



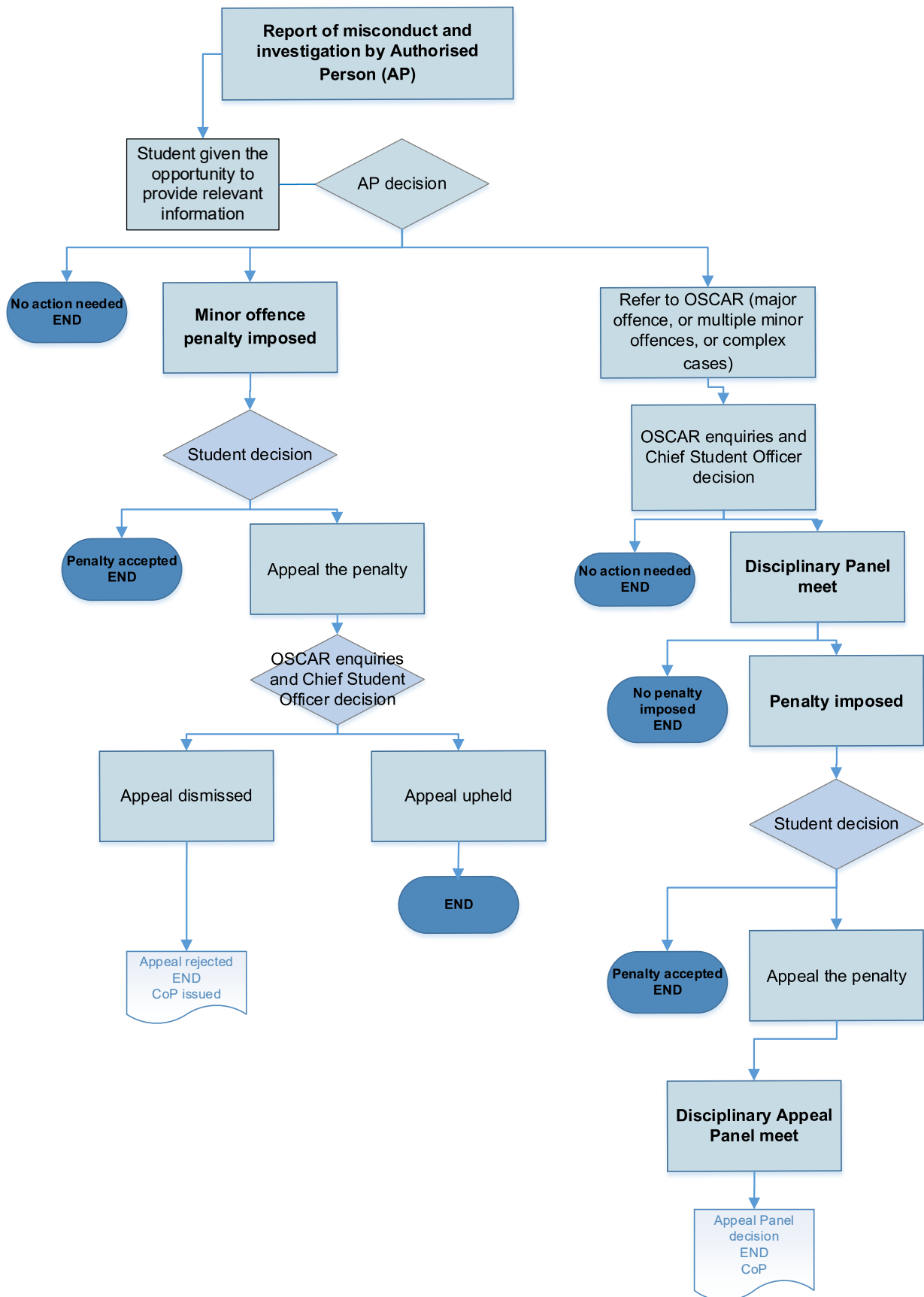
# B3: Student disciplinary regulations

Academic year 2022/23

## Contents

|   |    |
|---|----|
| Figure 1: Disciplinary procedures .....   | 1  |
| Introduction and scope.....   | 2  |
| Reasonable adjustments.....   | 2  |
| Exceptional circumstances .....   | 3  |
| Responsibilities for managing student misconduct .....                                | 3  |
| The conduct the University expects of its potential students, students and staff..... | 4  |
| Burden of proof .....   | 4  |
| Standard of proof .....   | 4  |
| Timeliness.....   | 4  |
| Confidentiality and General Data Protection Regulations .....                         | 5  |
| Legal representation .....  | 5  |
| Misconduct.....   | 5  |
| Initial enquiries and investigation .....   | 8  |
| Escalation to OSCAR and repeated offending .....                                      | 8  |
| Penalties for a minor offence.....  | 8  |
| Appeal against a decision or a penalty imposed by an Authorised Person .....          | 10 |
| Decision of the Chief Student Officer.....  | 10 |
| Major offences .....  | 11 |
| Enquiries and investigations.....   | 11 |
| Misconduct that may and/or involves police or criminal proceedings .....              | 11 |
| Role of the Chief Student Officer in disciplinary proceedings.....                    | 12 |
| Disciplinary Panels.....  | 12 |
| Membership of a Disciplinary Panel .....  | 12 |
| Findings and outcomes of a Disciplinary Panel .....                                   | 12 |
| Arrangements following a Disciplinary Panel.....                                      | 13 |
| Appeal against the findings and outcomes of a Disciplinary Panel .....                | 14 |
| Grounds for making an appeal .....  | 14 |
| Investigations by OSCAR.....  | 14 |
| Disciplinary Appeal Panels.....   | 15 |
| Membership of a Disciplinary Appeal Panel .....                                       | 15 |
| Findings and outcomes of a Disciplinary Appeal Panel .....                            | 15 |
| Reconsideration of an allegation in light of new evidence .....                       | 16 |
| Intermediate exit award.....  | 16 |
| Records of Disciplinary Panel and Disciplinary Appeal Panel hearings .....            | 16 |

Figure 1: Disciplinary procedures



## Introduction and scope

1. These *Student disciplinary regulations* apply to the following students:
  - applicants to the University who have accepted an offer of a place (see Regulation 13 below)
  - those registered on the Foundation Year and award-bearing programmes delivered by the University; this includes new students who have been through the online registration process and have yet to complete the main registration process and students on their Professional Training Year
