

This Code was updated in October 2020 and complies with the OIA's [Good Practice Framework on Disciplinary Procedures](#) (October 2018). It applies to all students registered on any University module, programme or course. Complaints by students against University staff are dealt with under the [Complaints procedure](#). Academic misconduct is dealt with under the [Academic Misconduct procedure](#). In addition to or instead of its *Disciplinary* procedure, the University may apply its [procedures on Bullying and Harassment](#), [Fitness to Study](#) and/or [Fitness to Practise](#).

1 General principles

- 1.1 All students are expected to be mindful of their responsibilities as a member of the University community. We expect students, their representatives and staff to act reasonably and fairly towards each other and to treat the disciplinary process with respect.
- 1.2 The Vice Chancellor delegates disciplinary functions to the University Secretary, who acts as the Disciplinary Officer. The Disciplinary Officer may further delegate powers of investigation and resolution of informal disciplinary matters to staff members.
- 1.3 This code does not attempt to replace the law. The University reserves the right to refer matters to the police where appropriate (see appendix 2).
- 1.4 The University abides by the principles of natural justice. This means that if a disciplinary allegation is made against you, the University will ensure that:
 - a) You are made fully aware of the nature of the allegation(s) made against you.
 - b) You have an opportunity to reply to any allegation(s).
 - c) You have a fair and unbiased hearing at which all relevant circumstances are taken into account.
 - d) You have the right to appeal against a disciplinary finding or penalty.
- 1.5 The University aims to complete its procedures in a timely manner. It aims to complete the initial investigation and formal stage of the process **within 60 days** of the allegation being made and to hear any appeal **within 30 days** of the student making the appeal. If we cannot meet this timeframe, we will explain why.
- 1.6 Where a student is known to have a disability, the University will make reasonable adjustments to its procedure where this is necessary in order to avoid substantial disadvantage.

2 Examples of misconduct

- 2.1 The essence of misconduct under this Code is improper interference with the proper functioning or activities of the University, with other members of the University community, or action which damages the University or its reputation. Examples of student misconduct include (but are not limited to) the following:
 - a) Violent, indecent, disorderly, threatening, or discriminatory behaviour or language whilst on University premises or engaged in any University activity.
 - b) Action likely to cause injury or impair safety on University or University-managed premises or property.
 - c) Behaviour likely to cause fear, distress or harm to others.
 - d) Conduct which is a criminal offence, including drugs-related offences, where that conduct takes place on University or University-managed property, affects or concerns other members of the University community or its partners, damages the good name of the University, or represents a risk to others.
 - e) Sexual misconduct (including sexual assault, sexual violence and sexual harassment) and domestic violence, jeopardising the mental, physical, and emotional wellbeing of members of our University and the safety of our community.
 - f) Publishing of any matter (verbal, written or other) which is threatening, abusive or insulting or constitutes harassment or makes others fear violence. This includes the misuse of social networking sites.
 - g) Anti-social behaviour which brings the University into disrepute.

- h) Damage to or theft of University property, Students' Union property or the property of any student, member of staff or visitor.
 - i) Behaviour which breaches University policies, including rules on health and safety, freedom of speech, and equality and diversity.
 - j) Failure to comply with national or local Government restrictions in relation to public health emergencies.
 - k) Harassment or discrimination against any student, member of staff or visitor to the University on the grounds of protected characteristics.
 - l) Theft, misappropriation, misuse, fraud, deceit, deception, or dishonesty.
 - m) Failure to follow a reasonable instruction from a University officer; significant breach of University rules; failure to disclose name and other relevant details to a staff member where the staff member has good reason to require this information.
 - n) Failure to comply with a previously imposed disciplinary penalty.
 - o) False accusations that another student or staff member committed a breach of discipline.
- 2.2 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 YSJU Students' Union.
- 2.3 The University's jurisdiction under this Code is not limited to misconduct which occurs on its own premises. This 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.
- 2.4 The Disciplinary Officer is responsible for determining any issues of interpretation and for providing any clarification of this code.

