



# STUDENT DISCIPLINARY PROCEDURE

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## 1. Introduction

We expect all students to follow the University's Student Charter and behave in a professional and respectful manner whether on campus, educational visits, or any other off-campus location. A high level of personal responsibility is expected of each and every student in order for them to grow and develop whilst studying at the University.

## 2. Scope and Purpose

2.1 This procedure applies to all students enrolled on courses at Leeds Arts University. The procedure applies equally to when students are on University premises or outside the University. All action taken, either informal or formal should aim to resolve issues and/or aid improvement and to ensure consistent and fair treatment.

2.2 The following principles shall apply in the application of this procedure:

- a) The standard of proof to be applied shall be the balance of probabilities (i.e. more likely than not);
- b) The procedure aims to address misconduct by students rather than to resolve disputes between individuals;
- c) The University shall not act on allegations of misconduct which it considers to be vexatious, spurious or malicious;
- d) A student who is alleged to have committed an act of misconduct shall have the right to be informed of and to respond to the allegations;
- e) Sanctions imposed under this procedure shall be reasonable, proportionate and consistent;
- f) It is expected that students, their supporters and staff will act reasonably and fairly towards each other and will treat the Disciplinary Procedure with respect;
- g) The person bringing the allegation only has the right to know about the outcome of a case in line with the terms of data protection law and appreciating the rights of any other party;
- h) All parties should be aware that disciplinary matters are to remain strictly confidential, and cases should not be discussed with any person outside of the process.

2.3 The Disciplinary Procedure relates to matters of non-academic misconduct for Higher and Further Education Students. Matters of academic misconduct will be dealt with through the Academic Misconduct Procedure for Higher Education students or the awarding body regulations for Further Education students. Where appropriate the University reserves the right to refer matters to other procedures if evidence suggests this should be the case.

2.4 The following are examples of non-academic misconduct although this is not intended to form an exhaustive list:

### 2.4.1 Misconduct

- (a) Disruption of academic, social, sporting or other activities;
- (b) Failure to comply with reasonable and legitimate instructions;
- (c) Disruption of the functions, duties or activities of any other student, or employee of the University or visitor to the University;

- (d) Minor verbal abuse;
- (e) Any conduct which brings the University into disrepute;
- (f) Misuse of the University's computer systems, including hardware, software, email, intranet and internet;
- (g) Conduct detrimentally affected due to alcohol, drug, or substance misuse;
- (h) Any harassment and/or sexual misconduct of any student or employee of the University or visitor to the University including on social media;
- (i) Failure to comply with the University's Student Charter by not acting in an appropriate manner to students, staff and visitors to the University;
- (j) Theft, misappropriation, damage or misuse of University Property, or the property of University students, employees or visitors caused intentionally or recklessly;
- (k) Misuse or unauthorised use of University premises;
- (l) Action likely to cause injury or impair safety to others;
- (m) Breach of any University policy, regulation, procedure or code of practice;
- (n) Failure to respect the rights of others to freedom of belief and freedom of speech;
- (o) Misappropriation of funds or assets of the University's Students Union;
- (p) Fraud, deceit, deception or dishonesty, either verbal written or by other means, in relation to the University or the University's employees, students or visitors.

#### 2.4.2 Gross misconduct

Gross misconduct may be sufficiently serious to warrant termination of registration, even in the absence of any prior disciplinary warnings, and which is sufficiently serious to destroy the University's trust and confidence in the student's relationship with the University.

The following list provides some examples of offences which are usually regarded as gross misconduct although this is not intended to form an exhaustive list:

- a) Repeated instances of behaviour constituting of misconduct;
- b) Unauthorised possession of goods belonging to the University, its students, staff or visitors;
- c) Fraud;
- d) Deliberate falsification of records;
- e) Violent, dangerous or intimidatory conduct;
- f) Serious disorderly conduct or insubordination;
- g) Deliberate refusal to follow reasonable instructions or to comply with University rules;
- h) Breach of the University's Student Prevention of Harassment and Sexual Misconduct policy;
- i) Deliberate unlawful and/or serious discrimination;
- j) Gross and deliberate misuse of University property or name;
- k) Serious misuse of IT resources such as deliberately accessing web sites containing offensive or pornographic images, obscene or indecent material or hate speech sites. The only exception to this is where access to such sites has been approved following a proposal to the Ethics and Integrity Committee. Access in these circumstances must be confined to only those sites agreed;
- l) Conduct bringing the University into serious disrepute, including both on and off-site incidents, and including through the improper use of social media;

- m) Conduct seriously and detrimentally affected due to alcohol, drug, or substance misuse;
- n) Deliberate and serious damage to University property;
- o) Causing loss, damage or injury through gross negligence;
- p) A serious breach of health and safety regulations;
- q) A serious breach of any of the University's regulations and procedures;
- r) Incitement of others to engage in unlawful activity.

