

Process for Responding to Student Behaviour Misconduct

Introduction

This document outlines our specific process for handling allegations of student behaviour misconduct. Allegations of all types of student behaviour misconduct are dealt with primarily under [Student Disciplinary Offences Regulation 23](#) and [Residential Accommodation Regulation 27](#).

Students are expected to be aware of the standards of conduct required by the University and our community (1) and to maintain these standards, as set out in [Our Principles](#) and [Dignity at Warwick](#); and that this applies equally to behaviour online as it does offline.

The Students' Union operates separate disciplinary regulations to which its members are also subject.

Any officer named in this process may appoint a nominee to act on their behalf, and references to that officer will be taken to include reference to such nominees.

The University may vary any part of Regulation 23 in order to comply with its duty to make reasonable adjustments for people with disabilities.

1. Confidentiality and Information Sharing

1.1 The University recognises the importance of privacy for formal complaints of cases of misconduct.

1.2 Confidentiality is not absolute as there may be circumstances where it is necessary or appropriate to share information either within the University or with external organisations/bodies, for example to:

- Allow a case to be appropriately and fairly considered and investigated;
- Ensure those involved in the disciplinary process receive appropriate academic and pastoral support;
- Safeguard members of the University community and fulfil the University's duty of care;
- Discharge the University's duties or as required by law.

¹ Staff, registered students and individuals who are working for, representing, or have an official association with, the University

1.3 The outcome of an investigation, Discipline Committee Hearing or Appeal will be shared with the student(s) and this will include setting out the rationale for the decision, to the extent that is possible within the parameters of General Data Protection Regulation 2018.

1.4 All personal data is recorded and held in accordance with the Data Protection Act 2018 and will be retained in line with the University's Record Retention Schedule.

1.5 The University will retain anonymised data to understand patterns of behaviour and to inform future policy. All students involved are given a copy of the relevant Privacy Notice that is within the guidance sheet for students.

2. Prevalence and Intersectionality

2.1 The University recognises that misconduct can be experienced by any individual, regardless of sex, sexual orientation, relationship status, age, disability, faith, race, ethnicity, nationality or economic status.

2.2 Experiences of misconduct may be complex and involve more than one form of discrimination and harassment for example in relation to sex, sexual orientation, relationship status, age, disability, faith, ethnicity, nationality or economic status.

2.3 The University has policies on Equality, Discrimination and Inclusion and does not tolerate any forms of bullying, harassment or discrimination. The University does not tolerate behaviour or attitudes considered as misconduct. Our Principles and Dignity at Warwick Policy outline acceptable behaviours.

2.4 Misconduct can also include, but is not limited to, assault, anti-social or indecent behaviour, assault, the use of illegal drugs, damage to property or, vandalism.

3. Malicious reports

3.1 Whilst extremely rare, the possibility of malicious reporting is recognised. Further details are provided in Section 3 of the [Student Complaints Resolution Procedure](#).

4. Conduct

4.1 The University recognises the possibility of discussion and/or retaliation against any individuals associated with a complaint of misconduct, including the Reporting Party, witnesses, the Responding Party, and staff.

4.2 Any allegations of discussions and/or retaliation will be dealt with under University Regulation 23.

4.3 If there is a further allegation of misconduct which breaches University regulations, that occurs whilst an investigation is being conducted under Regulation 23, this may be considered as an aggravating factor and taken into

account during decision-making at any subsequent Discipline Committee Hearing.

5. General guidance

5.1 We are a community, and we undertake disciplinary processes where necessary in order to uphold the values of that community.

5.2 University disciplinary processes are fundamentally different in nature and scope to criminal processes. The University's disciplinary process is an internal matter involving breaches of our Regulations and does not operate as a court of law.

5.3 The standard of proof used by the University is the civil law standard of 'balance of probability', which is a lower threshold than 'beyond reasonable doubt'. Decisions are based on all available evidence and not simply a belief that something is likely to have happened.

