

**University  
of Wales,  
Newport**

**Prifysgol  
Cymru,  
Casnewydd**

# **STUDENT DISCIPLINARY CODE AND PROCEDURES**

These Procedures take effect from 1 November 2011 and supersede all previous Procedures

# **STUDENT DISCIPLINARY CODE AND PROCEDURES**

## **1. Introduction**

Students at the University are part of a community which expects its members to show courtesy and consideration at all times, to respect persons and property and to observe University rules and regulations. It is hoped, therefore, that the need for disciplinary action will be rare. Where acts of misconduct do take place, they will be dealt with in accordance with their seriousness, with the most serious misconduct leading to suspension or expulsion. The disciplinary code and procedures set out in this document describe the actions which will be taken in the case of alleged student misconduct. The procedures are intended to provide positive incentives for improved levels of behaviour and discharge of responsibility through discussion and action where behaviour falls short of required standards.

## **2. Authority**

Under the Articles of Government approved by the Privy Council, the Vice Chancellor is responsible for the maintenance of student discipline and, within the rules and procedures, for the suspension and expulsion of students on disciplinary grounds and for implementing decisions to expel students for academic reasons. The Vice-Chancellor has duly delegated certain investigatory and decision making powers, as set out in these procedures, but the Vice-Chancellor retains overall responsibility for any decision in relation to suspension, disciplinary action or expulsion. The Vice-Chancellor, furthermore, retains the power to hear any appeal against any such decision.

## **3. Applicability**

The Code and Procedures will apply to every student, defined as a registered student of the University, or a holder of a sabbatical office at the University.

The Code and Procedures will not apply to actions taken in response to failures by students to achieve the required standards of academic work, levels of attendance, unfair practice (including plagiarism) or to fulfil other academic requirements. These are covered by separate regulations and procedures.

The Code and Procedure will not normally apply to misconduct which takes place outside the University's Campus unless University/Students' Union property is involved or unless it takes place within the context of academic/professional study or during field trips or study/practice placement.

Issues of discipline are categorised as those associated with:

- 3.1 ACCOMMODATION AND USE OF THE UNIVERSITY'S PREMISES** – initial and minor misconducts (such as noise, antisocial behaviour and breach of licence agreement conditions) will be dealt with locally with appropriate use of warning and behavioural contract. Where appropriate, the Accommodation Disciplinary Code and Procedures will apply. More significant or continued misconduct will be dealt with by the Designated Person who will be the Director of Facilities Management.
- 3.2 CAR PARKING** – initial and minor breaches will be dealt with in the context of the Car Parking policy. Significant or continued misconduct will be dealt with by the Designated Person who will be the Director of Facilities Management.
- 3.3 SABATICAL OFFICERS** – misconduct will be dealt with by the Designated Person who will be the Vice-Chancellor.
- 3.4 STUDENTS AT COLLABORATIVE PARTNER INSTITUTIONS (CPI)** – misconduct will be considered initially within the CPI's local procedures by a nominated Designated Person who is required to inform the University Registry of all incidents. The Appeals Procedure of the University of Wales, Newport will apply.
- 3.5 OTHER ISSUES** – such issues of misconduct will be dealt with by the Faculty in which the student is registered and by the Designated Person who will be the Executive Dean of Faculty.

The Designated Person will inform the University Registry of the outcome of any disciplinary hearing. The University Registrar's advice should be sought where legal advice or equity of treatment issues require consideration.

#### **4. Rules on Behaviour**

##### **4.1 General Expectations**

Within the University's academic community it is expected that the highest levels of personal responsibility and mutual respect will be shown.

All students are required to observe existing University rules and regulations and any which may be introduced from time to time by the Vice-Chancellor or other authorised University body or authority.