  - those registered to study for the award of academic credit delivered by the University
  - those registered to study for non-credit bearing modules/courses and non-award-bearing programmes delivered by the University
  - those registered as a student with another organisation operating in collaboration with the University and using University facilities, for example, Surrey International Study Centre (SISC)

Students registered with one of the University's Associated and Accredited Institutions to study for an award of the University, do not come within the scope of these *Regulations* and are subject to the regulations of those institutions for disciplinary matters, or their equivalents.

2. Students who are subject to disciplinary proceedings will find it helpful to seek advice and support from the University of Surrey Students' Union.
3. The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review student complaints. The University of Surrey is a member of this scheme. Students who are unhappy with the outcome may be able to ask the OIA to review their disciplinary case. Students can find more information about making a complaint to the OIA, what it can and cannot look at and what it can do to put things right here: <https://www.oiahe.org.uk/students>.
4. Normally, students need to follow the *Student disciplinary regulations* before they complain to the OIA. The University of Surrey will send a letter called a "Completion of Procedures Letter" when students have reached the end of the disciplinary processes and there are no further steps they can take internally. If a student's complaint/appeal is not upheld, the University of Surrey will issue them with a Completion of Procedures Letter automatically. If their complaint/appeal is upheld or partly upheld they can ask for a Completion of Procedures Letter if they want one. Students can find more information about Completion of Procedures Letters and when they should expect to receive one here: <https://www.oiahe.org.uk/providers/completion-of-procedures-letters>.
5. It is expected that students, their representatives and staff will act reasonably and fairly towards each other and will treat the disciplinary process with respect. A failure to respect the disciplinary process may result in a separate disciplinary investigation with the potential for a separate finding of misconduct.

### **Reasonable adjustments**

6. Reasonable adjustments to the processes within these *Regulations*, including the extending of deadlines for student responses, will be made upon the production by the student of relevant third party evidence which demonstrates the need for those adjustments.

