harm** to others;
  - Actions which cause actual or potential **damage to property** of others;
  - Actions which may prevent or disrupt the **normal functioning** of the University;
  - Actions which may cause **reputational damage** to the University as a result of the misconduct of the alleged perpetrator;
  - Actions **which impede or interfere with the pursuance of work/ study** of University members, or impact on normal operations of the University;
  - Breaches of the University's Student Code of Conduct.
- 6.3 Examples of non-academic misconduct include:
- Antisocial behaviour;
  - Inappropriate, abusive or threatening behaviour including on social media;
  - Compromising the safety of and/or wellbeing of staff, other students, visitors or the local community;
  - Sexual misconduct;
  - Violence, harassment and hate crimes;

- Behaviour likely to bring the University into disrepute, such as disruptive behaviour in the community;
- Internet access abuse, such as visiting inappropriate websites, uploading/downloading inappropriate content, propagation of computer viruses;
- Disruptive behaviour on the University's premises, such as setting off fire alarms or obstructing access to buildings or rooms;
- Damage to the University's property or abuse of its facilities;
- Causing a health or safety concern;
- Relying on forged, falsified or fraudulent documentation, and other forms of deception that are intended to gain an advantage, for example submitting fraudulent mitigating circumstances claims or falsifying evidence in support of mitigating circumstances claims or in regard to University fees;
- Other behaviour which may also constitute a criminal offence.

6.4 **Harassment** is defined in the Equality Act 2010 as:

- Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
- The relevant protected characteristics are: age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.<sup>1</sup>
- The Protection from Harassment Act 1997 defines conduct which 'causes alarm or distress' or 'puts people in fear of violence' as harassment.<sup>2</sup>

6.5 **Bullying** may be characterised as:

- Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient

6.6 **Victimisation** is defined in the Equality Act 2010 as:

- Subjecting a person to detrimental treatment because the person has complained, or there is a belief that the person will complain about harassment, or if a person has helped someone who has been subjected to harassment.<sup>3</sup>

6.7 **Hate crimes** are any crimes that are targeted at a person because of hostility or prejudice towards that person's: disability, race or ethnicity, religion or belief, sexual orientation or transgender identity.

- Hate crimes can be committed against a person or property.

6.8 The act of **Consent** is defined in the Sexual Offences Act 2003 as

- a person consents if they agree by choice and they have the freedom and capacity to make that choice.<sup>4</sup>

6.9 Non-Academic Misconduct offences are classified as either **minor** or **major** depending on the severity of the misconduct. A series of minor offences may count as a major offence, particularly where earlier intervention or remedial action has failed.

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<sup>1</sup> Harassment applies to all protected characteristics except for pregnancy and maternity where any unfavourable treatment may be considered discrimination, and marriage and civil partnership where there is no significant evidence that it is needed.

<sup>2</sup> <https://www.cps.gov.uk/legal-guidance/stalking-and-harassment>

<sup>3</sup> <https://www.equalityhumanrights.com/sites/default/files/equalityact2010-technicalguidance-feandhe-2015.pdf>

<sup>4</sup> <https://www.legislation.gov.uk/ukpga/2003/42/section/74>

- 6.10 In relation to major offences, the investigation will seek to establish whether the case is **complex** or **non-complex**. Complex cases include cases where the alleged offence is not admitted to, where there is conflicting, inconclusive or inconsistent evidence, where there is a high level of risk, or where the consequences for the student are potentially very serious. Complex cases are referred to a Formal Panel; non-complex cases proceed immediately to an outcome.
- 6.11 Throughout this policy, 'the student' = the student against whom an allegation has been made of non-academic misconduct. The individual or group raising a complaint = 'the complainant'.
- 6.12 This policy covers incidents where there is an actual complainant as well as incidents where the complainant is the University.
- 6.13 Students may decide that they would like a third party representative or a supporting person.
- 6.14 The policy and procedure relating to third party representation, support and enquiries can be found in the Third Party Involvement Policy.
- 6.15 **First disclosure** = when a student first reports an alleged incident to a member of staff. A first disclosure may lead to a complaint but does not have to. See also 13.7. Staff guidelines are in place in relation to the first disclosure of incidents.

## 7 Harassment and bullying

- 7.1 There may be differing interpretations about what conduct constitutes harassment and/or bullying. The most relevant factors in deciding whether harassment and/or bullying has occurred are:
- the impact of the unwanted conduct on the complainant; and
  - whether the unwanted conduct could reasonably be considered to amount to harassment and/or bullying.
  - The motive or intent behind the unwanted conduct is secondary to these factors.
- 7.2 Appendices A and B provide an illustrative list of examples of unwanted conduct that may amount to harassment and/or bullying.
- 7.3 Harassment as a result of or connected to a protected characteristic is prohibited by law under the Equality Act 2010. Principles followed when harassment may constitute a criminal offence are outlined in section 13 of this policy.
- 7.4 It is not necessary for an individual to have explicitly stated that they object to the unwanted conduct for it to be considered unwanted and to amount to harassment and/or bullying.
- 7.5 One minor incident would not normally constitute harassment and/or bullying. A series of minor incidents may be considered as evidence of a pattern of harassment and/or bullying.
- 7.6 Harassment and/or bullying often involve multiple incidents of unwanted behaviour. However, where a one-off incident is sufficiently serious the University may also consider this to constitute harassment and/or bullying.

- 7.7 Harassment and/or bullying may:
- be by an individual against an individual or may involve groups of people.
  - be obvious or invidious; abuse of power can be explicit or implicit.
  - occur through various other forms of communication (e.g. email, phone, written communication, and social media).
- 7.8 Students can complain of behaviour that they find offensive even if it is not directed at them (e.g. when an offensive environment is created as a result of behaviour towards those with a relevant protected characteristic).
- 7.9 Students also do not need to possess the relevant protected characteristic themselves in order to make a complaint (e.g. when they are bullied or harassed when they are wrongly perceived to have a protected characteristic or when they are associated with someone with a protected characteristic).

## 8 Reporting bullying and harassment

- 8.1 Depending very much on the severity of the harassment and / or bullying, before any formal procedures are started, it may be appropriate to use an informal approach first as detailed in section 12 of this policy.
- 8.2 Whether or not an informal pathway is used first is at the discretion of the complainant.
- 8.3 Where a complainant does not feel that an informal pathway is appropriate, they can report harassment and/or bullying by following the procedures for reporting a serious alleged offence or breach of conduct as outlined in section 15 of this policy.
- 8.4 When the harassment or bullying is serious, it is expected that matters will be proceeded to a formal stage straightaway, following student non-academic misconduct processes as appropriate.
- 8.5 It is useful if complainants who raise an allegation of bullying and / or harassment keep a diary of any incidents, which includes details such as the date and time when the instance of bullying and / or harassment occurred, copies of any evidence (emails, social media evidence, photos), and the names of any witnesses.
- 8.6 If a complainant believes that they are experiencing harassment and/or bullying whilst they are on placement, they should use the policies of the host organisation or employer in the first instance to attempt to find a local/informal resolution. Complainants are also encouraged to inform their Institute of any concerns so that appropriate support can be made available.
- 8.7 Where Institutes arrange placements on behalf of students, they are encouraged to keep records relating to disclosures of bullying and harassment to identify if there are any recurring issues that need to be addressed with placement providers.
- 8.8 If a complainant withdraws from placement on the grounds of a case of harassment, they may still be required to meet any work-based course requirements. The University will do everything it can to support students in making alternative arrangements for this, but cannot guarantee that alternative placement opportunities will always be available. It is therefore suggested that any student wishing to withdraw from a placement speaks to their placement coordinator, programme manager or personal tutor as soon as possible.