6. Immediate threats to safety

6.1 If after receiving a report of alleged student misconduct, the Director of Student Discipline and Resolution has a belief that there is a danger to the person who has reported or to anyone else, they will refer the incident to the Initial Risk and Support Needs Assessment Group (IRSNAG). The membership of this group is as follows:

- Director of Student Discipline and Resolution (Chair)
- Senior Assistant Registrar (Student Discipline and Dispute Resolution)
- Director of Wellbeing Support Services (Alternate Chair)
- Head of Campus Security
- Senior Warden
- Student Liaison Officer (in attendance only if required)

6.2 If the IRSNAG decides that it is necessary to take precautionary action, it will make a recommendation to the Registrar (acting on behalf of the Vice-Chancellor) who can enact these measures. Such measures may include issuing a suspension of rights to restrict the student(s), alleged to have committed the misconduct, in their contact with the individual(s) who has reported. This can include restriction of access to campus facilities and making a recommendation to the Students' Union President regarding appropriate action.

6.3 If an immediate suspension of rights is issued, the student alleged to have committed the misconduct will be informed in writing and, where appropriate, in person. They will be told what they need to do in order to comply with the suspension of rights.

7. Options following an alleged incident

7.1 After making a complaint there are several routes available to the Reporting Party:

- a) Undertake an informal resolution:** This option is dependent on the alleged incident being appropriate and both parties being willing to participate. The Student Discipline and Resolution Team will facilitate an informal resolution in collaboration with services such as Wellbeing Support Services and the Residential Life Team.
- b) Proceed to an investigation:** An Investigating Officer will be assigned and a Notification of Investigation issued to the Responding Party. Support will be available from Wellbeing Support Services, the Students' Union Advice Centre and, where allocated, a Student Liaison Officer.
- c) Make a report to the Police:** In this case, the University will normally take no disciplinary action whilst a Police investigation and legal proceedings are taking place. Support will however still be available from Wellbeing Support Services, the Students' Union Advice Centre and, where allocated, a Student Liaison Officer.
- d) Withdraw the report:** the University may consider that even though a report has been withdrawn there is sufficient evidence for the University to continue with an investigation without a Reporting Party.

7.2 Where there is no Reporting Party or the Reporting Party wishes to remain anonymous, the Director of Student Discipline and Resolution will determine whether there is sufficient evidence to proceed with an investigation.

8. Informal resolution

8.1 Where informal resolution is appropriate, the Student Discipline and Resolution Team will arrange for facilitated mediation between the parties.

8.2 Informal resolution can only go ahead on the mutual agreement of both parties. The Student Discipline and Resolution Team will follow up to check that the informal resolution has taken place, however as the allegation has not been proven they cannot enforce compliance.

8.3 Informal resolution may include, but is not restricted to, the following outcomes:

- a) Written apologies
- b) Attendance at awareness sessions
- c) Participation in behavioural change programmes
- d) Voluntary No Contact Agreements (NCAs)
- e) Any other sanctions which are not punitive in nature

8.4 If informal resolution does not reach a satisfactory conclusion then the Reporting Party may request further action and request to move to a formal investigation.

9. Police investigation and legal proceedings

9.1 If the Reporting Party has made an independent report to the Police, they may still make a formal complaint to the University.

9.2 The University does not have the legal investigatory powers of the Police and is not able to make a determination of criminal guilt.

9.3 Any disciplinary action is undertaken as a breach of the University's Regulations and is separate from and not a substitute for a Police investigation or a criminal prosecution.

9.4 The fact that criminal proceedings have been instituted or have concluded does not preclude the University from taking its own disciplinary action if it is thought fitting or necessary to do so. However, the University would not normally undertake any disciplinary action during a Police investigation.

9.5 The fact that the Police are unable or unwilling to proceed does not preclude the University from taking its own disciplinary action.

9.6 A case which does not progress through legal channels, where a decision to take no further action has been made, and/or a 'not guilty' verdict has been returned, does not mean that the person has made a malicious or vexatious report.

9.7 The fact that criminal proceedings have returned a 'not guilty' verdict does not preclude the University from taking its own disciplinary action.

9.8 If evidence is available to demonstrate that a student has been convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of the University's Regulations, then the University will accept this as conclusive evidence that the behaviour took place. It may not be necessary for a further full investigation to take place and the complaint will be deemed proven and proceed directly to a Mitigation Hearing.

10. Making a formal complaint to the University at Stage 2

10.1 A student who has experienced misconduct may choose to make a formal complaint to the University under the Student Discipline Offences – Regulation 23, and thereby seek a resolution via the University Disciplinary Procedure.