### **Exceptional circumstances**

7. In exceptional circumstances it may be appropriate to amend the procedures set out in these *Regulations*, for example, where strict application of the *Regulations* would result in substantial unfairness to the student or the student is in some way at risk because of health or disability. Such cases will be rare and each will be treated on their own merits.

### **Responsibilities for managing student misconduct**

8. Under University Statute 3, the President and Vice-Chancellor has general responsibility for ensuring the good order of the University. The discharge of responsibility for overseeing and managing student conduct is delegated by the President and Vice-Chancellor to:
- Authorised Persons in respect of initial investigations of misconduct; and
  - Disciplinary Panels and Disciplinary Appeal Panels in respect of major offences which includes complex cases requiring further investigation and/or where legal representation is requested (see Regulation 21 below)
9. For the purposes of these *Regulations* Authorised Persons are:
- (i) where the misconduct occurs in Faculties, the relevant Pro-Vice-Chancellor, Executive Dean of Faculty or their nominee;
  - (ii) where the misconduct occurs in residential accommodation, the Residential Case Manager, Security Officers, or persons with equivalent roles;
  - (iii) where the misconduct occurs in the Library, the Director of Library and Learning Services or their nominee;
  - (iv) where the misconduct occurs in University managed accommodation under a Headed Tenancy Scheme, the Director of Student Accommodation or their nominee;
  - (v) where the misconduct is in connection with parking on University premises, the Head of Security or their nominee;
  - (vi) where the misconduct is in connection with road traffic on University premises, the Head of Security or their nominee;
  - (vii) where the misconduct takes place on the University's licensed premises, the Licensees of those premises, including the Director of Catering Services and the Licensees of the University of Surrey Students' Union (USSU) or their nominee;
  - (viii) where the misconduct involves the University's computer systems, or misconduct on a social network (as defined in the [Student Social Media Policy](#)), including social media forums that are not public, the Chief Information and Digital Officer or their nominee;
  - (ix) for misconduct that occurs elsewhere on University premises or occurs off the University campus, the Head of Security or their nominee;
  - (x) for misconduct related to Students' Union activities, the Chief Executive of the Students' Union or their nominee;
  - (xi) the Criminal Convictions Group and Professionalism Group will act as an 'Authorised Person' in cases involving criminal convictions.<sup>1</sup>

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<sup>1</sup> See the Criminal Convictions Policy

For serious and complex cases the initial investigation can also be carried out by the Head of Security or their nominee. In cases where there would be a conflict of interest for the named Authorised Person to investigate an instance of misconduct, the investigation will normally be carried out by the Head of Security or their nominee.

10. In these *Regulations* the term Authorised Person includes the Authorised Person's nominee.

### **The conduct the University expects of its potential students, students and staff**

11. The Student and Staff Partnership Manifesto sets out the general standards of conduct the University expects of its students. When students register or re-register to study with the University they agree to abide by its general Regulations, the regulations that apply to their programme of studies, any applicable local regulations (for example, the *Conditions of Residence*), and these *Regulations*, which further specify the acts of misconduct and offences that the University penalises (see Regulations 22 - 29 below).
12. Students residing in University accommodation or University managed housing are responsible for the conduct of their visitors whilst their visitors are within their University accommodation or University managed housing.
13. Applicants to the University who have accepted an offer of a place are expected not to behave in a way that, in the reasonable view of the University, might bring the University into disrepute, or is incompatible with the behaviours expected of the University community, particularly those referred to in the [Harassment and Bullying Procedure](#). This might include behaviour while visiting the University, or attending a University event, in correspondence with the University or behaviour towards current or prospective students and/or on social media. Conduct occurring between the period of an offer of a place to study at the University and enrolment, which comes to the attention of the University, may therefore be considered misconduct under this policy.
14. The University expects its students and staff to uphold its regulations and to report infringements of its regulations to an Authorised Person.

### **Burden of proof**

15. In student disciplinary matters it is for the University to show that it is more likely than not that the student committed the offence. The burden of proof switches to the student at the appeal stage.