### 3. Informal Action

- 3.1 Staff should first seek to resolve minor issues informally and expediently whenever possible. Informal action may include a caution or informal verbal warning, which will not form part of a formal disciplinary record but should be recorded on the student's file and for students under 18 a copy should be sent to the student's parents/guardian. If formal action might be considered as the next step then this should be made clear to the student.
- 3.2 Staff should make and retain notes of any issue raised and discussed informally, including any agreed outcomes and support, securely and confidentially in accordance with data protection legislation.
- 3.3 Prior to commencing formal action, the member of staff should liaise with the Student's Course Leader to ensure all appropriate and reasonable informal resolution has been considered; and make the student aware that formal action is now being considered. The Academic Registrar should normally be consulted prior to commencing any formal steps under this procedure.

### 4. Investigation

- 4.1 No formal disciplinary hearing will be arranged until the matter has been investigated. Investigations shall be undertaken in an open and transparent manner by an appropriately skilled, and trained, independent investigator. The chosen investigator will depend upon the nature of the allegations and in certain circumstances could be a member of the University's HR department. In all but exceptional circumstances a student should be made aware that an investigation will be undertaken, and should be provided with a brief summary of the reasons for this and the practical measures involved.
- 4.2 Investigations should be completed as quickly as is practicable and without unreasonable delay in order to decide whether there is a case to answer. The University aims to complete investigations and any corresponding formal hearing within 60 days of the allegation being made. Delays may occur where the case is complex or due to unexpected events. In those cases, the University will keep the student and any witnesses informed about the progress of the investigation, and when it is likely to conclude.
- 4.3 The investigation process will depend on the nature of the alleged misconduct, the initial evidence against the student, and whether they have admitted to the misconduct. In cases where the facts are very clear and not in dispute, the investigation will be very short.
- 4.4 If following investigation, the Investigating Officer finds there is a case to answer, they can recommend a formal disciplinary hearing is held. In certain minor disciplinary cases, where

the student admits the allegation, informal action may be recommended without the need for a disciplinary hearing. Investigators will give evidence at a disciplinary hearing.

- 4.5 In some circumstances, the student may need to be suspended from University whilst matters are investigated. Suspension is a neutral act and not a disciplinary sanction. A decision to suspend can only be made by a Director of Higher Education or the FE Director, after consultation with the Academic Registrar, or a member of Senior Management Team. The period of suspension will be for as short a period as possible, with regular reviews. Suspension will only be applied in very exceptional circumstances.

## **5. Notification of Formal Proceedings**

- 5.1 Where there is found to be a formal case to answer, the student will be invited, in writing, to attend a Disciplinary Hearing. The notice will usually be provided no later than 7 calendar days in advance of the hearing. The student will be advised in the letter of the seriousness of the alleged misconduct, and possible outcomes. The student will be provided with all the evidence that will be referred to during proceedings. This may include written documents and witness statements (or notification that witnesses will be called), depending upon the details of the case. The exact material to be provided shall vary according to the details of the case but will include a written report from the investigation. All evidence will also be provided in advance to the Disciplinary Panel. If the student is under 18 a copy will also be sent to the parent/carer.
- 5.2 Where the student wishes to rely upon any evidence, they should provide this in advance of the Disciplinary Hearing, with a minimum of 3 calendar days, wherever possible. This may include written documents and witness statements. The student will have a reasonable opportunity to call relevant witnesses and should notify the person calling the hearing if they intend to do so and provide details of the witnesses. The purpose of calling a witness would normally be to contribute to establishing the facts of the case.
- 5.3 Where further time is required by the Panel to consider the evidence, there will be the ability to seek a rescheduling of hearing date within a reasonable time where appropriate.
- 5.4 If upon receipt of all the available evidence the student accepts the allegation(s) and does not plan to contest the findings, they will be asked to inform the person calling the Disciplinary Hearing.
- 5.5 During formal proceedings the student can be accompanied by a supporter who may accompany them in front of the Panel. Students may not be represented by an external organisation. The student will be notified of this right within the letter inviting them to the formal proceedings. Before the hearing takes place, the student should inform the person calling the hearing (no later than 24 hours before the hearing) if they will be accompanied and by whom.