10.2 The complaint must be submitted in writing. The [complaints form](#) may be completed by the Reporting Party, or if they prefer, someone can complete it on their behalf.

10.3 The complaints form does not need to include in-depth detail about the experience. There does however need to be enough information so that the University can take the complaint forward, including identifying the student(s) against whom the complaint has been made and understanding what has happened.

10.4 The Director of Student Discipline and Resolution will review the formal complaint and determine if an investigation is appropriate.

11. The University Disciplinary Procedure

Initial steps

11.1 Support provided by Wellbeing Support Services and the Students' Union Advice Centre is available to any student who has experienced or been affected by misconduct, regardless of where or when the incident took place, or who was involved. However, the University will only be able to undertake formal disciplinary processes if the Responding Party is a registered student(s) at the University.

11.2 If the Reporting Party confirms that they wish to make a formal complaint, the Director of Student Discipline and Resolution will make a decision on whether an investigation is warranted. If so, they will appoint an Investigating Officer (IO) to investigate the complaint and will inform the Reporting Party of this fact.

The Investigating Officer (IO)

11.3 For all cases involving allegations of misconduct, the IO will have undergone training, and have support on how the University expects investigations to be run.

11.4 The IO will have the power to carry out such investigations as they deem appropriate, including interviewing the Reporting and Responding Parties and any other witnesses. Where there is an incident with more than one Responding Party the investigation may be undertaken by the same IO.

Investigation

11.5 All parties involved in the investigation will be provided with guidance on the investigation process and a Privacy Notice (within the Guidance Sheet for Students).

11.6 The IO will review any written material that has been submitted either by the Reporting Party or another party and any available evidence. The IO will then set the remit of any further investigation and determine what needs to be taken forward and how.

11.7 The Responding Party will be informed that an allegation has been made against them, if not already aware. And will be informed about sources of support and advice that are available to them.

11.8 If required, the IO will conduct an initial interview with the Reporting Party followed by a separate interview(s) with the Responding Party and any witnesses. If further information becomes known during the course of the investigation, or further clarity is needed, those already interviewed may be interviewed again.

11.9 The IO will produce a report outlining the factual details of the case and will deliver this to the Director of Student Discipline and Resolution. The Director of Student Discipline will consider it and will either:

- request that further investigation be carried out
- make a determination regarding whether or not there is a case to answer
 - If yes, either send on to a Disciplinary Committee or agree a sanction can be applied without the case being heard.
 - If no, instruct the Student Discipline and Resolution Team to close the case and notify the Reporting Party, who will then have the option to request the case is considered as a Stage 3 complaint.
- refer the matter to be dealt with under Regulation 34 (Regulation for the Determination of Fitness to Practise).

Director of Student Discipline resolution route for disciplinary cases

11.10 For the cases that the Director of Student Discipline and Resolution determines that a sanction can be applied without the case being heard by a Discipline Committee, each case must meet all of the following conditions:

- First offence
- Responding Party has admitted the allegation
- Complaint has been resolved, and/or the Reporting Party agrees to this route (rather than a Discipline Committee)

11.11 Examples of offences which would normally be resolved by the Director of Student Discipline and Resolution are:

- A first or single breach of University Regulations or policies e.g. smoking in prohibited areas, ignoring fire alarms
- Refusal to respond to reasonable requests by University staff
- Anti-social conduct, including causing a public nuisance by drunkenness or disorderly conduct
- Minor damage to property, including but not exclusive to, as a result of fly posting to University property;
- Theft of items under £100

11.12 A limited sanctions framework is available which includes the following only:

- Formal reprimand which will typically be kept on a student's file for one year
- A written warning as to future conduct including, where appropriate, signposting to relevant support available
- Requirement to apologise
- Requirement to undertake restorative action

- A requirement to make good the cost in whole or in part of any damage caused and/or repay/make good any financial loss to the University
- Fine (up to maximum of £250)

11.13 In all cases where, in their opinion the gravity of the offence appears to warrant it or the appropriate sanction might be beyond the fixed limit that the Director of Student Discipline and Resolution can impose, the Director of Student Discipline and Resolution is obliged to send the case to a Discipline Committee.

11.14 During the assessment, the Director of Student Discipline and Resolution may identify potential breaches of other University Policies and Regulations in addition to potential breaches of the Student Discipline Offences – Regulation 23.