### **Standard of proof**

16. The standard of proof applied in student disciplinary matters is that of the balance of probability; that on the evidence put forward it is more likely than not that something was or was not the case.

### **Timeliness**

17. The University's disciplinary procedures will be conducted as quickly as possible and normally within 90 working days from the start of the investigation as follows:
  - the initial investigation and conclusion of the process (with the possible outcome being either no action, a minor offence penalty or a major offence penalty) up to 60 working days
  - the appeal against either a minor offence penalty or major offence penalty up to 30 working days

The University timeframes do not include the time taken for police criminal investigations or prosecution.

### **Confidentiality and General Data Protection Regulations**

18. The University deals with student disciplinary matters in confidence, to the extent that this is compatible with making enquiries and holding meetings to consider the matter. The University collects and processes a variety of personal data in order to fulfil relevant student Regulations (see the [Regulations web page](#) for a list of all Student Regulations). This personal data may be provided by the student or collected from other departments within the University or taken from publicly available sources such as social media. The University processes personal data for this purpose in its legitimate interests. Some Regulations will require the sharing of sensitive personal data (defined as “special category” data by data protection legislation). The University processes and shares special category data in the substantial public interest and only where it is necessary to enable the University to fulfil its duties of care to the student, other students, or to safeguard third parties. More detail on the types of data collected and how it is used to meet this need can be found in the Student Regulations Privacy Notice, available at the above link.
19. Many of the University's programmes of study are subject to accreditation by Professional, Statutory or Regulatory Bodies (PSRBs). Some of these require the University to inform them where a student's conduct calls into question their fitness to work within a particular profession, including conduct that poses a threat to the well-being or safety of others. The University may also be required by its agreements with PSRBs to notify them of misconduct that calls into question the student's integrity, such as criminal acts (even when not notified to the police) or dishonesty.
20. Where the University takes action under these *Regulations* to deal with alleged misconduct or offences that are subsequently found to have occurred, it reserves the right to take separate action to deal with the same matter under its [Regulations for fitness to practise](#) and to use evidence compiled as part of a University disciplinary procedures in any fitness to practise hearing.

### **Legal representation**

21. Where a student who is alleged to have committed an offence informs the relevant Authorised Person that they wish to be legally represented before the Authorised Person has made their decision, the Authorised Person refers the matter to the Office of Student Complaints, Appeals and Regulation (OSCAR). In such cases OSCAR will normally write to the student to inform them that the misconduct will be dealt with under the procedures relating to major offences, as set out in these *Regulations* and that the University will be similarly legally represented before the Disciplinary Panel. In these circumstances it may take longer to convene the Panel.

### **Misconduct**

22. The University may take disciplinary action where the student's behaviour has affected:
  - (i) a University student or employee;
  - (ii) the University of Surrey Students' Union or Union employee;
  - (iii) members of the public;
  - (iv) others visiting, working or studying at the University;
  - (v) the University itself (for example, reputational) or its property.

In addition to misconduct which happens on campus and during a Professional Training Year, the University may take disciplinary action in response to misconduct which:

- (vi) happens during off-campus activities such as placements and field trips;
  - (vii) happens whilst studying at partner/external organisations;
  - (viii) affects the University's reputation in the local community or more widely;
  - (xi) takes place on social media or the digital environment.
23. Misconduct is likely to fall into one of the categories below. The examples listed are illustrative and are not exhaustive. Some instances of misconduct may feature in more than one category depending on the circumstances.
24. Actions which cause actual or potential distress or harm (physical or psychological and in person or through any other medium) to other people irrespective of whether or not distress or harm was intended:
- (i) use of violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language;
  - (ii) sexual misconduct as described in the University's Sexual Misconduct Policy;
  - (iii) targeting an individual due to their possession, or perceived possession, of a protected characteristic: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation;
  - (iv) possession of an offensive weapon/firearm including imitation or replica products;
  - (v) harassment;
  - (vi) causing harm to another person;
  - (vii) fraud, deceit, deception or dishonesty in relation to the University's regulations, policies and procedures, its members and visitors to the University;
  - (viii) theft, misappropriation or misuse of University property, or the property of the University's members or visitors;
  - (ix) failure to respect the rights of others to freedom of belief and freedom of speech;
  - (x) being intoxicated and incapable;
  - (xi) breach of a University code, rule or regulation which includes but is not limited to:
    - a Managed Exclusion Order (see [Procedure for Managed Exclusion Orders](#))
    - [Policy for the use of Captured Content](#)
    - [Misuse of Drugs by Students Policy](#)
    - [Student Social Media Policy](#)
    - [Conditions of Residence](#)
    - [IT Acceptable Use Policy](#)
    - University Traffic Regulations