##### **4.2 Misconduct**

An act will be regarded as misconduct, and therefore subject to disciplinary action, if it constitutes improper interference with the proper functioning and activities of

the University, or of those who work or study in the University, or which otherwise damages the University. Whilst not an exhaustive list and without prejudice to the generality of the foregoing, the following should be regarded as misconduct, and therefore subject to disciplinary action:

- (a) Disruption of or improper interference with the academic, administrative, sporting, social or other activities of the University whether on University premises or elsewhere.
- (b) Obstruction or improper interference with the functions, duties or activities of any student, member of staff or other employee of the University or any authorised visitor to the University.
- (c) Violent, indecent, disorderly, threatening or offensive behaviour or language whilst on University premises or engaged in any University activity.
- (d) Fraud, deceit, deception or dishonesty in relation to the University, its staff, or students whether in connection with holding any office in the University or in relation to being a student of the University.
- (e) Action likely to cause injury or impair the safety of oneself or others on University premises.
- (f) Sexual, racial or other harassment of any student, member of staff or other employee of the University or any authorised visitor to the University.
- (g) Damage to or defacement of University property or of the property of the members of the University community caused intentionally or recklessly; misappropriation of such property.
- (h) Misuse or unauthorised use of University premises or items of property.
- (i) Misuse or unauthorised use of University IT equipment and systems.
- (j) Failure to disclose 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.
- (k) Making a vexatious allegation regarding a member of staff or student of the University which causes or is likely to cause that member of staff or student serious difficulty in the performance of their duties and/or which damages or is likely to damage their personal reputation. "Vexatious" in this context means that which the student knows to be untrue or in respect of which the student is unable to produce any evidence.

- (l) Failure to comply with a previously imposed penalty under this Code and Procedure.
- (m) Behaviour which brings the University into disrepute.
- (n) Conduct which disrupts or is likely to disrupt teaching, study, examining, research or administration in the University, or which obstructs or is likely to obstruct any student in pursuit of his/her studies or the duties of any employee of the University in the performance of his/her duty.
- (o) Failure to leave any of the University premises when reasonably required so to do by any officer or employee of the University or other person duly authorised.
- (p) Gaining or attempting to gain unauthorised access to a computer system of or via that of the University; modifying or attempting to modify without authority computer programmes or data in or via University equipment.
- (q) Purchasing or ordering goods or services on behalf of the University without prior authority.
- (r) Using University facilities for private purposes without prior consent.
- (s) Excessive noise in or around University Halls of Residence, or other University buildings.
- (t) Failure to declare to the University unspent convictions during the student application process or during subsequent study at the University.
- (u) Failure to comply with the University Car Parking and Transport Policy and Regulations.
- (v) The handling, possession or use of any illegal drug in or around University Halls of Residence or other University buildings.

#### **4.3 Cause of Damage or Loss**

The University has the power to require a student who has been found to be responsible for damage to or loss of University property or for the University incurring expenses as a direct result of confirmed misconduct to pay by way of compensation such sums as it may determine.

#### **4.4 Freedom of Speech**

Notwithstanding the University's commitment to freedom of speech, verbal and written communication which contravenes the Disciplinary Code or is unlawful may be the subject of disciplinary action.

### **5. Criminal Offences**

#### **5.1 Reporting of Criminal Offences**

Incidents arising within the University precincts or through behaviour of persons while under the auspices of the University which may amount to the commission of a criminal offence will in all circumstances be reported to the Police by the University unless in the absolute discretion of the University Registrar and/or the Director of Facilities Management it is decided otherwise.

#### **5.2 Where Misconduct is also a Criminal Offence**

Conduct which constitutes a criminal offence may constitute misconduct if that conduct:

- (a) took place on University premises;
- (b) affected or concerned other members of the University;
- (c) damages the reputation of the University;
- (d) itself constitutes misconduct within the terms of this Code;
- (e) is an offence of dishonesty where the student holds an office of responsibility in the University.

#### **5.3 University/Criminal Offence**

The following procedures apply where an alleged misconduct would also constitute an offence under the criminal law, if proved in a court of law:

- (a) Where the offence under the criminal law is considered by the University to be not serious, action under this Code may continue, but such action may be deferred pending any police investigation or prosecution.
- (b) In the case of all other offences under the criminal law, no action (other than suspension pursuant to section 6.4) may be taken under this Code and Procedure unless the matter has been reported to the police and either prosecuted or a decision not to prosecute has been taken, at which time the

University Registrar may decide whether disciplinary action under this Code should continue or be taken.

- (c) 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.