- 8.9 Victimising or ostracising a person for having made a complaint, or supporting someone to make a complaint of harassment and/or bullying will not be tolerated

## 9 Reasonable adjustments and mitigating circumstances

- 9.1 Reasonable adjustments will be made as appropriate in relation to the process and communicating the outcome for all parties who have a declared disability or other health issues. Where students have not already formally declared a disability to the University prior to the alleged incident, they are advised to make such a declaration as soon as possible during the formal processes so that it is possible to make reasonable adjustments as appropriate.
- 9.2 The Student Services Department will make the decision in relation to the exact nature of any reasonable adjustments needed, in consultation with the student / complainant and ensuring external advice is taken as appropriate. The process may be suspended until reasonable adjustments have been put in place.
- 9.3 A student's disability may be a mitigating factor in relation to the alleged offence or incident.
- 9.4 For the inclusion of third party representatives in relation to communication about a case, see the Third Party Involvement Policy.
- 9.5 Students will have the opportunity to present any mitigating circumstances or factors that they believe should be taken into account in relation to the alleged offence. Normally, such circumstances and factors will be presented as part of the investigative process. Mitigating factors might include:
- The offence is a minor example of a serious offence;
  - It is a first offence;
  - The student admits to the offence at the earliest opportunity;
  - The student has expressed remorse;
  - The student has compelling personal circumstances that affected their judgement.
- 9.6 Mitigating circumstances are not normally relevant to deciding whether a student is guilty of an offence, but they are normally taken into account when deciding on an outcome if the student is found to have committed the offence.

## 10 Support

- 10.1 The welfare of students and staff is paramount to the University. Any allegation of misconduct is likely to have an adverse impact on all parties involved (whether the incident is dealt with through a non-academic misconduct process or criminal process).
- 10.2 The University will ensure that all parties involved in such incidents have access to support, information, advice, and assistance throughout the process, from the time of first disclosure or first reporting of the incident until the time when the relevant criminal and/or non-academic misconduct process has been concluded. Where appropriate the University will refer to external support services to provide further specialised support. Support can take a range of forms, depending on what is needed and appropriate in each individual case. The non-academic misconduct process may be suspended until access to appropriate support has been arranged.

- 10.3 All parties involved with the incident will be treated fairly and no presumptions will be made about any of the parties involved until the relevant criminal and/or non-academic misconduct process has been concluded.
- 10.4 Support for the student and complainant will not be provided by the same member of staff.
- 10.5 All parties and witnesses involved with the case will be able to access such support through the Student Services Department of the University throughout the non-academic misconduct process. Students and student witnesses may also approach the Students' Union for support. Staff will be able to access support through the HR Department.
- 10.6 Students may decide that they would like a third party representative or a supporting person.
- 10.7 The policy and procedure relating to third party representation, support and enquiries can be found in the Third Party Involvement Policy.
- 10.8 Where a student is acquitted of a criminal offence and no action is taken against the student, ongoing action may need to be taken outside of the non-academic misconduct process to ensure the welfare and wellbeing of all parties.

## 11 Immediate exclusion from an element of a module

- 11.1 In circumstances where, for reasons such as, for example, poor attendance, health and safety, danger to self or others, verbal, physical or other abusiveness, inappropriate behaviour etc., tutor(s) shall exercise their professional judgement with regard to whether a student should be excluded from an immediate element of a module (such as a lecture or a seminar). Students who are excluded from an immediate element of a module, will normally be permitted to submit work for assessment in the normal way.
- 11.2 The Programme Managers and Institutes, as appropriate, shall be informed in writing of this action at the earliest opportunity and full details of any incidents shall be reported to the Academic Office.
- 11.3 Based on the written report submitted by the tutor and any further relevant evidence regarding the student, the Institute will liaise with the Academic Office to determine whether it is appropriate to invoke the Non-Academic Misconduct, Support for Study, or Fitness to Practise Policy.
- 11.4 In the event that a student is dissatisfied with a decision to exclude the student from an immediate element of a module, the student may submit a complaint following the University's Complaint Policy.

## 12 Processes for minor alleged offences and breaches of conduct

- 12.1 For minor, straightforward alleged offences or breaches of conduct, normally a local (e.g. Institute or Professional Services-led approach) is followed. This may involve a meeting with a named member of staff from such a unit.
- 12.2 There are members of staff that are able to deal with minor, straightforward alleged offences or breaches of conduct at a local level. This includes members of staff in roles such as Provosts, Deans of Institute, Assistant Deans of Institute and Directors of Academic Disciplines in the Institutes. This includes Accommodation Officers, Service

Site Operatives, Community Liaison Officers within the Professional Service Departments.

- 12.3 If an Institute or Professional Service Department wants to add to the roles listed above to enable additional staff members to deal with minor, straightforward alleged offences or breaches of conduct at a local level, they should inform the Academic Office.
- 12.4 Outcomes that may be imposed are listed in section 19.
- 12.5 Any outcomes that are imposed for minor offences and breaches of conduct need to be logged centrally with the Academic Office.
- 12.6 Although students can be excluded from an immediate element of a module following a breach of conduct, students are not able to be excluded for a further fixed term period or permanently from (part of) their studies or from any University services or facilities because of a single minor non-academic misconduct. See also section 11 & 17.
- 12.7 Institutes and Professional Service Departments normally complete the process for minor alleged offences and breaches of conduct within fourteen days.
- 12.8 Students are able to request a review of the outcome of minor offences or breaches of conduct. See section 23.
- 12.9 Where the named staff in Institutes or Professional Services are not sure whether an alleged offence or breach of conduct is minor or major, advice can be sought from the Academic Office.
- 12.10 Where the alleged offence or breach of conduct is major or where there are multiple, repeated or continued minor breaches of conduct or where earlier remedial action has not been successful, it is expected that matters will be proceeded to a formal stage, following formal student non-academic misconduct processes for major alleged offences as outlined in this policy. Where criminal processes have been instigated, formal procedures will always be used. For repeated or continued breaches of conduct see also 6.3 & 19.5.

## 13 Criminal processes

- 13.1 In the event of external criminal processes being commenced in relation to the alleged misconduct, the procedures outlined in this policy may need to be adapted. Any adaptations will normally be discussed with all parties.
- 13.2 An Institute or Professional Service is required to inform the Academic Office as soon as they become aware that criminal processes have been commenced in relation to one of their students.
- 13.3 Any criminal process will normally take priority over the University's internal non-academic misconduct process. Care will be taken that there should be no duplication of process and no other process should normally operate at the same time. Save for any precautionary action (see section 17), the internal process will normally be suspended until the criminal process is at an end. For example, the University may take action under its non-academic misconduct procedure at the same time as a criminal process if the case is based on facts and matters which are different to those being dealt with under the criminal process.
- 13.4 At all key stages (for example, at the start of external criminal proceedings being instigated, if the matter is not dealt with under the criminal process or where the criminal

proceedings have concluded), the University will consider whether it should instigate action.