## **6. The Disciplinary Hearing**

- 6.1 The hearing panel will normally be held in person and will include:
- A senior University staff member (Chair)
  - A member of Academic Registry

- A member of HR (depending on the case being heard)
- A notetaker

Panel members will receive appropriate training before they can sit on a panel. The Chair will vary depending upon the seriousness of the alleged misconduct of the student involved.

- 6.2 At the hearing the Investigating Officer will be invited to present the findings of their investigation to the Panel.
- 6.3 The student will be invited to either accept or deny the allegation(s). If the student does not accept the allegation(s) the hearing shall proceed as though they denied the allegation(s). The student will then be given the opportunity to state their case, including if there are any special circumstances to be considered.
- 6.4 During the proceedings the student, Investigating Officer, and panel members will have the opportunity to challenge the evidence provided and question any witnesses. The Panel will hear the case and then decide whether it is upheld and what the appropriate action should be.
- 6.5 The student will be informed of the outcome in writing within 7 calendar days after the hearing. Where the usual timeframe is not practicable, this will be communicated to the student, with reasons and an alternative timeframe.
- 6.6 Outcomes will be either:
- the allegations are not upheld;
  - a verbal warning;
  - a written warning;
  - a final written warning;
  - other sanction short of termination of registration;
  - termination of registration.
- 6.7 Any formal action will reflect the seriousness of the misconduct and there is no requirement for a lesser sanction to already be in place for a higher sanction to be exercised.

## **7. Verbal Warning**

The student will receive a formal verbal warning which will remain on their record for 6 months.

## **8. Written Warning**

- 8.1 The student will receive written details of the nature of the misconduct, the change in behaviour required, and any support which will be available, the timescale for the warning, and the right and arrangements for review.
- 8.2 The warning will also inform the student that further action will be considered if further misconduct occurs.
- 8.3 A copy of the warning will be kept on the student's record but will be disregarded for disciplinary purposes after a specified period subject to achieving and sustaining satisfactory

conduct. The warning period will ordinarily be for 12 months but this will be decided at the discretion of the Disciplinary Hearing Panel.

## **9. Final Written Warning**

- 9.1 If the misconduct is sufficiently serious, or if there is further misconduct during an existing warning period, a final warning may be issued.
- 9.2 The student will receive written details of the nature of the misconduct, the change in behaviour required, any support which will be available, and the timescale for the warning. It will also warn that further related misconduct may lead to termination of registration (or some other action short of this) and will refer to the right of review.
- 9.3 A copy of the warning will be kept on the student's record but will be disregarded for disciplinary purposes after a specified period subject to achieving and sustaining satisfactory conduct or performance. This period will ordinarily be for 12 months unless exceptionally decided by the Chair of the Disciplinary Hearing.

## **10. Other Sanction Short of Termination of Registration**

- 10.1 Other action short of termination may be considered, including for example (although this is not intended to form an exhaustive list):
  - To require the student to attend appropriate workshop(s) or meetings with identified agencies (e.g., drug/alcohol related);
  - To require the student to sign a behavioural contract as to their future conduct;
  - To require the student to pay for any damage to property they may have caused;
  - To suspend the student for a defined period and/or on specified terms.
- 10.2 If some action short of termination of registration is deemed appropriate the student will receive written details, including any support which will be available. The letter will warn the student that further misconduct may lead to termination of registration and it will refer to the right of review.
- 10.3 In the case of action short of termination of registration a copy of the written details will be kept on the student's record but will be disregarded for disciplinary purposes after a specified period subject to achieving and sustaining satisfactory conduct. This period will ordinarily be for 12 months unless exceptionally agreed by the Panel.

## **11. Termination of Registration**

- 11.1 In reaching a decision to terminate the registration of a student, prior careful consideration of other options will be given. If, on balance, other sanctions are deemed inappropriate due to the seriousness of the case, the student will be provided in writing with reasons for termination, the date on which this will take effect, and the right of review and arrangements.
- 11.2 The authority to terminate the registration of a student rests with the Vice-Chancellor, who has also delegated authority to the Pro-Vice-Chancellors. Hearings which take place where the student already has a Final Written Warning on file or where misconduct so serious has



taken place that termination of registration could be considered as an outcome despite no prior warnings having been given, will be chaired by either a Pro-Vice-Chancellor or the Vice-Chancellor supported by a member of Academic Registry and depending on the circumstances, a member of the HR team.

