

Scope: Students, staff	Last updated: August 2016	Responsible Dept: Registry	Equality Analysis Undertaken: Yes
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## Code of Discipline for Students and Disciplinary Procedures

### 1 Overview

- 1.1 The University exists primarily to provide higher education, to carry out research and to provide the facilities and resources which support these enterprises; these include learning and recreational facilities and residential accommodation.
- 1.2 The procedures included here cover matters related to student discipline.
- 1.3 The Vice Chancellor is responsible for student discipline and for the suspension or expulsion of students on disciplinary grounds under delegation from the University's Governing Body. The Vice Chancellor delegates disciplinary functions and day-to-day responsibilities to the University's Disciplinary Officer who is the University Secretary. The University's Disciplinary Officer will further delegate powers of investigation and resolution of informal disciplinary matters to other members of the University. The Vice Chancellor may further delegate the review of suspension or exclusion of a student pending a disciplinary hearing.
- 1.4 This code does not attempt to replace the law. The University therefore reserves the right to refer some matters to the police (see section 4).
- 1.5 The University abides by the principles of natural justice. This means that if a disciplinary allegation is made against you, the University will ensure you are:
  - a) made fully aware of the nature of the allegation(s) made against you
  - b) given an opportunity to reply to any allegation(s)
  - c) given a fair and unbiased hearing at which all relevant circumstances are taken into account
  - d) have the right to appeal against a disciplinary finding or penalty.
- 1.6 If you are found to have falsely accused another student or staff member of a disciplinary offence, you are considered to have committed a disciplinary offence.
- 1.7 You are expected to conduct yourself with regard to your responsibilities as a member of the University community and with regard to the University's good name and reputation.

- 1.8 At enrolment, you agree to abide by all current University regulations and relevant student policies, including this Code of Discipline.
- 1.9 From time to time the University adopts new or amended policies, codes and regulations. You should make yourself familiar with these rules.

## **2 Scope of Code and Disciplinary Procedures**

- 2.1 The Code is applicable to any student registered on any University module, programme or course.
- 2.2 Complaints by students against University staff are the province of the University Complaints Procedure.
- 2.3 The University has a separate policy on Bullying and Harassment ([link](#)). In appropriate cases, the University may decide to apply its Code of Discipline to bullying and harassment cases.

## **3 Student Conduct and the Disciplinary Code**

- 3.1 The University has an expectation that students will conduct themselves at all times in an orderly manner, respecting the rights, privacy and property of others.
- 3.2 The essence of misconduct under this Code is improper interference, in the broadest sense, with the proper functioning or activities of the University, or those who work or study in the University, or action which damages the University or its reputation. The following exemplifies student misconduct, although not exhaustively:
  - a) disruption of the academic, administrative, sporting, recreational, social, or other activities of the University;
  - b) obstruction of or improper interference with the functions, duties or activities of any student, member of staff or other employee of the University, or visitor to the University;
  - c) behaviour which restricts the legitimate freedom of speech, ideas, actions or inquiry of any other student, member of staff or other employee of the University, or visitor to the University;
  - d) behaviour which is in breach of University regulations on health and safety, smoking, or eating and drinking on University premises;
  - e) Any anti-social behaviour which brings the University or any of its staff or students into disrepute;
  - f) violent, indecent, disorderly, threatening, or discriminatory behaviour or language whilst on University premises or engaged in any University activity;
  - g) publishing of any matter (including orally or in writing, sign or visible representation, including electronically) which is threatening, abusive or insulting or constitutes

harassment or makes others fear violence. This includes the misuse of social networking sites;