25. Actions which cause actual or potential damage to property of others:
- (i) damage to University property, or University Managed Houses, or the property of the University's staff, students or visitors, caused intentionally or recklessly;
  - (ii) breach of a University code, rule or regulation which includes but is not limited to those listed in Regulation 24(xi) above
26. Actions which cause actual or potential reputational damage to the University include any conduct that brings, or could reasonably be anticipated to bring, the University into disrepute or otherwise could reasonably be anticipated to lower the University in the estimation of a reasonable person.
27. Actions which disrupt the normal operations, and/or safe use of, the University including, where applicable:
- (i) misuse or unauthorised use of University premises or University Managed Houses;
  - (ii) unreasonable conduct or behaviour which causes distress or inconvenience to neighbours and/or members of the local community;
  - (iii) disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the University;
  - (iv) obstruction of, or improper interference with, the functions, duties or activities of any member of the University, or any visitor to the University;
  - (v) action or inaction likely to cause injury or impair safety on University premises or at University Managed Houses;
  - (vi) a breach of the Students' Union Core Constitution or byelaws;
  - (vii) breach of a University code, rule or regulation which includes but is not limited to those listed in Regulation 24(xi) above.
28. Actions which impede or interfere with the pursuance of work/study of University members:
- (i) failure to comply with a reasonable instruction relating to prior disciplinary action, including the non-payment of fines;
  - (ii) failure to disclose personal details to a member of staff of the University in circumstances in which it is reasonable to require that such information be given;<sup>2</sup>
  - (iii) breach of a University code, rule or regulation which includes but is not limited to those listed in Regulation 24(xi) above.
29. Misconduct will be progressed as either minor or major depending on the severity of the misconduct and with due regard as to whether a minor or major penalty would be proportionate and reasonable for a proven offence. Examples of alleged offences are given in Regulations 24 – 28 above and within the [Guide to Disciplinary Action in the Residences](#). Examples of major and minor offences may include the following:

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<sup>2</sup> Students of the University are required to give their names, their home and University addresses and to produce their identity card or other reasonable means of establishing both student status and identity, when asked to do so by any member of staff. The student identity card remains the property of the University. It must be produced by the student on demand and may be withdrawn at any time without notice.

Examples of minor offences include but are not limited to:

- (i) Failure to evacuate during fire alarms
- (ii) Excessive noise
- (iii) Unauthorised guests in University accommodation
- (iv) Smoking in non-designated areas

Examples of major offences include but are not limited to:

- (v) Causing harm to another person
- (vi) Use of violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language
- (vii) Sexual misconduct
- (viii) Harassment
- (ix) Any action likely to cause injury or impair the safety of others
- (x) Fraud, deceit, deception or dishonesty
- (xi) Breach of a Managed Exclusion Order

### **Initial enquiries and investigation**

- 30. Where an Authorised Person is acquainted with or identifies matters of actual or possible misconduct under these *Regulations* they are required to make enquiries, including of the student, to establish whether, on the balance of probabilities, misconduct has taken place. Where it is appropriate the Authorised Person will also meet with the person(s) who has reported the misconduct.
- 31. The student will be given the opportunity to provide any information that they wish to be taken into consideration and to make representations verbally and/or in writing to the Authorised Person about the possible misconduct identified.
- 32. If misconduct is identified as having occurred, on the balance of probabilities, the Authorised Person must decide whether any such misconduct could reasonably be considered to warrant either a minor or a major penalty. An Authorised Person is permitted to apply one or more minor offence penalties, whilst major offence penalties can only be applied by a Disciplinary Panel or a Disciplinary Appeal Panel.