- 13.5 If the student has been convicted of a criminal offence, then this outcome will be taken into consideration by the University in relation to the outcome(s), if any, to be applied by the University.
- 13.6 If the student has been acquitted of a criminal offence, the University can still take action against the student if there is sufficient evidence that a breach of conduct under the University's non-academic misconduct procedures occurred.
- 13.7 The University will assist complainants to understand the various options available to them and will provide support in assisting them in making a decision about the way forward. The aim is to ensure that the complainant will understand the process related to each option, understands the difference between criminal investigations/proceedings and University investigations/proceedings, and will thus be able to make an informed decision as to whether to initiate criminal proceedings.
- 13.8 The complainant has the option of requesting that the University deal with the matter under its own processes (i.e. as a potential breach of conduct) if they decide not to make a report to the police or if the police decides not to investigate or if the prosecutor decides not to prosecute.
- 13.9 Only in specific circumstances,<sup>5</sup> and mindful of its obligations under relevant data protection legislation, will the University report an incident to the police contrary to the wishes of those affected. Such action will be explained to those affected so that they understand what is happening and are prepared if/when the police contacts them.

## 14 Procedures: general principles

- 14.1 All allegations of major misconduct will be handled by an appropriately independent member of the University (= Case Officer).
- 14.2 References in this policy to steps or actions by specific University post holders shall be read as including reference to their nominees. In addition, in order to avoid delays or potential conflicts of responsibilities, other staff members may undertake tasks allocated to specific post holders.
- 14.3 Procedures for minor and major offences are outlined in this policy and describe the University's internal processes of dealing with allegations of non-academic misconduct. Whilst seeking to ensure consistency of approach and application, the University reserves the right to vary the precise details of the procedure applied to the circumstances of a particular case, for example to address any actual and/or perceived imbalances between the complainant and the student.
- 14.4 The University will wherever possible seek to adhere to the time limits outlined within these procedures, but in cases where there are special circumstances which require variance from specified time limits, the student will be advised of the reasons for this. The complainant and witnesses will also be advised about any delays to the process as appropriate.

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<sup>5</sup> E.g. see the University's Prevent procedures or where the safety of students and staff may be at risk.

- 14.5 The University reserves the right to take no further action at various stages of the procedures if appropriate (e.g. if there is insufficient evidence to support an allegation of misconduct).
- 14.6 If during the application of this policy it becomes apparent that there are issues impacting a cohort or group of students beyond the immediate allegations, the University reserves the right to request that a range of students (including those not involved in any allegations) agree to a behavioural contract to ensure that all parties are able to return to study together. The University does not view the contracts imposed on other parties as penalties, but as an extension of the University's Student Code of Conduct.
- 14.7 During the application of this policy the University reserves the right to adjourn any investigation or hearing and reconvene at a later date.
- 14.8 If during the application of this policy, the student ceases to be a student of the University, the University may adjourn any investigation or hearing. It reserves the right to reconvene if the student wishes to return to the University.
- 14.9 The student will be informed in writing as soon as appropriate and possible after the event giving rise to the allegation or receipt of the complaint about the incident. Supporting evidence will be given as appropriate to explain the allegation to the student. See also 6.14.
- 14.10 It is expected that students, their representatives and staff will act reasonably and fairly towards each other and will treat the process with respect.
- 14.11 Where, for example as a result of the investigative process, the allegation is amended or new allegations are made, the student is informed about these and will be given the opportunity to respond.
- 14.12 Where possible and practical, the student will be given the opportunity to attend any meetings or hearings related to the non-academic misconduct proceedings or any appeal in person. However, the University reserves the right to proceed with any investigative meeting, non-academic misconduct hearing or meeting in the absence of the student, subject to the student having been properly notified of the date and time of the hearing or in cases where, for example, criminal proceedings do not allow the student to attend in person.
- 14.13 Where appropriate, all parties will be offered the opportunity to attend meetings electronically if attendance in person is not possible.
- 14.14 For major alleged offences of conduct, the student will be invited to any meeting or hearing, normally at least two clear working days before the meeting. However, there may be circumstances where an urgent risk assessment or investigation is required and in this case a verbal invitation with less than two days' notice will be given. For minor alleged offences or breaches of conduct, normally notice of one clear working day will be given.
- 14.15 Failure to attend a meeting without due notification from the student of their inability to attend such a meeting without good reason may lead to action. Where the student decides to leave any meeting associated with the process the University reserves the right to continue with such a meeting.

- 14.16 Where the student has communicated in response to a meeting notification that they are not able to attend a meeting for a good reason, the University will normally rearrange the date of such a meeting.
- 14.17 The student will have the right to be accompanied by a supporting person of their choosing at any investigative meeting or hearing. The supporting person must be appointed and abide by the procedure set out in the Third Party Involvement Policy.
- 14.18 The student will be advised of the identity of the Case Officer and, if held, of the members of a Formal Panel.
- 14.19 Where possible, practical and appropriate, the complainant will be given the opportunity to attend the meeting of the Formal Panel (see Appendix SC15). The complainant will have the right to be accompanied by a person of their choosing at any investigative meeting, hearing or a meeting of the Formal Panel and is required to inform the University in writing in advance of any meeting or hearing whether they intend to be accompanied. Legal representation is only allowed in exceptional circumstances. Such a request for legal representation needs to be made in writing to the Academic Office. The accompanying person shall not normally contribute to the discussions.
- 14.20 The panel will be able to ask questions from the student and complainant as part of the processes outlined in appendix SC15. The student and complainant cannot cross-examine each other and can only ask questions, including questions of the witnesses through the panel's chair.
- 14.21 Meetings will not normally be recorded and the University does not allow for any meetings to be recorded covertly. Notes or minutes will be provided for each meeting held. All relevant parties will be asked to sign for any statements. Where there is a disagreement that cannot be solved, two versions may be submitted to the Formal Panel or as part of a review.
- 14.22 Where a Formal Panel cannot reach an agreement, the University will appoint an appropriately qualified person to review the case and make a decision about the outcome of the case. This decision will be final.
- 14.23 The rights and interests of both the student and any complainant(s) of the alleged misconduct will be balanced fairly and equally.
- 14.24 The complainant will be kept informed of the progress of their complaint as appropriate.
- 14.25 All relevant parties will be supplied with a copy of this policy and procedures.
- 14.26 The University will ensure that all written records related to the case are clear, accurate, and appropriate and will be stored in accordance with relevant data protection legislation.

## 15 Reporting a Major alleged Offence or Breach of Conduct

- 15.1 A report on the alleged offence shall be sent to the Academic Office on the University's Non-Academic Misconduct Allegation Form.
- 15.2 The University may also initiate an investigation when it is informed of an alleged major offence or breach of conduct through other means.

- 15.3 In the case of a group allegation against an individual, a Group Consent Form must be submitted with the form.
- 15.4 The University would not normally consider anonymous allegations. However, the University reserves the right to take action as a result of an anonymous allegation as appropriate. The University will also take into account anonymous allegations in its monitoring and reporting.
- 15.5 Where a complaint is made against another student or a member of staff, they are usually entitled to know who has made the complaint and the details of the complaint that has been made.
- 15.6 In exceptional circumstances and for justifiable reasons related to confidentiality, the University may consider keeping the identity of the complainant anonymous.
- 15.7 Where a student believes that they have sufficient justification to remain anonymous, they should submit their reasons in writing to the Academic Office for consideration. The Academic Office will inform them of the outcome of the request to remain anonymous within 7 days.
- 15.8 Allegations should be received no more than 1 month after the informal procedure has ended (where appropriate) and normally no more than 6 months after the main issues occurred.
- 15.9 The University will not normally consider any offence where the main issues raised about took place more than 3 years before the allegations have been received.