11.15 If no case to answer is identified, the Director of Student Discipline and Resolution may make suggestions to the Responding Party regarding actions they might undertake, such as seeking support via Wellbeing Support Services or attending awareness sessions. If it is appropriate and necessary to make such suggestions, they will be communicated to the Responding Party.

11.16 The Reporting Party will be informed of the Director of Student Discipline and Resolution's decision and a stage 2 outcome letter will be issued. This will confirm the outcome and the Reporting Party will be informed that if they wish they can submit a stage 3 complaint to the University. Both parties will be informed of the ongoing support available to them.

The Discipline Committee – background

11.17 The Discipline Committee or the Appeals Committee will also be subject to any further University guidelines approved by the Senate. Subject to the terms of Regulation 23 and any such guidelines, the Committees have the authority to determine their own procedure for hearing a case, always providing that they observe the rules of natural justice at each stage. The Chair of the Committee may postpone, continue or adjourn the case at their discretion. The hearings of the Discipline Committee or the Appeals Committee will normally be serviced by the permanent Secretariat.

11.18 Should a Discipline Committee be convened to consider a case that involves two or more students, it may be the same Discipline Committee hearing the cases. Differing determinations may be made depending upon the evidence and any aggravating or mitigating features of the case which may or may not apply equally to all students against whom a charge is made.

11.19 Where a student does not appear on the date appointed for a hearing under Regulation 23, and the Committee is satisfied that the student has received notice to appear and has not provided a satisfactory explanation for their absence, the Committee may proceed to deal with the case and if appropriate, impose an appropriate sanction in the absence of the student.

11.20 In all cases a written record of the proceedings will be kept, and, where appropriate, a précis of the statements of witnesses given during the hearing.

The Discipline Committee – before the hearing

11.21 If the Director of Student Discipline and Resolution determines that there is a case to answer after reviewing the investigation report both Parties will be notified. The specific charge(s) will be clearly communicated to both parties and they will be given at least 20 University working days' notice to appear before the Committee.

11.22 The Responding Party has the option to either accept or reject the charges(s). This should be done in writing to the secretariat of the Discipline Committee within five university working days of receiving the charge(s).

11.23 If the Responding Party accepts the charge(s), the process will proceed to Mitigation Hearing. The Responding Party may accept the charge(s) at any stage of the proceedings.

11.24 If the Responding Party rejects the charge(s), the Secretariat will convene a Discipline Committee with membership drawn from a pool of academic and professional services staff and student members, all of whom have undergone training for cases of misconduct. Membership of the Discipline Committee is normally:

- a) Chair – a Pro-Vice-Chancellor, a Deputy Pro-Vice-Chancellor, an Academic Vice-President, as appointed by the Vice-Chancellor;
- b) Three staff members, appointed by the Vice-Chancellor; and
- c) Two student members (normally sabbatical officers of the Students' Union) whose names shall be communicated to the Registrar by the President of the Students' Union.

11.25 A Discipline Committee will be arranged, and the Reporting Party (where there is one) and Responding Party requested to attend. Both parties can at this point submit to the Secretariat of the Discipline Committee any evidence, details of witnesses to be called, details of accompanying person or any written mitigation at least six working days in advance of the date of the hearing.

The Discipline Committee – during the Hearing

11.26 Throughout the Disciplinary Process, students are normally expected to speak on their own behalf unless, for example, communication aids are required due to a disability. During a Discipline Committee Hearing, the Reporting and Responding parties may each bring one accompanying person of their choice. This cannot be

anyone who has been involved in the incident and would typically be a member of staff of the University or the Students' Union. The accompanying person is there in a support role and not as an advocate. All accompanying persons will be provided with written guidance regarding their role and expected conduct within the context of the Discipline Committee Hearing.

11.27 The University's case will be presented by the Registrar or the University Officer. The evidence on behalf of the Responding Party (should they wish to give evidence) will then be heard.

11.28 If agreed in advance the Reporting Party and Responding Party may not be present at the same time during the Discipline Committee Hearing. Where appropriate, audio and/or video links will be made available.

11.29 Both the University and the Responding Party may call witnesses to give evidence at the Discipline Committee Hearing, witness may be questioned by both the Reporting Party and the Responding Party, the University Officer or members of the Committee hearing the case. The Investigating Officer may also be asked questions on their report.