3 Provisional action prior to disciplinary action

- 3.1 If you are subject to a criminal charge or to a police investigation, or if the University believes that your behaviour is likely to cause injury or harm to others, the University may take provisional action to limit your interaction with the University community, including suspension and exclusion.
- 3.2 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.
- 3.3 If you are excluded, your right to enter University premises is restricted. You may be excluded from specific University activities.
- 3.4 The University may impose a requirement on all parties (including a student reporting a disciplinary concern) not to have contact with each other and with named others. If you breach this requirement, this is in itself misconduct.
- 3.5 The Disciplinary Officer decides whether provisional action should be taken. You will normally be told that the Disciplinary Officer is considering this action before the decision is made and why, and will have an opportunity to make representations before the decision is made. If the Disciplinary Officer believes that immediate action is justified based on the risk of injury or harm, the decision may be made with immediate effect. In this case, you will not have the opportunity to make representations before the suspension is applied. In either case, you will be given details of the decision in writing once it is made, and 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.
- 3.6 Provisional 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.
- 3.7 You can appeal the provisional action at any time when it is in force, by emailing casework@yorks.ac.uk. The Vice Chancellor is responsible for deciding whether the decision should be varied or remain in force. The University aims to send you a response **within 5 working days**.
- 3.8 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 Disciplinary Officer about any further action under this Code.

4 Procedure for student discipline – overview

- 4.1 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. 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 Disciplinary Officer may decide to consider the matter. Even where the disciplinary procedures are not invoked, staff members may remind students of the expectations regarding their conduct.
- 4.2 Having considered the allegation(s) of misconduct the 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 6 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 5 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.
- 4.3 If the alleged misconduct involves more than one student, the Disciplinary Officer decides whether the cases should be investigated and/or heard together.

5 Informal Disciplinary Procedure

- 5.1 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 as close as possible to the source of the alleged offence.

For the purposes of the *Informal Disciplinary Procedure*, the Disciplinary Officer may delegate powers of investigation and resolution to a 'responsible person'. This may be the Head (or Associate/Deputy Head) of School, the Accommodation Manager (where relevant), or another appropriate individual.
- 5.2 The responsible person will review the evidence and make any further enquiries that the responsible person deems necessary. You will normally be invited to attend a meeting with the responsible person to allow you to explain your version of events and put forward any evidence you wish to provide. You may bring a supporter to this meeting. If you do not attend, the responsible person may still make a decision on whether misconduct took place and may issue a disciplinary penalty.
- 5.3 The responsible person may:
 - a) Dismiss the allegation.
 - b) Issue a penalty appropriate to the informal procedure.
 - c) Refer the case to the formal procedure.
- 5.4 The following penalties apply under the informal procedure:
 - a) Verbal warning.
 - b) Written warning/reprimand (a copy will be retained on file for the remainder of your studies).
 - 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. Previous misconduct may be taken into account in deciding the appropriate penalty.

You will be told of the outcome **within one week** of the decision.

- 5.5 If you think the finding or penalty is unfair or unreasonable based on the evidence, you may appeal to the Vice Chancellor. The Vice Chancellor will review the case and may:
 - a) Dismiss the case.
 - b) Enforce the penalty.
 - c) Refer the case for hearing by the Student Appeals and Conduct Committee.

- 5.6 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 Disciplinary Officer and will be shared with you.

6 Formal disciplinary procedure

- 6.1 The Formal Disciplinary Procedure will normally be appropriate in relation to:
- Multiple minor acts of misconduct.
 - Instances in which informal action has failed or is considered inappropriate.
 - Serious allegations of misconduct.
 - Referrals on appeal from the informal procedure.
- 6.2 The Disciplinary Officer will arrange for an investigation into the allegation(s) of misconduct to take place and a report to be written. 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). The investigation report and evidence will be shared with you.
- 6.3 On the basis of this report, the Disciplinary Officer may:
- Dismiss the case.
 - Apply a penalty appropriate to the informal procedure.
 - Refer the case for a full hearing by the Student Appeals and Conduct Committee.