- h) damage to University property which includes, inter alia, University-managed property including accommodation, sports facilities, library and learning resources, Students' Union property or the property of any student, member of staff or visitor;
- i) conduct, including the possession of or use of drugs, which constitutes a criminal offence, where that conduct:
  - i) takes place on University or University-managed property;
  - ii) affects or concerns other members of the University community, individuals or groups in related University organisations or partner institutions and organisations;
  - iii) damages the good name of the University; or
  - iv) poses a danger to other members, or to the good order, of the University community;
- j) breach of the University's Equality, Diversity and Human Rights Policy or harassment or discrimination against any student, member of staff or visitor to the University on the grounds of gender, sexual orientation, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief, or age;
- k) action likely to cause injury or impair safety on University or University-managed premises or property;
- l) behaviour which is likely to cause fear, distress or harm to others;
- m) a breach of other University regulations, or failure to comply with other University policies, including financial policies, where further action under this Code is deemed to be appropriate;
- n) theft, misappropriation, misuse, fraud, deceit, deception, or dishonesty in relation to the property or working of the University or its staff, students or visitors or in connection with holding any office in the University;
- o) failure to disclose the name and other relevant details to an officer or employee of the University in circumstances when it is reasonable to require that such information be given;
- p) failure to comply with a previously imposed penalty under this Code or other University regulation, code or rule;
- q) failure to follow a reasonable instruction from a University officer.

3.3 Action taken under this Code of Discipline will take precedence over any action taken under all other University Codes and Regulations, including those of the YSJ Students' Union.

3.4 The University's jurisdiction under this Code is not limited to misconduct which occurs on its own premises. The Code covers misconduct whether occurring on University premises or elsewhere including misconduct occurring on fieldtrips, placements and school experience and in the virtual environment of social networking or other websites.

3.5 The University Disciplinary Officer shall be responsible for determining any issues of interpretation and for providing any clarification of this code.

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

4.1 Where a crime is alleged to have been committed, the matter shall normally be reported to the police. In certain circumstances, it is a legal requirement for the University to report incidents to the police. e.g. under the Acts of Parliament relating to the prevention of terrorism (see appendix) and the protection of children.

4.2 Where the victim of an alleged crime does not wish the matter to be reported to the police, but the matter has come to the University's attention:

- a) the University's Disciplinary Officer makes a decision on whether to inform the police on behalf of the University;
- b) at the discretion of the University's Disciplinary Officer, the University may report a matter to the police against the wishes of the victim; this will only occur in exceptional circumstances and after careful consideration;
- c) exceptional circumstances may arise when failure to report a matter to the police may be against the public interest or the interest of the University community. For example, when significant violence has been used in an alleged crime which may subsequently put other University members or the public at risk;
- d) Where a victim does not report an alleged serious offence to the police and the University Disciplinary Officer does not intervene to do so, the disciplinary procedures will not normally be invoked.

4.3 The University shall seek and maintain informal liaison with the police. Advice may be sought on whether a matter is considered by the police to be serious or not serious and whether there are compelling grounds for reporting a matter formally where the victim is opposed to such action.

4.4 A serious offence is one that is likely to attract an immediate custodial sentence if proved in a criminal court or one that can be tried as a criminal offence only at the Crown Court.

4.5 Where the University's Disciplinary Officer does not regard the alleged misconduct as constituting a serious offence, the internal disciplinary procedure may proceed. If the offence is referred to the police, the University's Disciplinary Officer may decide to defer action until the police and courts have dealt with the matter.

4.6 If the University's Disciplinary Officer regards the alleged misconduct as constituting a serious offence, no action under this Code other than suspension or exclusion from the

University will normally be taken until the matter has been reported to the police, and either a prosecution has been completed or a decision not to prosecute has been taken.

- 4.7 Where a finding of misconduct is made and the student has also been sentenced by a criminal court in respect of the same facts, the court's penalty shall be taken into consideration in determining the penalty under this Code.