### **Escalation to OSCAR and repeated offending**

- 33. Where an Authorised Person, having reviewed the information and evidence available to them, considers that matter requires more detailed investigation, or that the misconduct that has been identified might reasonably be expected to receive, if proven, a major offence penalty, they will refer it to OSCAR.
- 34. Repeated offences, including repetition of the same minor offence or an accumulation of different minor offences, may be dealt with by the University as a single matter that merits, if proven, receipt of a major offence penalty and these instances will be referred to OSCAR.

### **Penalties for a minor offence**

- 35. Where an Authorised Person has satisfied themselves that misconduct has taken place, that it constitutes a minor offence and that the offence has been committed by the student, they will consider what penalty to apply by reviewing whether:
  - (i) the student demonstrated insight and/or remorse;

- (ii) the student demonstrated honesty and integrity during the disciplinary process;
  - (iii) the student can provide independent medical evidence to show that, at the time of the misconduct, their health was impaired to such an extent as to impact their ability to distinguish between acceptable conduct and misconduct;
  - (iv) this is a first offence, or whether there is a previous finding or findings of similar misconduct;
  - (v) the student responded positively to any reasonable warnings or concerns about their behaviour prior to the misconduct occurring;
  - (vi) the misconduct was, to any extent, intended or premeditated.
36. The Authorised Person will inform the student of their decision and apply one or more of the penalties listed below as appropriate:
- (i) a verbal warning;
  - (ii) a written warning advising the student about their future conduct;
  - (iii) a requirement to attend an educational workshop;
  - (iv) a fine of any value up to £200, all or part of which may be suspended;
  - (v) a penalty in the form of a temporary ban on entering any University premises for no more than 48 hours;
  - (vi) a final written warning where a student has previously received a written warning or where the nature of the misconduct makes it appropriate;
  - (vii) confiscation without compensation of items prohibited by local rules and regulation;
  - (viii) a requirement to move to a new University residence;
  - (ix) seizure and retention of items for a specified period for the purpose of maintaining the safety and wellbeing of others;
  - (x) a requirement to offer an apology;
  - (xi) a requirement not to contact other individuals either directly or indirectly.
37. In some circumstances Authorised Persons may issue penalties such as fines on the spot. This will only be appropriate when the student has been identified by the Authorised Person whilst committing the act of misconduct and has been given a reasonable opportunity to respond. On the spot penalties will not be applied when the Authorised Person believes that the student's ability to respond is inhibited as a result of drugs or alcohol.
38. When the Authorised Person has made their decision on a matter they record their decision and the penalty imposed. They send one copy of the completed documentation to the student, one copy to OSCAR for its records, and retain a copy for their own records.
39. If a finding of misconduct is made due wholly or in part to a student complaint, the reporting party will not normally be provided with details of the Authorised Person's outcome. However, the reporting party may make a request to OSCAR for these details and such requests will be considered on a case by case basis.
40. Penalties that are imposed by an Authorised Person in the form of fines are paid by students direct to the University through the University's on-line facility for fine

payments or through the University's Cashiers. Fines are payable within 28 days of being levied.

41. Under these *Regulations*, the imposition of a penalty or penalties by an Authorised Person shall not prevent the University from seeking to recover compensation from the student or students for the costs of any repairs to University property or University Managed Houses.