11.30 Both the Responding Party and the University Officer will be allowed to make a final address, the Responding Party normally having the last word.

11.31 During a Discipline Committee Hearing, the panel reserves the right to ask an accompanying person to leave if the Chair determines their behaviour to be disruptive to the process.

11.32 The Responding Party and their accompanying person, and the University Officer will withdraw while the Discipline Committee considers its decision.

11.33 The Discipline Committee will decide whether the allegation is proven or not proven, based on the balance of probabilities.

The Discipline Committee – after the Hearing

11.34 The outcome of any Hearing held by a Disciplinary Committee will typically be communicated orally to the Reporting Party and Responding Party within 24 hours of the hearing. It will then be confirmed in writing, within six University working days of the date of the meeting. If possible, communication will not be sent on Friday afternoons so as to reduce the risk of support being unavailable for students over a weekend. The students will be informed if, exceptionally, there is good cause for this time period to be extended.

11.35 If the allegation is not proven, the Reporting and Responding Parties will be notified and outcome letters will be issued. Both parties will be signposted to ongoing Wellbeing Services Support. The Reporting Party will be informed that if they wish they may appeal the decision on specified grounds. The University will prioritise its

duty of care to both parties to enable them to continue their studies and to minimise any ongoing distress.

12 Mitigation and Sanctions

12.1 If the Responding Party admits the allegation there will be a Mitigation only Hearing.

12.2 If the Responding Party rejects the allegation but the Discipline Committee finds that on the balance of probability the alleged misconduct took place, the original Discipline Committee will re-convene and a Mitigation Hearing will take place.

12.3 The Responding Party will have an opportunity to present any mitigation within ten University working days. This is not an opportunity to present new evidence. As at the Discipline Committee Hearing, the Responding Party is normally expected to speak on their own behalf at the Mitigation Hearing unless, for example, communication aids are required due to a disability. The Discipline Committee may accept mitigation from the student solely in writing rather than them appearing again in person at the Mitigation Hearing.

12.4 The Reporting Party will be offered the opportunity to speak and/or submit a written statement which will be taken into consideration prior to any sanction being decided.

12.5 Only exceptionally will witnesses be called at this stage, however the Disciplinary Committee may request and consider appropriate professional advice and additional contextual information prior to making its determination or within the Mitigation Hearing.

12.6 Sanctions will be decided based on the specific details of the case and taking into account any mitigation, and may typically include one or more of the following:

- Fine
- Reprimand
- A requirement to apologise in person or in writing either directly or indirectly to specific individuals impacted by the disciplinary offence
- Requirement to undertake restorative action
- A requirement to attend awareness and/or behavioural change programmes
- Partial Suspension
- Complete Suspension
- Expulsion (i.e. permanent withdrawal) from the University

- The Committee may resolve to create a unique sanction(s) in order for the student to learn from their experience.

12.7 The Discipline Committee may in addition refer the matter to be dealt with under Regulation 34 (Regulation for the Determination of Fitness to Practise).

12.8 The Responding Party will be informed of the sanction(s) in writing and, where appropriate, in person. The letter will set out the rationale for the decision. The Responding Party will be informed that they may appeal on specified grounds.

12.9 The Reporting Party will be informed of the outcome, where appropriate in person. A letter will be sent to the Reporting Party setting out the rationale for the decision and informing them that they may appeal the decision on specified grounds.

12.10 In cases where the charge is admitted or the charge is proven, a record of the offence and of the sanction will be filed, by the Committee Secretariat concerned, in the office of the Registrar and the Academic Registrar.

12.11 The outcome of any Mitigation Hearing or Appeal Hearing will include a determination as to the length of time for which the decision will be retained on the student's University record and which, for instance, might be highlighted in any reference requested during that period. Where the student has been either temporarily or permanently withdrawn on the grounds of disciplinary action, this will form part of the student's formal record and transcript.

12.12 Non-compliance with a sanction imposed under Regulation 23 may result in further sanctions.

12.13 The Mitigation Hearing of a Discipline Committee may suspend the implementation of any sanction subject to conditions notified to the student.

13 Appeals

13.1 Both the Reporting Party and the Responding Party have the right to appeal, on the grounds set out in Regulation 23.