## 16 Processes involving more than one student

- 16.1 In cases of a group complaint, normally a spokesperson/representative will be appointed.
- 16.2 In cases of a joint or group allegation, care will be taken to ensure that all students will be able to have an equal opportunity to hear and respond to the allegations made against them. They will also be able to hear and respond to what others have said and to evidence that others have provided.
- 16.3 Where possible and practicable, joint or group allegations will be heard at a single panel meeting with all students in attendance. All students will be given the opportunity, normally as part of the investigative processes, to raise privately confidential or sensitive matters relating to mitigation.
- 16.4 Where it is not possible or practical to hold a single panel meeting for joint or group allegations, normally the same panel will consider the case against all students involved to ensure that there is a consistent approach.
- 16.5 Decisions cannot be reached by default in the case of joint or group allegations.
- 16.6 An outcome decision will be taken for each student individually, taking into account their particular circumstances and mitigating factors. However, there will be broad consistency in the penalty given to all students who commit the same offence in similar circumstances.

## 17 Precautionary action for major alleged offences or breaches of conduct

- 17.1 The University does not consider the precautionary action as disciplinary judgement.
- 17.2 Where there is uncertainty whether an alleged offence should be classified as minor or major and in case of all (alleged) major offences or breaches of conduct, a formal risk assessment shall take place at an early stage in the proceedings to assess whether there is a risk to any member(s) of the University community or a risk to the student, using the risk assessment form. This risk assessment will include consideration of support arrangements that need to be put in place for all parties involved.
- 17.3 Particularly swift precautionary action will need to be taken in some cases, including:
- Cases involving a threat or serious harm to the student and/or others;
  - Cases where the student's mental health is at risk or where the student displays significant distress;
  - Issues of a highly sensitive nature;
  - Where there is a potential risk to the reputation or operation of the University if it does not take immediate action;
  - Cases involving an ongoing threat of serious disruption to other students or to the University's activities.
- 17.4 Risk assessments are normally undertaken by the Case Officer but may also be undertaken by an appropriate Senior Officer of the University, particularly in relation to cases with urgent, high-level risks as outlined in 17.3.
- 17.5 The initial risk assessment process will normally be completed within seven days. Additional time may be needed to consider and approve a set of reasonable adjustments and support arrangements, particularly where external evidence is required. Additional time may also be needed where criminal proceedings have commenced.
- 17.6 Precautionary measures will be reviewed at regular intervals and reconsidered as the case develops and at key stages within the overall process.
- 17.7 The student and complainant will, where possible and appropriate, be consulted as part of the risk assessment to represent their views in relation to their part of the assessment.
- 17.8 If risk levels are high, precautionary measures may be imposed. Precautionary measures may be put in place if they are necessary:
- to ensure that a full and proper investigation can be carried out (either by the police or a University Case Officer) and/or
  - to protect the complainant or others whilst the allegation is being dealt with as part of a criminal process or non-academic misconduct process.
- 17.9 Precautionary action must be reasonable and proportionate and may include the imposing of certain conditions, a suspension from studies, or exclusion from any or all University grounds and/or facilities pending the outcome of criminal/non-academic misconduct proceedings. This includes University activities away from campus, such as fieldtrips, placements, or exchanges. The suspension and/or exclusion may be qualified or partial where appropriate and will be for a fixed term in the first instance.

- 17.10 Precautionary measures (including the extension of these measures) involving a total suspension of studies and/or total exclusion from facilities must be approved by a Deputy Vice-Chancellor.
- 17.11 A precautionary suspension, exclusion or set of conditions should not be regarded as a penalty and does not indicate that the student has committed a breach of conduct or a criminal offence.
- 17.12 When precautionary measures are put in place the student will be informed of these in writing and the reasons for the set of measures will be explained. A meeting may be convened to explain precautionary measures. In the case of urgent risks, the student may be informed verbally in the first instance.
- 17.13 The student may appeal against the precautionary measures imposed<sup>6</sup> by submitting a written request stating the reason for the appeal to the Academic Office within seven days of the date issued on the notice of the precautionary measures. The student will be notified of the final decision of their appeal within fourteen days of the receipt of the letter requesting an appeal.
- 17.14 Whilst the precautionary measures are in place, the student may request a review of the suspension, exclusion or set of conditions if there is a relevant change to their circumstances. This request should be made in writing to the Academic Office, who will normally respond within fourteen days of the receipt of the letter.
- 17.15 If the student fails to comply with any of the precautionary measures, the precautionary measures will be reviewed which may result in more serious precautionary measures being imposed.
- 17.16 The complainant will be informed as appropriate of the precautionary measures taken.
- 17.17 Where precautionary action is taken the University reserves the right to inform relevant service providers or relevant partners of the action which may result in the lack of access to certain services.

## 18 Procedures for the investigation of major alleged offences or breaches of conduct

- 18.1 Care will be taken to ensure that the Case Officer appointed is impartial. The Case Officer is normally a member of University staff, but could, in exceptional circumstances, be external to the University.
- 18.2 If there are any concerns in relation to the Case Officer, parties are asked to express those concerns in writing to the Academic Office who will consider any such concerns.
- 18.3 The purpose of the investigation is to gather all information necessary to establish the facts in relation to the allegation of misconduct, to recommend whether or not the case needs to be referred to a Formal Panel, and to help to make an informed and reasoned decision.

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<sup>6</sup> Where action has had to be taken in order to mitigate against urgent risks or there are conditions imposed by the police or other outside agencies (e.g. UKVI), it may not be possible to appeal against the full set of precautionary measures.

- 18.4 To this end, the Case Officer will seek to collate and evaluate evidence to verify the allegations, interview relevant parties and witnesses, question discrepancies, and make findings of fact on the balance of probabilities.
- 18.5 All parties will be informed of the scope and remit of the investigation.
- 18.6 As part of an investigation, normally all parties are interviewed separately. All parties will be informed how their evidence will be used and shared so that they understand the process and can give informed consent.
- 18.7 Any witnesses are normally also met as part of the investigation. To aid the investigation, all involved parties will be asked to indicate if there are any relevant witnesses that need to be consulted. See also 22.3
- 18.8 Witnesses will be asked to sign their witness statement and will be asked to give written consent for their evidence to be used and identity disclosed at a disciplinary panel.
- 18.9 As part of an investigation, the Case Officer will normally consult with the student to explain the alleged misconduct and allow the student the opportunity to respond to the allegation, and provide the Case Officer with any evidence that they wish to be taken into account.
- 18.10 The entire investigation process is normally concluded within 40 days.
- 18.11 Once the investigation has been completed, the Case Officer will submit their investigative findings to the Academic Office and make a recommendation as to whether or not the case is complex and needs to proceed to a Formal Panel.
- 18.12 Where the Case Officer is not clear whether the alleged major offence should be classified as a complex or non-complex case, the Case Officer will refer the case to the Academic Office, providing details of the alleged incident and its investigation, in order for a final decision regarding classification to be made.

## 19 Outcomes

- 19.1 The following provides a list of possible outcomes that may be imposed at each stage of the process:
- 19.1.1 Category A: Minor Offences<sup>7</sup>
- A formal written warning;
  - A requirement to sign a behavioural contract;
  - A suspended fine of not less than £25 but not exceeding £500
    - the University will advise the student in writing of the circumstances in which the fine would become payable;
  - A fine of not less than £25 but not exceeding £500 per offence;
  - Restitution of damage;
  - A requirement to make a written apology to any party concerned;
  - A requirement to remove material published in hard copy or electronically which is deemed to be inappropriate;
  - A requirement to attend a workshop or course within a specified time period at the student's expense

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<sup>7</sup> Institutes are not able to impose fines; fines can only be imposed for minor offences by relevant Professional Services.