***Appeal against a decision or a penalty imposed by an Authorised Person***

42. Students can appeal the decision by an Authorised Person to apply one or more of the penalties listed in Regulation 36 above.
43. When making an appeal against the imposition of a penalty by an Authorised Person, the student is required to show that they have evidence to demonstrate that one or more of the following grounds apply:
- that the Authorised Person failed to follow the University's regulations and/or procedures or failed to follow them with due care
  - that the Authorised Person has shown bias or prejudice towards the student in the way that they handled the matter that led to the imposition of the penalty
  - that relevant new evidence has become available that should be considered and there are valid reasons why it was not available to the Authorised Person at the time they imposed the penalty
  - that the decision was unreasonable and/or the penalty imposed by the Authorised Person was not proportionate in all of the circumstances
44. Appeals against a decision and/or a penalty imposed by an Authorised Person must be made within 10 working days using the relevant form, which can be found on the OSCAR [web pages](#). Appeals against a penalty imposed by an Authorised Person that are received by OSCAR are dealt with by a Case Manager.
45. If an appeal is received after the 10 working days deadline, the student will be asked to provide rationale reasonable in all of the circumstances ((thereafter referred to as "reasons") as to why the appeal is late. The evidence will be considered by two OSCAR Case Managers who will determine whether the reasons are valid. If the two Case Managers cannot come to an agreement a third Case Manager will be consulted and a majority decision will be made. A decision on the validity of the reasons will normally be made within five working days of receiving the information. If the reasons are not deemed valid the appeal will not be considered and the student will be offered a Completion of Procedures letter.<sup>3</sup> If there are valid reasons the appeal will be accepted and assigned to an OSCAR Case Manager.
46. Where OSCAR has requested the student to provide additional information and the student fails to do so within 10 working days of the request being sent to the student's University email address, the student will be sent a further reminder and warned that their appeal will be closed if a response is not received within a further calendar month.

***Decision of the Chief Student Officer***

47. Where, after making enquiries, the Case Manager is able to show that there are sufficient grounds and evidence for the student's appeal against a penalty imposed

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<sup>3</sup> A Completion of Procedures letter is a formal written statement issued by the University to a student to confirm that the student has exhausted the University's internal procedures. A Completion of Procedures statement is required before a student can refer a matter to the Office of the Independent Adjudicator.

by an Authorised Person to be upheld, the Case Manager will consult another Case Manager to agree an outcome. Where an outcome cannot be agreed, a third Case Manager will be consulted to make that recommendation. Where the Case Managers agree that the appeal should be upheld, they write to the student and the Authorised Person, explaining the grounds for upholding the appeal. They will also consider whether there has been any adverse impact upon the student and whether the University should provide a remedy.

48. Where, after making enquiries, the Case Manager finds that the student's appeal does not meet the criteria outlined in Regulation 43 above, and is not supported by evidence, they will consult another Case Manager setting out why the student's appeal should be dismissed. Where an outcome cannot be agreed, a third Case Manager will be consulted. Where the Case Managers agree that the appeal should be dismissed, they write to the student dismissing their appeal and explaining the grounds for the dismissal. The student will be offered a Completion of Procedures letter.

## **Major offences**

### ***Enquiries and investigations***

49. Disciplinary matters may be referred to OSCAR under the conditions described in Regulations 22, 33 and 34 above. All such matters are assigned by OSCAR to a Case Manager, who will manage the matter and undertake the necessary enquiries.
50. In all cases referred to OSCAR matters are investigated fairly and enquiries are made in proportion to the seriousness of the matter. Enquiries should establish whether, on the balance of probabilities, misconduct has taken place. During the investigation the student will be given the opportunity to provide all information that they wish to be taken into consideration.
51. Whilst a matter is being dealt with by OSCAR the responsible Case Manager:
- determines, with the advice of the Head of Security, whether a Managed Exclusion Order should be sought (see [Procedure for Managed Exclusion Orders](#) );
  - handles the associated correspondence and contacts with the student and other parties to the case; makes enquiries into the circumstances of the matter and gathers written evidence and statements from the student, the relevant Authorised Person or Persons, and other parties with information that is directly relevant to the matter.

### ***Misconduct that may and/or involves police or criminal proceedings***

52. If in the course of their work and enquiries it becomes apparent to an Authorised Person or a Case Manager that an alleged misconduct may also constitute a criminal offence, they will consult with the Chief Student Officer and/or the Head of Security to determine whether the matter has been or needs to be referred to the police and whether to continue with their investigations.
53. Where the University and the police or other authorities are simultaneously enquiring into the same alleged misconduct the University will normally confer with the relevant authorities, subject to any general agreements that have been reached with the police. If, in such a matter it is stated to the University that to continue with its internal procedures will hinder or prejudice an investigation by the police, or criminal legal action, the University will normally suspend its own internal disciplinary action until advised by the police or the Crown Prosecution Service that their own proceedings have been concluded. A record of communications with the police or

Crown Prosecution Service and the University will be kept by the Authorised Person or Case Manager.