## **6. Procedures**

### **6.1 General Considerations**

- (a) All disciplinary proceedings are strictly confidential between the student and the University.
- (b) At any stage in the disciplinary procedure the University reserves the right to recover any damages that the University has incurred as a result of action by the student concerned.
- (c) If the disciplinary offence is associated with the student's occupancy of the Halls of Residence the University reserves the right to exclude the student from the Halls of Residence in accordance with the University Licence Agreement.
- (d) In cases of alleged serious breaches of discipline the Designated Person may suspend a student from attendance at the University pending a disciplinary hearing (Ref. Section 6.4).

### **6.2 Reporting of Misconduct**

All cases of misconduct shall be reported by staff or students to the appropriate Designated Person (Ref. Section 3) or the accommodation office or security staff as soon as possible after they occur and subsequently confirmed in writing. The report should contain the following information

- (a) person or persons against whom the allegation of misconduct is made.
- (b) nature and frequency of the misconduct.
- (c) time and location of the misconduct and its reporting.
- (d) witnesses who observed the misconduct and/or others made aware of the misconduct.
- (e) actions taken to deter the misconduct

### 6.3 Investigation of the Misconduct

The Designated Person shall arrange for the investigation of misconduct reported as follows:

- (a) Once received the Designated Person will determine within 5 working days, which of the following disciplinary actions will be invoked:
  - (i) the matter can be resolved by counselling and/or a warning on the result of any future misconduct;
  - (ii) formal investigation by the Designated Person or his/her nominee;
  - (iii) formal investigation by panel;
  - (iv) suspension of student pending formal investigation.
- (b) In circumstances where option (i) is invoked the Designated Person will advise the student of the report of misconduct and inform him/her of his decision, with an invitation to resolve the matter by discussion at a mutually convenient time, with him/herself or nominee within 5 working days of the date of the communication. The student may be accompanied either by a fellow student or a sabbatical officer of the Students' Union, or a member of the academic, welfare or advisory staff of the University, but not accompanied or represented by any other individual. The name and status of any accompanying person should be advised to the Designated Person who may object on grounds of status or involvement.
- (c) In circumstances where option (ii) is invoked the Designated Person will advise the student of the report of misconduct and inform him/her, if appropriate, of the chosen nominee to conduct the investigation. The student may be accompanied either by a fellow student or a sabbatical officer of the Student's Union, or a member of the academic, welfare or advisory staff of the University, but not accompanied or represented by any other individual. The name and status of any accompanying person should be advised to the Designated Person who may object on grounds of status or involvement.
- (d) The Designated Person or nominee has delegated powers from the Vice-Chancellor to implement any one or a combination of the following:
  - (i) Oral Warning/Counselling;
  - (ii) Compensation order;
  - (iii) Letters of Apology;
  - (iv) First Written Warning;

- (v) Final Written Warning.
- (e) In circumstances where section 6.3 (a) (iii) is invoked an investigating panel shall be established to conduct the investigation and report its findings and actions to the Designated Person within 15 working days of the establishment of the Panel. The Chair of the Panel shall enact the recommendations of the Panel.
- (f) The Panel shall consist of a chairperson, secretary and one other member of staff selected by the Designated Person together with one student nominated by the Students' Union. Care will be taken to ensure the impartiality of members of the panel.
- (g) It will be the responsibility of the secretary of the Panel in consultation with the chairperson to ensure that:
  - (i) The student is informed in writing of the alleged misconduct and the procedures which will be adopted for its investigation, including the membership of the panel.
  - (ii) Arrangements are made to interview the student, who is informed of the right to be accompanied either by a fellow student or a sabbatical officer of the Students' Union, or a member of the academic, welfare or advisory staff of the University, but not accompanied or represented by any other individual. The name and status of any accompanying person should be advised to the Panel's secretary/chairperson who may object on grounds of status or involvement.
  - (iii) The facts surrounding the alleged breach are investigated taking into account the statements of any available witnesses.
  - (iv) The evidence against the student is disclosed to him/her and that the student has the opportunity, at a hearing, to respond to the evidence. If the student is invited to such a hearing and fails without good reason to attend, the panel may proceed to a conclusion in his/her absence or recommend suspension pending compliance.
- (h) The Panel has delegated powers from the Vice-Chancellor to make the following decisions for disciplinary action:
  - (i) That no disciplinary action be taken.
  - (ii) That the student receive an oral warning/counselling and that a note be placed on the student's records giving the date of the warning and the reasons for it. The student shall receive a copy of that note and the

consequences of further offences will be explained to him/her.