- The student will be advised of any fees that they will need to pay to attend the session/seminar which will not normally be in excess of £40;
- A requirement to engage with an appropriate support service;
- Mediation;
- A requirement to undertake appropriate service within the community (not more than 20 hours).

Where relevant, the University will stipulate the timescale by which the student has to comply with the sanction applied.

#### 19.1.2 Category B: Major or Repeated Minor Offences (non-complex)

- A formal written warning
- A requirement to sign a behavioural contract;
- A requirement to make a written apology to any party concerned;
- Mediation;
- A requirement to remove material published in hard copy or electronically which is deemed to be inappropriate;
- A suspended fine of not less than £50 but not exceeding £500 (the University will advise the student in writing of the circumstances in which the fine would become payable);
- A fine of not less than £50 but not exceeding £500 per offence;
- A requirement to attend a workshop or course within a specified time period at the student's expense
  - The student's progression with their programme may be conditional upon its completion and this may result in a delay to the student's progression or graduation;
- A requirement to engage with an appropriate support service;
- A requirement to financially compensate or provide restitution for any damage to or loss of property;
- A restriction against contact with any concerned party, where the concerned party is a member of the University;
- A restriction excluding the student from representing the University in a paid or unpaid capacity for a specified period of time
  - This could include employment by the University on a casual basis, holding positions in University sports clubs or societies, representing the University in events or voluntary roles such as a Student Representative;
- A requirement to undertake unpaid services for the University, Students' Union or community to a maximum of 28 hours;
- Exclusion from any part / premises of the University and/or from facilities / services provided by the University for a specified period of time;
- A requirement to partially or fully suspend studies for a specific period of time;
- Expulsion (i.e. withdrawal) from the University with or without the right to re-apply on to any further programme of study at UWTSD or any partner University.
  - In such circumstances, the outcomes shall specify whether the student should be considered eligible for an exit award by the next appropriate examination board).
  - DVC Approval is required
- Imposition of such other sanction as is considered appropriate to the offence.

Where relevant, the University will stipulate the timescale by which the student has to comply with the sanction applied.

### 19.1.3 Category C: Major or Repeated Minor Offences (complex)

- Any of the penalties in Categories A and B
- A requirement to attend a workshop or course within a specified time period at the student's expense
  - The student's progression with their programme may be conditional upon its completion and this may result in a delay to the student's progression or graduation;
- A requirement to engage with an appropriate support service;
- Mediation;
- Restorative action such as completion of a reflective statement or project
  - The student's progression with their programme may be conditional upon its completion and this may result in a delay to the student's progression or graduation;
- Imposition of a fine;
- A requirement to undertake unpaid services for the University, Students' Union or community to a maximum of 50 hours;
- Exclusion from any part / premises of the University and/or from facilities / services provided by the University for a specified period of time;
- A requirement to partially or fully suspend studies for a specific period of time;
- A delay to graduation;
- Expulsion (i.e. withdrawal) from the University with or without the right to re-apply on to any further programme of study at UWTSD or any partner University.
  - In such circumstances the Formal Panel shall consider whether the student should be considered eligible for an exit award by the next appropriate examination board).
  - DVC Approval is required
- Imposition of such other sanction as is considered appropriate to the offence.

Where relevant, the University will stipulate the timescale by which the student has to comply with the sanction applied.

19.2 Appendix D provides an indication of the outcomes which may be imposed on students in relation to particular breaches. Any outcomes will be reasonable and proportionate to the misconduct that is found to have occurred.

19.3 A decision about an outcome will take into account as appropriate a student's particular circumstances (e.g. mitigating circumstances and declared disabilities) as well as unintended impacts (e.g. in relation to a declared disability or an international student's visa status). See also section 9.

19.4 Where a student admits to an offence, they will be made fully aware of the consequences of agreeing to a penalty. For example, they will be told whether the offence will be recorded on their student records and whether the offence will be taken into account in future non-academic misconduct or fitness to practise procedures.

19.5 Multiple or repeated incidents of misconduct may be more serious than a single act of misconduct. A student's previous record will not normally be relevant in relation to whether they have committed an offence. However, it is likely to be relevant to decisions about the outcome

19.6 In imposing any outcomes the University will determine:

- a. whether the alleged facts and matters occurred on the balance of probabilities;

- b. whether those facts and matters amount to a breach of conduct and, if so, the level of seriousness of the breach of conduct;
  - c. what outcome (if any) should be imposed.
- 19.7 The decision to terminate the student's studies at the University permanently will need to be approved by a Deputy Vice-Chancellor, with notification given to the Chair and Clerk of Council.
- 19.8 Outcomes will be communicated as appropriate to relevant staff only. Examining Boards will be informed so that non-academic misconduct decisions will be noted and applied.

## 20 Reconsideration of the same offence

- 20.1 The University may reconsider an allegation if new evidence emerges which, for good reason, could not have been obtained by the University at the time.
- 20.2 In deciding whether it is appropriate to consider an allegation for the second time, the University will consider:
- Whether the outcome of the first process has been called into question, and if so why;
  - The length of time that has elapsed and the effect on this on the reliability of any evidence to be considered;
  - The severity of the alleged offence;
  - The impact on the student of undergoing a second non-academic misconduct procedure;
  - Whether leaving the matter unaddressed would impact on matters of fitness to practise or on any obligations the University has to professional or regulatory bodies in respect of a particular student's character.

## 21 Procedures for non-complex major alleged offences or breaches of conduct

- 21.1 If the Case Officer's recommendation that the case is non-complex is confirmed by the Student Case Review Group, it will make a decision in relation to the outcome.
- 21.2 The Student Case Review Group will explain the rationale for the procedure followed after the completion of the investigation, classification as the alleged offence as non-complex, and confirm the outcome to the student in writing, normally within seven days of the completion of the investigation.
- 21.3 A meeting may be convened with the student as appropriate to discuss and explain the outcomes.

## 22 Procedures for complex major alleged offences or breaches of conduct

- 22.1 If the recommendation from the Case Officer that the alleged major offence is complex is confirmed by the Student Case Review Group, the case will proceed to a Formal Panel.
- 22.2 The rationale for the procedure followed after the completion of the investigation, the classification of the alleged offence as complex, and the decision to proceed to a

Formal Panel will be communicated to the student in writing, normally within seven days of the completion of the investigation.

- 22.3 The date of the meeting of the panel, membership, names of any witnesses, and format of the Formal Panel will be communicated to the student in advance of the proceedings by the Academic Office, normally not less than fourteen days in advance of the meeting.
- 22.4 Any documentation for the meeting of the panel will be circulated to the members of the Formal Panel, the student and the Case Officer, normally not less than seven days in advance of the meeting.
- 22.5 Following the meeting the student will be formally notified of the outcome in writing within seven days of the meeting of the Formal Panel, confirming the imposition of any outcome.
- 22.6 Complainants will be informed when the formal stage has been completed and of the outcome of their complaint as appropriate.