## **5 Suspension or Exclusion Prior to Disciplinary Action**

- 5.1 If you are subject to a criminal charge or to a police investigation, or if the University believes that your behaviour is considered likely to cause injury or harm to students, staff or property, the University may suspend or exclude you in order to limit your interaction with the University community.
- 5.2 If you are suspended, it means you are prohibited from entering all University premises and from participating in all University activities. The University may make a specific exception, for example, allowing you to come on campus to take an examination. An order of suspension may include specific conditions, for example, that you are not allowed to have contact with a named person or persons.
- 5.3 If you are excluded, your right to enter University premises is restricted. You may be excluded from specific University activities. An order of exclusion may include specific conditions, for example, that you are not allowed to have contact with a named person or persons.
- 5.4 The University's Disciplinary Officer may suspend or exclude you. You will be given details of the decision in writing. The decision to suspend or exclude you will have immediate effect, but you will be told how you can challenge the decision if you believe it is unfair. The University will make all reasonable attempts to minimise the harm to your studies and to your ability to access student services
- 5.5 Suspension or exclusion prior to disciplinary action is NOT a penalty - its aim is to protect members of the University community, or the property of the University, or the property of a member or members of the University community. It also protects you from allegations about further disciplinary concerns while the matter is being investigated.
- 5.6 You can appeal a decision relating to suspension or exclusion at any time when it is in force, by emailing [casework@yorksj.ac.uk](mailto:casework@yorksj.ac.uk). The Vice Chancellor is responsible for deciding whether the suspension or exclusion should be lifted or varied or whether it should remain in force. The University aims to send you a response within 5 working days.
- 5.7 Even if you do not appeal, the University will automatically review any period of suspension/exclusion after four weeks. The review will be conducted by the Vice Chancellor or nominee. The decision may then remain in force until the outcome of any criminal proceedings or investigations, at which point a decision will be made by the University's Disciplinary Officer about any further action under this Code.

## **6 Procedure For Student Discipline - Overview**

- 6.1 Anyone with a concern about a potential breach of discipline may find it useful to first raise the matter informally with a member of staff. Formal allegations regarding misconduct should be sent to [casework@yorks.ac.uk](mailto:casework@yorks.ac.uk). An allegation shall not normally be pursued unless it is received in writing with sufficient detail provided. Anonymous allegations are unlikely to be considered; where there is compelling evidence that the disciplinary offence did take place, the University's Disciplinary Officer may decide to consider the matter.
- 6.2 Having considered the allegation(s) of misconduct the University's Disciplinary Officer will decide whether to:
- a) dismiss the allegation(s) as false, vexatious, trivial, or lacking in evidence;
  - b) refer the allegation(s) for resolution by formal process under section 8 below. This will normally be relevant where the allegation(s) of misconduct are of a more serious nature, where inappropriate conduct has been repeated, or where informal procedures do not apply or are not possible;
  - c) refer the allegation(s) to informal disciplinary procedure for resolution under section 7 below. This will normally be relevant where the allegation(s) of misconduct are of a less serious nature and where it is not considered necessary to invoke the formal processes.

The University's Disciplinary Officer's decision on how to proceed shall be final.

- 6.3 If more than one student has been accused of the same or substantially similar conduct, then the University's Disciplinary Officer decides whether the cases of all or any of the students shall be investigated and/or heard together.

## **7 Informal Disciplinary Procedure**

- 7.1 The Informal Disciplinary Procedure will normally be appropriate in relation to allegation(s) of misconduct which are of a less serious nature and in circumstances where it is considered desirable to address these, where appropriate, as close as possible to the source of the alleged offence.

For the purposes of the Informal Disciplinary Procedure, the University's Disciplinary Officer may delegate powers of investigation and resolution to:

- a) the Head (or Deputy Head) of School;
  - b) the Accommodation Manager for incidents occurring in University-managed accommodation or in student accommodation in the neighbourhood;
  - c) another appropriate individual.
- 7.2 When an allegation of minor misconduct is made, the University's Disciplinary Officer arranges for the matter to be investigated. The investigation is proportionate to the nature of the event and the evidence available. The investigation may involve interviewing witnesses

and writing a report and/or compiling the existing evidence. The University's Disciplinary Officer or nominee will consider the evidence and may:

- a) dismiss the allegation;
- b) issue a penalty appropriate to the informal procedure;
- c) refer the case for a hearing under the formal procedure by the Student Appeals and Conduct Committee

7.3 The following penalties apply under the informal procedure:

- a) verbal warning;
- b) written warning/reprimanding of the student; a copy of the warning to be retained on file for the duration of the student's period of study;
- c) restitution of any damage caused by way of payment;
- d) fines up to a maximum of £100;
- e) other such action appropriate to the circumstances.

More than one penalty may be applied.

You will be told of the outcome within one week of the Disciplinary Officer's decision.