- (iii) That the student receive a written warning which may be the first or final in accordance with the nature of the misconduct and that a note be placed on the student's records giving the date of the warning and the reasons for it. The student shall receive a copy of that note and the consequences of further offences will be explained to him/her.
- (iv) That the student be required to pay appropriate compensation for any damage caused.
- (v) That the student be suspended from using certain or all of University facilities for such time as the panel shall recommend.
- (vi) A combination of (i) to (v) above.
- (vii) That the student should be expelled (the Panel may make any additional recommendations the Panel deems appropriate in that respect).
- (i) A record of any disciplinary action from Counselling to Expulsion shall be placed on the student's file.
- (j) The usual sequence of events for official warnings is for a formal oral warning to be given followed by a first written warning and then a final written warning. In serious cases this sequence may be over-ridden.
- (k) If a student receives an oral or written warning he/she will be required to sign a copy to acknowledge receipt. A final written warning will state that if the student repeats the offence or receives a further written warning following disciplinary proceedings whether involving conduct of the same nature or not then he/she may be expelled from the University.
- (l) If the student is to be expelled under a panel decision, then the expulsion shall not be enacted until the appeal procedure (see section 7) is completed. If the time limit for commencing an appeal under section 7.1. has expired and no appeal has been commenced then the Chair of the Panel will refer the expulsion to the Vice-Chancellor for consideration.

#### **6.4 Suspension**

In circumstances where the alleged misconduct is sufficiently serious to warrant suspension, the Designated Person may suspend a student until an inquiry has been completed.

Suspension involves a total prohibition on attendance at or access to the University and on any participation in University activities but it may be subject to qualification such as permission to attend for the purpose of an examination and may include a requirement that the student have no contact with any named person or persons. Suspension will not be used as a penalty but to ensure compliance with procedure or to protect members of the University community. The power will only be used where the Designated Person is of the opinion that it is urgent or necessary to take such action.

## **7. Appeals**

### **7.1 Right and Notice of Appeal**

A student may accept or appeal against disciplinary action recommended by a Panel or Designated Person or nominee, by writing to the Vice-Chancellor within 10 working days of adjudication being received. Formal notice of appeal indicating the grounds of the appeal must be submitted in writing. Appeals based on information not previously disclosed at the previous investigation stage will not normally be allowed unless the appellant shows good reason why such information was not made known to the Panel, Designated Person or nominee during the previous investigation.

### **7.2 Decision of Appeal**

The Vice-Chancellor may confirm, overturn or modify the decision and recommendation(s), if any, of the Panel or Designated Person or nominee. The decision of the Vice-Chancellor will be made known to the student making the appeal within 10 working days. The decision of the Vice-Chancellor is final. The Vice-Chancellor has the right to interview witnesses or take evidence in considering the appeal application.

## **8. The Standard of Proof to be Satisfied in Respect of Allegations of Student Misconduct**

8.1 Under clause 6.3 of this Code, a Vice-Chancellor's nominee or an investigating panel may be appointed. The duties of that nominee or panel are (amongst other things) to conduct an investigation into the allegations of misconduct, to find either that those allegations are, or are not, proved and if they are proved to decide what action the University should take.

8.2 There is often confusion as to the standard of proof an investigating panel should apply when considering whether an allegation of misconduct is proved.

8.3 The correct standard of proof to apply is the "balance of probabilities" test.

The panel is required to consider whether, looking at all the evidence objectively, it is possible to say that it is more probable than not that the allegation is correct. In other words, has the party making the allegation satisfied the panel that there is a better than 50% chance that the allegation is correct?

- 8.4 It is not appropriate for the panel to apply the “beyond reasonable doubt” test; in other words, to ask itself whether it is “sure” that the allegation is proved. This is the case even if the allegation might of itself constitute a criminal offence. The panel is not a criminal court, nor does it have the power to apply criminal sanctions. If the panel believes, taking into account the terms of the University’s student disciplinary procedure, that the alleged misconduct may constitute a criminal offence but nonetheless action under the procedure may continue, the panel is empowered only to consider whether the allegation constitutes misconduct under the procedure – which is a civil matter. If the allegation is later the subject of a prosecution in a criminal court, the higher standard of proof will of course apply here.

## STUDENT DISCIPLINARY CODE AND PROCEDURES

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