## 23 Review of Outcome

- 23.1 If the student is dissatisfied with the outcome of the formal stage, they may be able to request a review.
- 23.2 A request for a review may only be made on one or more of the following grounds:
  - 23.2.1 irregularities in the conduct of the procedure, which are of such a nature as to cause reasonable doubt whether the same decision would have been reached had they not occurred;
  - 23.2.2 the existence of new material evidence which the student was unable, for compelling reasons, to provide earlier in the process;
  - 23.2.3 that evidence is available to show that the outcome reached at an earlier stage was unreasonable. In this context, unreasonable shall be taken to mean that the outcome was not a possible conclusion which a similar hearing or process of consideration might have reached.
- 23.3 If a complainant or witness is dissatisfied with the outcome of the formal stage, they may be able to request a review.
- 23.4 Any requests for review from a complainant or witness must be made on one or more of the following grounds:
  - 23.4.1 irregularities in the conduct of the procedure, which are of such a nature as to cause reasonable doubt whether the same decision would have been reached had they not occurred;
  - 23.4.2 the existence of new material evidence which the complainant or witness was unable, for compelling reasons, to provide earlier in the process.
- 23.5 A complainant or witness cannot submit a request for review solely on the grounds that they disagree with the outcome of the case.
- 23.6 A request for review of the outcome must be received on the required form not later than 14 days after the notification of the outcome.

- 23.7 Simple notice of a desire to request a review by the student within the above deadline shall not be deemed to constitute a formal request for review and shall not be accepted.
- 23.8 A request for review received after the above deadline will be deemed to be out of time and will not be considered unless there is independent evidence to show compelling reasons as to why the request for review was not submitted in a timely manner.
- 23.9 Where a request for review is deemed out of time, the University will issue a Completion of Procedures Letter on request, noting the reason why the request for review was not considered and advising the student that they may be able to take their outcome to the Office of the Independent Adjudicator (OIA) for Higher Education.
- 23.10 If no request for review is received within 14 days, the University will assume that the student does not wish to request a review. Where the student subsequently requests a Completion of Procedures Letter, the University will issue a Completion of Procedures Letter, noting that the student did not engage with the request for review procedures in a timely manner and advising the student that they may be able to take their outcome to the Office of the Independent Adjudicator (OIA) for Higher Education.
- 23.11 A suitable senior officer shall review the request to ascertain if the request has been made on permissible grounds and if a clear case has been made. They may refuse any request which is not based on the grounds stated above or in which it is apparent that no clear case to review the outcome has been made. The student shall be informed by means of a Completion of Procedures Letter that the request for review has been rejected and that the original outcome stands. The student will be advised that they may be able to take their outcome to the Office of the Independent Adjudicator (OIA) for Higher Education.
- 23.12 If it is determined that the request has been made on permissible grounds and that a clear case for reviewing the outcome has been made, the senior officer shall consider the request.
- 23.13 In reaching a decision, the senior officer shall base their decision on the evidence of the student's submission together with any further evidence which they consider relevant. This review stage will not usually consider the issues afresh or involve a further investigation. No meeting will be held as part of the review process. A Formal Panel can only be held if the matter has been referred back to the formal stage for reconsideration
- 23.14 The senior officer shall be empowered to take one of the following decisions:
- 23.14.1 to uphold the outcome;
  - 23.14.2 to refer the matter (back) to a Formal Panel;
  - 23.14.3 to offer a modified outcome.
- 23.15 The decision of the senior officer shall be final, and the matter shall, therefore, be regarded as closed. There shall be no further discussion of the decision of the senior officer with the student or any other person. There shall be no right to request a further review of the outcome.
- 23.16 The decision of the senior officer shall be communicated to the student, normally within 28 days of receipt of the request for review by a revised outcome letter. If the review of outcome is rejected, the student will be advised, by means of a Completion of

Procedures letter, that they may be able to take their outcome to the Office of the Independent Adjudicator (OIA) for Higher Education.

- 23.17 If on receipt of the revised Outcome Letter, if the student is dissatisfied with the outcome, the student may request a Completion of Procedures Letter be issued which will advise the student that they may be able to take their outcome to the Office of the Independent Adjudicator (OIA) for Higher Education.

## 24 Completion of Procedures and Independent Review

- 24.1 Complaints to the Office of the Independent Adjudicator (OIA) for Higher Education must be made within 12 months of the effective date of the Completion of Procedures Letter. The effective date of a Completion of Procedures Letter will normally be the date on which it is issued. Where a request for review is deemed out of time or where a Completion of Procedures Letter is requested more than 30 days after the notification of the final decision, the effective date of any Completion of Procedures Letter will normally be the date upon which the final decision was made. Full details of the procedure will be available from the OIA website: [www.oiahe.org.uk](http://www.oiahe.org.uk).

## 25 Confidentiality parameters

- 25.1 The University will be mindful of its obligations under relevant data protection regulations and the Equality Act 2010 in relation to any information shared about the (alleged) misconduct.
- 25.2 All parties will be reminded of the confidentiality associated with the procedures outlined above. Information associated with the case will be disclosed to as few people as possible.
- 25.3 Witnesses will not normally be able to give evidence confidentially. Where witnesses indicate that they would like to give their information confidentially, normally their evidence will not be relied on.

## 26 Standard timelines

- 22.1 Throughout the policy standard timelines are mentioned for key stages of the process. The University will wherever possible seek to adhere to the time limits outlined within these procedures, but in cases where there are special circumstances which require variance from specified time limits, the student and any other relevant parties will be advised of the reasons for this. Processes may need to be suspended (e.g. 7.1).

Key stage	Standard timeline
Notification of receipt of a formal complaint	Within 7 days
Completion of minor alleged offences and breaches of conduct procedures	Within 14 days from the start of the procedures
Invitation to meetings associated with minor alleged offences and breaches of conduct	Notice provided not less than 1 clear working day
Invitation to meetings associated with major alleged offences and breaches of conduct	Notice provided not less than 2 days

Key stage	Standard timeline
Completion of the initial risk assessment process	Within 7 days of the start of the risk assessment process
Submission of appeal against precautionary measures	Within 7 days of the date issued of the notice of the precautionary measures
Completion of investigative process	Within 40 clear working days
Notification of the outcomes of non-complex major alleged offences and breaches of conduct	Within 7 days of the receipt of the investigative findings
Proceed to panel notice for major alleged offences and breaches of conduct	Within 7 days of the receipt of the investigative findings
Information about the format of the panel, membership, date and venue	Notice provided not less than 14 days in advance of the meeting
Circulation of any documentation associated with the meeting of the panel	Notice provided not less than 7 days in advance of the meeting
Notification in writing of the outcome of a Disciplinary Panel meeting	Within 7 days
Completion of the formal process	Within 80 days of the allegation made against the student (this time frame would normally exclude the time taken by any criminal investigation or prosecution)
Review of outcome	Within 14 days of the date of the notification of the outcome
Notification of the receipt of the review request	Within 7 days
Notification of the outcome of a review	Within 28 days of the appeal being received

## 27 Monitoring

- 27.1 A non-academic disciplinary cases overview report will be submitted annually to Senate by the Associate Pro Vice-Chancellor (Academic Experience). This report will also monitor the effectiveness of the policy.