## 12. Review

- 12.1 A student's written outcome letter will include details of the arrangements to follow should the student decide to request a review of the decision.
- 12.2 Students intending to request a review against the decision of a disciplinary hearing, must do so promptly, within 12 calendar days of the registered letter/email containing the written notice of the formal action to be taken being sent.
- 12.3 The request for a review should be communicated in writing to the Quality & Standards Office, stating the grounds upon which the request for a review is based. Grounds might be:
  - the process was not appropriately followed;
  - there is new evidence relevant to the case which was not previously available;
  - the hearing outcome is deemed to be disproportionate.
- 12.4 The University will, as far as reasonably practical, seek to arrange a meeting to review the decision within 28 calendar days of receipt of the submitted request. The notice will usually be provided no later than 7 calendar days in advance.
- 12.5 The review is not a rehearing of the original hearing, but rather a consideration of the specific area with which the student is dissatisfied in relation to the outcome of the original hearing. The review panel will therefore confine discussion to those specific areas rather than reconsider the whole matter afresh.
- 12.6 Where the review is against a written or final written warning, it will be heard by a panel consisting of a Director of HE/FE Director or the Head of a Support Service, supported by a member of Academic Registry and in certain circumstances a member of the HR team.
- 12.7 Where the review is against termination of registration, it will be heard by a panel chaired by a member of Senior Management Team (a PVC or the VC), supported by a member of Academic Registry and, if necessary, a member of the HR team.
- 12.8 Witnesses may only be called with the agreement of the Review Chair which shall usually only be given where there was good reason for the witnesses not being called to give this evidence at the disciplinary hearing. If the student requests a witness to be called, they should name the individual and explain the reasons for the request in the grounds for review.
- 12.9 At the review meeting the documentary evidence made available at the original hearing will be made available for reference purposes. As the purpose of the review is not a reconsideration of all matters but to review the original decision based on the grounds of appeal, it is the responsibility of the student to state their case and bring to the attention of the Panel all relevant documentary evidence that should be considered. Based on the review case presented and the associated evidence, the Review Panel may either uphold the grounds for review or reject the grounds for review.

- 12.10 Where appropriate the student will have the opportunity to comment on any new evidence arising during the review. All new evidence will have been disclosed in advance, usually within 7 calendar days of the meeting.
- 12.11 The student will be informed in writing of the review outcome, usually within 7 calendar days of the meeting. If the timescales are to be longer, this will be communicated.
- 12.12 There is no further process of review within Leeds Arts University.
- 12.13 For HE students only, a Completion of Procedures letter will be issued. This letter concludes the University's formal review procedure and provides the student with formal confirmation that they have completed all available stages of the internal procedure. It is issued at the end of the relevant stage of the procedure.
- 12.14 HE Students who are not satisfied with the outcome of the review procedure may take their complaint to the Office of Independent Adjudicator for Higher Education (OIA) provided that the complaint is eligible under its Rules. Should a student decide to make a complaint to the OIA, the OIA Complaint Form must be received by the OIA within 12 months of the date of the Completion of Procedures letter. Guidance on submitting a complaint to the OIA and the OIA Complaint Form can be found on the OIA's website <http://www.oiahe.org.uk/making-a-complaint-to-the-oia.aspx>. Students may also wish to seek advice from the Students' Union about taking a complaint to the OIA. The OIA will normally only review issues that have been dealt with through the University's internal procedures.

### 13. Other Provisions

- 13.1 During formal proceedings the student can be accompanied by a supporter who may accompany them in front of the Panel. This may be someone from the Student Union. A 'supporter' cannot be a member of staff because this may put them in a position of conflict of interest and their relationship with the student may be compromised. The role of the supporter is not to be an expert witness. Students may not be represented by an external organisation. The student will be notified of these rights within the letter inviting them to the formal proceedings. Before the hearing takes place, the student should inform the person calling the hearing if they will be accompanied and by whom.
- 13.2 The role of the supporter is to act as an observer, give moral support and to assist the student to make their case (although they may speak with the permission of the Chair). In addition, where reasonable adjustments are required, a student may be accompanied by another support individual to provide these adjustments, e.g. a sign language interpreter or a note taker.
- 13.3 A parent, guardian or carer will be informed of any formal disciplinary proceedings where a student is under 18, and will also be copied into any warning letters and related documentation. Where a student is under 18 at the start of the proceedings and turns 18 during them, written consent will be sought from the student to continue informing their parent, guardian or carer of the proceedings. Where written consent is not given by the student, the University will not be able to continue to inform parents, guardians or carers of the proceedings.