If you think the finding or penalty is unfair or unreasonable, you may appeal to the Vice Chancellor. The Vice Chancellor will review the case and may:

- i) dismiss the case;
- ii) enforce the penalty;
- iii) refer the case for further hearing by the Student Appeals and Conduct Committee

7.4 Notes of any investigation, interview and action taken under the Informal Disciplinary Procedure, and copies of correspondence relating to informal disciplinary procedure, will be retained by the University's Disciplinary Officer.

## **8 Formal Disciplinary Procedure**

8.1 The Formal Disciplinary Procedure will normally be appropriate in relation to:

- a) repetition of minor acts of misconduct;
- b) instances in which informal action has failed or is considered inappropriate;
- c) serious allegations of misconduct;
- d) referrals on appeal from the informal procedure (see section 7.3).

8.2 The University's Disciplinary Officer will require a written statement of the allegation(s) from the complainant(s) with any supporting evidence or corroboration available. You will receive

information about the allegations made against you how long we expect the investigation to take, and the procedure we will follow in dealing with the allegation(s).

8.3 The University's Disciplinary Officer will arrange for an investigation into the allegation(s) of misconduct to take place and a report to be written. This report will be shared with you. On the basis of this report, the University's Disciplinary may:

- a) dismiss the case;
- b) apply a penalty appropriate to the informal procedure
- c) refer the case for a full hearing by the Student Appeals and Conduct Committee

## **9 Hearing of the Student Appeals and Conduct Committee**

9.1 If the decision is made to call you to a hearing, you will be told in writing of the case against you and provided with details of all evidence being used in support of the case, at least one week before the hearing. You will be invited to provide any written material which you may wish to be considered by the Student Appeals and Conduct Committee.

9.2 You have the right to be accompanied at the hearing by a supporter. You need to tell us who this supporter is, at least three days before the hearing, by email to [casework@yorksj.ac.uk](mailto:casework@yorksj.ac.uk)

9.3 You can also call a witness. You need to tell us who this witness is, at least three days before the hearing, by email to [casework@yorksj.ac.uk](mailto:casework@yorksj.ac.uk)

9.4 At least two members of the Student Appeals and Conduct Committee will be present at the hearing; no Committee members involved in making the decision will have previously been involved with the case or will be from your School. One member of the Committee will be appointed as chair of the panel.

9.5 The Students' Union President or nominee is normally invited to sit on the Committee. If you do not wish the SU President to sit on the Committee, you can object by emailing [casework@yorksj.ac.uk](mailto:casework@yorksj.ac.uk) at least three days before the hearing.

9.6 You are required to attend the hearing. If you do not do so, the Committee may still make a finding and agree on a penalty in your absence.

9.7 A formal record of the hearing will be kept by the Committee and will be shared with you.

9.8 At the hearing, you will be invited to respond to the allegations made against you. You may be asked questions by the Committee members. You have the opportunity to make any points you believe relevant to the decision of the Committee.

9.9 At the conclusion of the hearing, the Committee will reach a decision based on the available evidence and, will uphold the case or dismiss the allegation. If the Committee agrees that a disciplinary offence was committed, a penalty will be imposed as identified from the list below. You will receive the decision in writing within one week of the hearing.

9.10 Penalties available to the Student Appeals and Conduct Committee are:

- a) verbal warning;

- b) written warning/reprimanding the student; a copy of the warning to lie on file for the duration of the student's period of study;
- c) restitution of any damage caused by way of payment;
- d) suspension where this is defined as a temporary prohibition on attendance;
- e) enforced suspension from study;
- f) exclusion from specified University facilities or activities;
- g) fines up to a maximum of £250;
- h) expulsion;
- h) other such actions as may be appropriate to the case.

More than one penalty may be applied.

9.11 You have the right of appeal against the decision of the Student Appeals and Conduct Committee if you believe:

- a) the decision of the Committee was unreasonable in the light of the evidence supplied;
- b) the procedure for the hearing was deficient in a way which materially prejudiced your case
- c) that further evidence has become available since the hearing which would materially affect the decision.

Appeals against decisions of the Committee will be heard by the Vice Chancellor.