## 28 Resource implications

Implication	Detail
Finance	<i>Training for all University members of staff involved in disciplinary procedures (e.g. Case Officers, Chairs of Formal Panels, staff</i>

	<i>providing support to any party involved in an incident, senior members of staff, minute takers)</i>
Staff	<i>No additional resource anticipated.</i>
Assets	<i>There are no identified asset costs.</i>
Partners	<i>Consideration will be given to the application of this policy across the dual-sector group.</i>
Timescales	<i>Once approved the policy will be implemented immediately. The policy will be regularly monitored to ensure ongoing compliance with relevant legislation.</i>
Leadership	<i>APVC (Academic Experience)</i>

## 29 Impact Assessment

Implication	Impact considered (Yes/No)	Impact Identified
Legal		<p><i>The policy identifies action taken if the offence is also subject to criminal proceedings / legal action. The policy conforms with:</i></p> <ul style="list-style-type: none"> <li>• <i>Contract and consumer law</i></li> <li>• <i>Negligence (duty of care)</i></li> <li>• <i>The Human Rights Act 1998</i></li> <li>• <i>The Equality Act 2010</i></li> <li>• <i>Health and Safety at Work Act 1974</i></li> <li>• <i>Natural Justice (fairness)</i></li> <li>• <i>Data Protection Act 2018 (and GDPR)</i></li> </ul>
Contribution to the Strategic Plan		<i>The policy aligns with the values expressed in the Strategic Plan.</i>
Risk analysis		<p><i>Policy compliance will mitigate the risk of non-academic misconduct.</i></p> <p><i>It will also mitigate against court claims, complaints to the OIA, and complaints to the ICO.</i></p>
Equality		<i>The policy will ensure adherence to provisions of the Equality Act.</i>
Welsh language		<i>The policy aligns with principles expressed by the Welsh Language Act.</i>
Environmental and sustainability		<i>None identified.</i>
Communication / Media / Marketing		<i>The policy will be made available to staff and students via Hwb.</i>

Policy author: Dr Mirjam Plantinga, APVC (Academic Experience)

Document version control

Version No.	Reason for change	Author	Date of Change
0.1	Draft policy	MP	26.10.16
0.2	Feedback following APC	MP	10.11.16
0.3	Feedback following Senate	MP	23.11.16

0.4	Annual review of policy	MP	08.10.17
0.5	Annual review of policy	MP	06.11.18
1.0	Annual review of policy	KE	25.08.20
1.1	Annual review of policy	CP	15.09.21

## **Appendix A – Examples of behaviours that may amount to bullying, harassment and victimisation**

The following examples of unwanted conduct that amount to bullying, harassment and victimisation are intended to be illustrative but are not exhaustive. The University reserves the right to consider reported incidents as bullying, harassment and victimisation even when they are not included below.

Unwanted conduct that amounts to harassment covers a very wide range of behaviours, including but not limited to:

- Insults, name-calling and offensive language and gestures
- Inappropriate jokes
- Ridiculing and undermining behaviour
- Inappropriate or unnecessary physical contact
- Physical assault or threats of physical assault
- Intimidating, coercive or threatening actions and behaviour
- Unwelcome sexual advances
- Isolation, non-cooperation or deliberate exclusion
- Inappropriate comments about a person's appearance, intrusive questions or comments about a person's private life and malicious gossip
- Offensive images and literature
- Pestering, spying or stalking

Unwanted conduct that amounts to bullying covers a wide range of behaviours, including but not limited to:

- Ridiculing a person
- Shouting or screaming at a person
- Unwarranted or invalid criticism and criticism which lacks the necessary constructive support to help the recipient improve their performance
- Persistently 'singling out' a person without good reason
- Deliberately excluding, isolating or ignoring an individual
- Making threats or comments about academic success or failure
- Unnecessarily public criticism.

Unwanted conduct that amounts to victimisation may include but is not limited to:

- labelling an individual a 'troublemaker' and/or refusing to advance them academically or professionally,
- refusal to provide a reference once the working or learning relationship has ended, or
- treat them in any way less favourably as a result of their actions

## **Appendix B - Harassment as a result of protected characteristics as defined by the Equality Act 2010**

The following examples of harassment related to protected characteristics are intended to be illustrative but not exhaustive. The University reserves the right to consider reported incidents as harassment even when they are not included below.

### **Racial Harassment**

Racial harassment is unwanted conduct that occurs on the grounds of a person's race, including their ethnic or national origins, colour or nationality.

Examples of racial harassment may include:

- racist jokes and language,
- the expression and perpetuation of racist views and stereotypes,
- the display of racist materials,
- deliberately excluding or refusing to cooperate with someone on the grounds of their race
- incitement of hatred and/or prejudice towards individuals of particular racial groups
- display of offensive graffiti or insignia
- encouraging or coercing others to commit racial harassment

### **Harassment on the grounds of sex**

The Equality Act defines sex as referring to a male or female of any age. Harassment on the grounds of sex describes unwanted conduct that is directed at a person because they are male or female. Harassment on the grounds of sex is different to sexual harassment.

Examples of harassment on the grounds of sex may include:

- deliberately excluding or refusing to cooperate with someone on the grounds of their sex,
- the expression and perpetuation of sexist views and stereotypes
- sexist jokes and language

### **Sexual Harassment**

The Equality Act 2010 defines sexual harassment as occurring when a person engages in unwanted conduct which is of a sexual nature.

Examples of sexual harassment may include:

- Physical contact, ranging from invasion of personal space, inappropriate touching or physical assault
- Intrusive questions and remarks about a person's private life
- Inappropriate remarks about a person's appearance or dress
- Sexually explicit language, jokes, verbal and physical innuendo
- Using demeaning, gender-specific terminology
- Display or circulation of sexually explicit materials

- Coercive demands for sexual favours, (such as promotion or academic success depending on the response to the demand)
- Intrusion by pestering, spying or stalking
- Persistent, unwanted advances
- Treating a person less favourable because they have submitted to, or rejected, unwanted conduct of a sexual nature

### **Harassment on the grounds of disability**

Harassment on the grounds of disability is unwanted conduct directed at a person on the grounds of their physical or mental disability. Harassment may relate to the disability itself or the person's real or presumed abilities.

The Equality Act defines disability as:

*a physical or mental impairment which has a long term and substantial adverse effect on a person's ability to carry out normal day-to-day activities. Physical or mental impairment includes sensory impairments such as those affecting sight or hearing. Long term means that it has lasted or is likely to last for at least 12 months or for the rest of the disabled person's life. Substantial means more than minor or trivial.*

Examples of harassment on the grounds of disability may include:

- individuals being ignored, disparaged or ridiculed because of their disability,
- inappropriate personal remarks,
- unnecessarily intrusive and inappropriate questions about a person's condition
- excessive and unnecessary references to a person's disability
- deliberately excluding someone from events or meetings on the grounds of their disability
- refusal to work or study alongside someone with a disability

### **Harassment on the grounds of sexual orientation**

Harassment on the grounds of sexual orientation is unwanted conduct resulting from a person's perceived or actual sexual orientation

Examples of harassment on the grounds of sexual orientation may include:

- actual or threatened unwanted disclosure of sexuality,
- gossip or speculation in relation to a person's sexuality
- derogatory or homophobic comments, jokes and language
- excluding same-sex partners from events
- intrusive questioning about a person's private life
- refusal to work or study alongside someone on the grounds of their actual or perceived sexual orientation

### **Harassment on the grounds of gender reassignment**

Harassment on the grounds of gender reassignment is unwanted conduct directed at a person who intends to undergo, is undergoing or has undergone a gender reassignment process

The Equality Act defines gender reassignment as:

*People who are proposing to undergo, are undergoing or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex.*

Examples of harassment on the grounds of gender reassignment may include:

- Excluding a person;
- Jokes and name-calling;
- Refusing to acknowledge someone's acquired gender and persistently using the wrong pronoun
- Persistently calling someone by their birth name without consent after they have changed their name as part of their transition - "deadnaming"<sup>8</sup>
- Actual or threatened unwanted disclosure of the person's previous gender

### **Harassment on the grounds of religion or belief**

Harassment on the grounds of religion or belief is unwanted conduct directed at a person on the grounds of their religion or a comparable belief system.