- 13.4 Every effort should be made by all participants to attend hearings/meetings as arranged. Where a student fails to attend on one occasion the University may decide to rearrange the meeting. If the student does not attend, a decision may be made in their absence on the evidence available at the second scheduled meeting.
- 13.5 Students who are accused of misconduct or have made allegations of misconduct against another individual may seek advice and support from the Student Welfare team, the Students' Union or the Chaplaincy team. The Student Welfare team will signpost students to external agencies as relevant and students may also access a list of external organisations through the Portal, who may offer support. The role of the Student Welfare Team in this context is to provide pastoral support and they cannot support a student at a hearing.
- 13.6 Where a student seeks to activate a formal procedure, e.g. submits a complaint within another procedure, during a disciplinary process which is related to the case, the Disciplinary Panel may deem it appropriate to deal with the issues as part of, or concurrently with this procedure. Alternatively, the Chair may deem it appropriate to temporarily suspend the disciplinary proceedings pending the outcome of the other procedural process in order to safeguard the fairness of the process.
- 13.7 Where a student believes that they have needs which may impact on their ability to participate as appropriate in the procedure, it is the student's responsibility to raise this with the person calling the hearing as soon as possible. In such cases the University will consider providing appropriate reasonable support/adjustments during formal proceedings. The Panel shall be advised of any reasonable adjustments to be made.
- 13.8 Records of disciplinary action will be kept confidential and retained in accordance with data protection.
- 13.9 Time limits are indicated in calendar days and are included in the procedures in order to ensure that matters are dealt with promptly and without undue delay. Neither the University nor students should unreasonably delay meetings, decisions or confirmation of those decisions. However, Academic Registry may in some circumstances decide that it may be appropriate to extend time limits provided in the procedure.
- 13.10 Where witness statements are to be relied on as evidence by either party, they should be signed. In exceptional circumstances to protect vulnerable witnesses, signed copies may be retained in Academic Registry and verified by the Investigating Officer but anonymised copies may be used for the purposes of the hearing.
- 13.11 Students whose registration at University has been terminated and whose review (if any) has been rejected will not be able to enrol again at the University until at least 2 academic years has elapsed since their termination. Students wishing to return in these circumstances must apply to the Academic Registrar, please refer to the Admissions Policy for further information.

## 14. Special Provisions Relating to Criminal Proceedings or Involvement of the Police

### 14.1 Misconduct that is also a criminal offence

14.1.1 Behaviour that may amount to a criminal offence is usually best dealt with by the police, Crown Prosecution Service, and the criminal courts in the first instance. The following provisions will apply where the allegation of misconduct, if proved, would also constitute an offence under criminal law.

14.1.2 If the offence is reported to the police, the University will normally defer taking action, except for taking any necessary precautionary measures, until the police and courts have dealt with the matter or a decision not to prosecute has been taken.

14.1.3 If the police or courts are involved, the University will normally await the outcome of those proceedings before conducting an internal investigation. The University reserves the right to take some form of temporary action against the accused student, in order to protect other students and staff members, e.g. a student may be suspended while a police investigation is conducted.

14.1.4 In exceptional circumstances, the University has the right to report any alleged criminal offence to the police. However, if a person claims to be the victim of an offence committed by a student but does not wish the police to be involved, the University may in its discretion agree not to report the matter to the police. If the Reporting Party does not report the incident to the police, this does not preclude the University from taking action under the Student Disciplinary Procedure, and it will not impact the investigation process.

### 14.2 Disciplinary action after sanction imposed by a criminal court

If a student is convicted of a criminal offence, then the conduct or behaviour that they have been found to have committed can be relied upon to establish a disciplinary offence. The impact and effect of the criminal offence will be taken into account in order to determine the sanction/s (if any) to be applied by the University.

### 14.3 Disciplinary action following acquittal by a criminal court

If a student is acquitted of a criminal offence then the University can still take disciplinary action against the accused student if there is sufficient evidence that unacceptable behaviour may have occurred which constitutes a breach of the University's Disciplinary Procedure. This is because in a disciplinary process, the alleged "offence" will be different, the evidence that can be taken into account may be different, the burden of proof will be different and the sanctions available will be different. The fact that the student has been acquitted of a criminal offence after a full trial is a relevant consideration and the weight attached to it will depend upon the circumstances of the case.