## **10 Appeal to the Vice Chancellor**

10.1 To appeal against the decision of the Student Appeals and Conduct Committee, you must do so within ten working days from the date on the hearing outcome letter. You must email [casework@yorksj.ac.uk](mailto:casework@yorksj.ac.uk) to explain why you are appealing.

10.2 The Vice Chancellor will normally review the case based on the existing case documentation, unless new evidence has become available and there is a good reason why it was not available previously.

10.3 The Vice Chancellor may:

- a) uphold the Committee decision
- b) set aside the penalty and/or substitute an alternative penalty
- c) refer the matter back for further consideration by the Student Appeals and Conduct Committee.

10.4 You will receive the outcome, in writing, normally within one week of the Vice Chancellor's decision.

## **11 Report to Governing Board**

Any decision of the Student Appeals and Conduct Committee or the Vice-Chancellor which results in suspension, a requirement for a student to suspend studies or expulsion shall be reported at the next meeting of the Governing Body.

## **12 Completion of Procedures Letter / Further Action**

If your appeal is rejected, you will be sent a 'Completion of Procedures Letter'. If you remain dissatisfied, you now have the opportunity to apply for a review by the Office of the Independent Adjudicator for Higher Education (OIA). The OIA is an independent body which was established by the Higher Education Act 2004 to consider student complaints which had not been resolved through an institution's internal procedures. It became the statutory body for dealing with such student complaints on 1st January 2005. The deadline for an appeal to the OIA is 12 months from the Completion of Procedures letter. This service is free to students. For further details, see the OIA website:

[www.oiahe.org.uk](http://www.oiahe.org.uk)

## **13 Procedure to be Followed in Respect of a Student Subject to Legal Process**

- 13.1 Where a disciplinary case has been suspended pending the outcome of police investigation or judicial process, a Committee hearing will normally be held immediately after a criminal case has been concluded. The judicial outcome will be taken into account by the University, although it is open to the University to reach a different conclusion to that of the court as it is operating on a different standard of proof (the balance of probabilities rather than beyond reasonable doubt). If the situation alters as a result of an appeal against conviction or sentence, the University reserves the right to re-consider its action once any formal appeal process has been completed.
- 13.2 If, as a result of due judicial process, you are unable to attend a Committee hearing, the hearing will be conducted in your absence. You will be informed of the hearing and are entitled to send a representative, if you wish.
- 13.3 Where any outcome is clearly established and verified, e.g. a judicial verdict, then the Student Appeals and Conduct Committee's further deliberation can be guided by this. The Chair of the Committee may, however, request further information/evidence, including additional written statements from those involved.
- 13.4 The Student Appeals and Conduct Committee will uphold the case or dismiss the allegation. If the case against you is upheld, and if it decides that a penalty is appropriate, the Committee will impose a penalty from the options set out above. The Committee will make its decision known to you in writing within one week of the hearing along with information about how to appeal.

## **Appendix: Duties under the Counter Terrorism and Security Act 2015**

The Counter Terrorism and Security Act 2015 places a duty on the University to have due regard to the need to prevent people from being drawn into terrorism. This legislation is given specific statutory force through the Prevent duty guidance for higher education institutions in England and Wales, known as the 'Prevent Duty'.

In implementing the Prevent Duty, the University takes into account our commitment:

- to the safety and wellbeing of our staff and students and all who interact with the University
- to meet our legal responsibilities
- to academic freedom and freedom of speech within the law and with the appropriate obligations and responsibilities arising from such freedoms (see the [Freedom of Speech Code of Practise](#))
- to preserve equality and diversity
- to support campus cohesion and harmonious relations across all parts of the University community
- to act in a proportionate and risk-based manner, relevant to the local context in which the University is based.

The University may follow disciplinary procedures against any student who is found to have committed criminal acts or any other misconduct related to terrorism, in the course of their studies or work activities, which may result in expulsion or dismissal.

The University has a legal duty to share information – in confidence – within the University, and with external authorities, on matters related to individuals assessed as vulnerable to being drawn into terrorism, or at risk of being complicit in terrorist activity. Confidentiality cannot be guaranteed if, as a result of an investigation, individuals are requested to participate in subsequent investigations by the statutory authorities.