The Equality Act defines religion and belief in the following ways:

**'Religion'** means any religion and includes a lack of religion.

**'Belief'** means any religious or philosophical belief and includes a lack of belief. For a philosophical belief to be protected under the Equality Act:

- it must be genuinely held
- it must be a belief and not an opinion or viewpoint based on the present state of information available
- it must be a belief as to a weighty and substantial aspect of human life and behaviour
- it must attain a certain level of cogency, seriousness, cohesion and importance, and
- it must be worthy of respect in a democratic society, not incompatible with human dignity and not in conflict with the fundamental rights of others.

Examples of harassment on the grounds of religion or belief may include:

- Insulting or ridiculing a person's religion or belief (including items worn for religious reasons);
- Denigration of customs associated with a person's religion or belief
- Expressing and perpetuating stereotyped perceptions and assumptions about a religion or belief and its followers; and
- Coercive pressure to convert or conform to a religion or belief system.

Harassment may also occur because a person is presumed to be of a particular religion or belief, even if this is not the case, or on the grounds of a person's non-adherence to a religion or belief system.

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<sup>8</sup> <https://www.stonewall.org.uk/help-advice/faqs-and-glossary/glossary-terms#d>

## **Harassment on the grounds of age**

Harassment on the grounds of age is unwanted conduct related to a person's actual or perceived age.

Examples of harassment on the grounds of age may include:

- Jokes, name-calling and comments relating to a person's actual or perceived age
- Inappropriate references to age
- comments about a person's presumed abilities based on their actual or perceived age.

## Appendix C: Illustrative Behaviours and Penalties

Non-academic misconduct offences are classified as either major or minor. It is not specified below which examples of unacceptable behaviour are major or minor and indeed the same unacceptable behaviour could be either major or minor depending on the seriousness of the offence. The indication of sanctions which may be applied to a particular offence is illustrative only.

Multiple or repeated incidents of misconduct may be more serious than a single act of misconduct and previous findings may be taken into account when determining what sanction should be imposed.

### Offences in Respect to Others

Offence	Examples of Unacceptable Behaviour	Examples of Penalties
<b>Physical Misconduct</b>	Punching; Kicking; Slapping; Pulling hair; Biting; Assault	Expulsion; Suspension/Exclusion; Restrictions/Conditions; Behavioural contract; Fine
<b>Physical Misconduct</b>	Pushing; Shoving	Formal Warning Compulsory attendance at a workshop/coaching session; Written Apology; Behavioural contract; Restorative justice Fine
<b>Sexual Misconduct</b>	Sexual intercourse or engaging in a sexual act without consent; Attempting to engage in sexual intercourse or engaging in a sexual act without consent; Sharing private sexual materials of another person without consent; Physical sexual harassment; inappropriate invasion of personal space and/or inappropriate physical behaviour; Repeatedly following another person without good reason; Making unwanted remarks or advances of a sexual nature; Display of offensive materials; Inappropriate texting, emailing, posting of sexual materials on-line including but not limited to using derogatory sexual terms to describe someone; Asking for sexual favours and/or making decisions based on sexual advances being accepted or rejected	Expulsion; Suspension/Exclusion Restrictions/Conditions; Formal Warning Compulsory attendance at a workshop/coaching session Written Apology; Behavioural contract
<b>Abusive Behaviour</b>	Shouting, threatening, abusing, intimidating or demeaning someone; Abusive / insulting comments relating to an individual's	Expulsion; Suspension/Exclusion; Restrictions/Conditions; Behavioural contract;

	sex, sexual orientation, religion or belief, race, pregnancy/maternity, marriage/civil partnership, gender reassignment, disability or age; Acting in an intimidating and hostile manner physically or by any means of communication; Threatening violence through any means of communication; Ridiculing or destructively criticising; Ostracising or marginalising; Humiliating and undermining a person; Spreading malicious rumours or allegations via any means of communication; Spreading misinformation through any means of communication; Misuse of power	Formal Warning; Restorative justice
<b>Abusive Behaviour</b>	Use of inappropriate language; Repeatedly contacting another person (by phone, email, text or on social networking sites) against the wishes of the other person	Formal Warning; Compulsory attendance at a workshop/coaching session; Written Apology; Restorative justice
<b>Causing a Health or Safety Concern</b>	Act/omission that did cause or could have caused serious harm to the health and safety of others (for example, disregard for requirements for social distancing, organising large gatherings against University/Government advice)	Formal Warning; Fine; Written Apology; Expulsion; Suspension/Exclusion; Restrictions/Conditions;

### Offences in relation to property

Offence	Examples of Unacceptable Behaviour	Examples of Penalties
<b>Damage to Property</b>	Causing damage to University property or the property of students or employees of the University or visitors to the University	Expulsion; Suspension/Exclusion; Restrictions/Conditions; Requirement to make good the damage caused at their expense; Fine; Restorative justice; community/university service
<b>Damage to Property</b>	Causing minor damage to University property or the property of students or employees of the University or visitors to the University	Formal Warning; Compulsory attendance at a workshop/coaching session; Written Apology; Fine; Restorative justice; community/university service
<b>Unauthorised Taking or Use of Property</b>	Unauthorised entry onto or unauthorised use of	Expulsion; Suspension/Exclusion;

	University premises; Misappropriate any University property, funds, or assets; Fraud; Theft; Taking property belonging to another without permission	Restrictions/Conditions; Restorative justice; community/university service
<b>Unauthorised Taking or Use of Property</b>	Misuse of University property (for example computers and laboratory equipment)	Formal Warning; Compulsory attendance at a workshop/coaching session; Written Apology; Fine; Behavioural Contract; Restorative justice; community/university service
<b>Causing A Health or Safety Concern</b>	Act/omission that did cause or could have caused serious harm on University premises or during University activities (for example, disabling fire extinguishers, or possessing/supplying controlled drugs)	Expulsion; Suspension/Exclusion; Restrictions/Conditions; Restitution of damage; Restorative justice; community/university service
<b>Causing A Health or Safety Concern</b>	Act/omission that did cause or could have caused a health and safety concern on University premises (for example, violating covid-19 advice and guidance, disabling smoke detectors)	Formal Warning; Compulsory attendance at a workshop/coaching session; Written Apology; Fine; Restorative justice; community/university service <b>(Note: Potential penalties related to Covid-19 breaches of conduct are set out in Appendix SC14)</b>

### Offences in relation to the University

Offence	Examples of Unacceptable Behaviour	Examples of Penalties
Operational Obstruction	Acts/omissions/statements intended to deceive the University; Disruption of the activities of the University (including academic, administrative, sporting and social) on University premises or elsewhere; Disruption of the functions, duties or activities of any student or employee of the University or any authorised visitor to the University	Expulsion Suspension/Exclusion Restrictions/Conditions Behavioural Contract

Operational Obstruction	Improper interference with the activities of the University (including academic, administrative, sporting and social) on University premises or elsewhere; Improper interference with the functions, duties or activities of any student or employee of the University or any authorised visitor to the University	Formal Warning Compulsory attendance at a workshop/coaching session Written Apology Behavioural Contract
Reputational Damage	Behaviour which has caused serious damage or could have caused serious damage to the reputation of the University or the University's relationship with the local community	Expulsion; Suspension/Exclusion; Restrictions/Conditions; community/university service
Reputational Damage	Behaviour which has damaged or could have damaged the reputation of the University or the University's relationship with the local community	Formal Warning; Compulsory attendance at a workshop/coaching session; Written Apology; Restrictions/Conditions; community/university service