13.2 The student(s) will have ten days from the date of the formal written outcome letter to lodge their appeal. The student(s) should appeal, in writing, to the Secretariat of the Disciplinary Committee for a hearing by the Discipline Appeals Committee of the Senate. When submitting the appeal the appellant must state the grounds on which the appeal is made, and include any relevant evidence to support their case that the grounds for appeal are met.

13.3 The appeal(s) will be considered by the Discipline Appeals Committee Chair and at least one further member of the Committee and assessed to determine whether or not there is a prima facie case for appeal. No-one involved in deciding an appeal under Regulation 23 shall have had any prior involvement with the disciplinary case. If both parties appeal, the appeals will be considered simultaneously.

13.4 The appeal will normally take the form of a paper review unless the Chair of the Discipline Appeals Committee decides that a new hearing is required. In all cases the detailed reasons for the first decision will be made available, and the Chair of the Discipline Committee invited to assist the Discipline Appeals Committee. If required,

the Discipline Appeals Committee may also consult the original IO, and will notify the members of the original Discipline Committee if the decision is significantly changed.

13.5 The membership of the Discipline Appeals Committee will normally be:

- a) Chair – the Provost
- b) Three staff members, appointed by the Vice-Chancellor; and
- c) Two student members (normally sabbatical officers of the Students' Union) whose names shall be communicated to the Registrar by the President of the Students' Union.

And to be quorate the Discipline Appeals Committee must have the Chair plus at least one student member and one member of University staff.

13.6 Should a hearing be determined necessary, the appellant(s) will be given at least ten University working days' notice of the date of any appeal hearing, where they will have the opportunity to address the Discipline Appeals Committee.

13.7 The appellant(s) will be provided with a copy of the written record of the proceedings of the Discipline Committee. The Discipline Committee may prepare its own report to the Discipline Appeals Committee in addition to the written record of proceedings, with such comments as it may wish to make on the reliability of evidence. This report will also be made available to the appellant(s).

13.8 The Discipline Appeals Committee has power on cause shown to permit the appellant(s) to call or present additional evidence, in which event the original University Officer responsible for the presentation of the disciplinary case may be permitted to call or present further evidence to meet any new or additional issues raised by the appellant.

13.9 The appellant will be the first party to address the Discipline Appeals Committee. The member of the Discipline Committee responsible for responding to the appeal will then address the Discipline Appeals Committee.

13.10 The appellant(s) and anyone accompanying them and the member of the Discipline Committee will withdraw while the Discipline Appeals Committee considers its decision, and return to hear it delivered.

13.11 In the case of an adverse decision (except in appeals solely against sanction) the appellant(s) may make a plea in mitigation of the sanction.

13.12 The Discipline Appeals Committee has power to confirm, set aside or vary a finding or decision of the Discipline Committee or to set aside or vary any sanction imposed by the Discipline Committee. This may include increasing the original sanction imposed by the Discipline Committee. The Discipline Appeals Committee may in addition refer the matter to be dealt with under Regulation 34 (Regulation for the Determination of Fitness to Practise).

13.13 Where a student is expelled or temporarily withdrawn from the University and is resident in University or University-managed accommodation, the University may take further action under Regulation 27 (On-Campus Residential Accommodation Regulations).

13.14 Where a student is expelled or temporarily withdrawn from the University, the University may be required to notify the government or other regulatory agencies.

13.15 A Completion of Procedures (COP) letter will be issued to the Responding Party, and will be signposted to ongoing Wellbeing Services support. If the Responding Party is dissatisfied with the outcome of their appeal, they can take their case to the Office of the Independent Adjudicator² (OIA), the COP letter will enable them to do so.

13.16 The Reporting Party will receive a stage 2 outcome letter and will be informed that they can submit a stage 3 complaint to the University Upon completion of the stage 3 complaints process, if the Reporting Party is dissatisfied with the outcome, they will receive a COP letter, which will enable them to refer their case to the OIA.

² ¹The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review student complaints. The University of Warwick is a member of this scheme. If you are unhappy with the outcome you may be able to ask the OIA to review your case. You can find more information about making a complaint to the OIA, what it can and can't look at and what it can do to put things right here: <https://www.oiahe.org.uk/students>.