7 Hearing of the Student Appeals and Conduct Committee

- 7.1 All relevant documentation will be shared with you at least one week before the hearing. You are welcome to make your representations and/or provide any evidence you wish in advance of or at the meeting.
- 7.2 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@yorks.ac.uk.
- 7.3 You can also invite one or more witnesses to the hearing. You need to tell us who this witness is **at least three days before** the hearing, by email to casework@yorks.ac.uk.
- 7.4 The University may also invite one or more witnesses to the hearing. If it does so, you will be told of this in advance of the hearing.
- 7.5 At least two members of the Student Appeals and Conduct Committee will be present at the hearing; Committee members with previous involvement with the case shall not take part. One member of the Committee will be appointed as Chair of the panel.
- 7.6 The Students' Union President or nominee is normally invited to sit on the Committee. If you do not want the SU President to sit on the Committee, you can object by emailing casework@yorks.ac.uk **at least three days before** the hearing.
- 7.7 You are required to attend the hearing. If you have a good reason for being unable to attend, please inform the University, who will make a reasonable attempt to rearrange it. If you do not do attend, the Committee may still make a finding and agree on a penalty in your absence. If you are unable to attend the meeting physically, you may request alternative arrangements such as use of video-conferencing (normally applicable only to students who are outside the UK at the relevant time or where this represents a reasonable adjustment). If you choose not to appear before the Committee, the Committee has the right to hear the case in your absence, drawing such conclusions as it deems appropriate.
- 7.8 A formal record of the hearing will be kept by the Committee and will be shared with you.
- 7.9 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.
- 7.10 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.

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

- a) A verbal warning.
- b) Written warning/reprimand (a copy will be retained on file for the remainder of your studies).
- c) Restitution of any damage caused.
- d) Enforced suspension.
- e) Exclusion from specified University facilities or activities.
- f) Fines up to a maximum of £250.
- g) Expulsion.
- h) Other such actions as may be appropriate to the case.

More than one penalty may be applied. Previous misconduct may be taken into account in deciding the appropriate penalty.

7.12 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.

8 Appeal to the Vice Chancellor

8.1 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 to explain why you are appealing.

8.2 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.

8.3 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.

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

9 Report to Governing Board

9.1 Any disciplinary outcome involving suspension, exclusion or expulsion will be reported at the next meeting of the Governing Body.

10 Completion of Procedures Letter

10.1 If your appeal is rejected, you will be sent a 'Completion of Procedures Letter'. If you remain dissatisfied, you 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 have not been resolved through an institution's internal procedures. The deadline for an appeal to the OIA is **12 months** from the date of the Completion of Procedures letter. This service is free to students. For further details, see the OIA website: www.oiahe.org.uk.

11 Reconsideration

11.1 After a case has been closed, an allegation of misconduct may only be reconsidered where the Disciplinary Officer deems that there is good reason to do so. This includes cases where new evidence emerges, which could not, for good reason, have been obtained at the time.

11.2 In reaching this decision, the Disciplinary Officer will take into account relevant factors including:

- a) Whether the outcome of the first process has been called into question, and if so why.
- b) The length of time that has elapsed and the effect of this on the reliability of any evidence to be considered.
- c) The severity of the alleged offence.
- d) The impact on you of undergoing a second disciplinary process.
- e) Whether leaving the matter unaddressed would impact on matters of fitness to practise or on any obligations owed by the University to professional or regulatory bodies.

12 Appendix 1: Duties under the Counter Terrorism and Security Act 2015

12.1 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'.

12.2 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 [Freedom of Speech Code of Practice](#)).
- To promote 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.

12.3 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.

12.4 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.

13 Appendix 2: Involvement of police and criminal courts

13.1 It is normally the victim's decision whether or not to report a crime to the police, although the following exceptions apply:

- a) In some 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 previous appendix) and the protection of children.
- b) 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 which may subsequently put the victim or others at risk. In such a case, the Disciplinary Officer will make the decision whether the matter should be reported to the police, taking into account any potential harm to the victim from unauthorised disclosure, including further distress to the student and loss of trust in the University.

13.2 Where a victim does not report an alleged serious offence to the police, and the Disciplinary Officer does not intervene to do so, the disciplinary procedures may still be invoked. The University disciplinary procedures are not a substitute for the criminal justice system; the University cannot decide whether a crime has been committed. It can only decide whether, on the evidence available to it, a breach of this *Code of Conduct* is more likely than not to have taken place.

13.3 The University may 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.

13.4 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.

13.5 If the offence is referred to the police, the Disciplinary Officer will usually decide to postpone full disciplinary action until the police and courts have dealt with the matter. The criminal justice system takes priority, and the University will avoid taking any action that may in any way compromise criminal proceedings.

13.6 Where a disciplinary case has been postponed pending the outcome of police investigation or judicial process, the University will normally follow the formal disciplinary procedure after a criminal case has been concluded. The judicial outcome will be taken into account by the University, although it may 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) and may consider different evidence. 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 legal process has been completed.

13.7 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.

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