54. Where the University can be confident that continuing its own internal student disciplinary procedures will not hinder or prejudice simultaneous police or criminal proceedings it will allow its own disciplinary action to take its course.

#### ***Role of the Chief Student Officer in disciplinary proceedings***

55. The role of the Chief Student Officer in the University's disciplinary procedures is to act as a procedural gatekeeper on behalf of the University, to receive dossiers and recommendations compiled by OSCAR Case Managers relating to alleged misconduct and/or alleged offences.
56. When acting in their role as gatekeeper the Chief Student Officer checks whether the University's *Regulations* and procedures have been followed, and whether the papers that comprise the dossier and the Case Manager's recommendation are sufficiently complete to enable the matter to be put before a Disciplinary Panel. When the Chief Student Officer is satisfied that these conditions have been met, they certify that the matter be put before a Disciplinary Panel and authorise the Case Manager to make the necessary arrangements. This may include ensuring that the terms of any current Managed Exclusion Order in force enable the student, and any witnesses they have stated that they intend to call, to have access to the place where the hearing is to be held.

#### **Disciplinary Panels**

57. Disciplinary Panels are convened by OSCAR and conduct their business in accordance with the [Procedure for hearings by Panel](#) which detail how Panels work, including, where relevant, the right of a student to attend a hearing and to be accompanied. It is expected that those asked to attend a hearing will acquaint themselves with the *Regulations*.

#### ***Membership of a Disciplinary Panel***

58. The membership of a Disciplinary Panel comprises three members from the pool of trained Panel members as follows:
- a member of the pool of trained Chair persons
  - a member of University staff
  - a sabbatical officer or a student member nominated by the Students' Union
- A member of OSCAR is in attendance as Secretary to the Panel.
59. Members of a Disciplinary Panel should have no current academic or personal connection with the student (or students) considered by the Panel.

#### ***Findings and outcomes of a Disciplinary Panel***

60. A Disciplinary Panel may come to one of two findings:
- (i) that no misconduct has been committed;
  - (ii) that misconduct has been committed;
61. Where misconduct has been committed the Panel will then consider what penalty to apply by reviewing whether:
- (i) the student demonstrated insight and/or remorse;
  - (ii) the student has demonstrated honesty and integrity during the disciplinary process;

- (iii) the student can provide independent medical evidence to show that, at the time of the misconduct, their health was impaired to such an extent as to impact their ability to distinguish between acceptable conduct and misconduct;
  - (iv) this is a first offence, or whether there is a previous finding or findings of similar misconduct;
  - (v) the student responded positively to any reasonable warnings or concerns about their behaviour prior to the misconduct occurring;
  - (vi) the misconduct was, to any extent, intended or premeditated
62. Where a Disciplinary Panel has determined that misconduct by a student merits a minor offence penalty, the Panel may impose the penalties listed in Regulation 36 above.
63. Where a Disciplinary Panel has determined that the misconduct merits a major offence penalty, the penalties that it can apply are listed below:
- one or more of the penalties listed in Regulation 36 above, with or without one of more of the following:
    - that the student's right to University accommodation or University Managed Houses is temporarily or permanently revoked
    - that the student be excluded from all or parts of the University premises under Ordinance 6.3.1.2(a)
    - that the student be suspended for a defined period under Ordinance 6.3.1.2(b)
    - that the student be expelled under Ordinance 6.3.1.2(c)
    - a sanction permitted under the University of Surrey Students' Union byelaws
64. The Disciplinary Panel will also consider whether there has been any adverse impact upon the student and whether the University should provide a remedy.
65. The penalty imposed by a Disciplinary Panel takes immediate effect.

### **Arrangements following a Disciplinary Panel**

66. Following a hearing by a Disciplinary Panel the Secretary conveys the findings of the Panel to the student and all relevant parties in writing. The student is informed of their right to appeal against the findings of the Panel within the specified time limit (see Regulation 70 below) and that, if they have no grounds to appeal (see Regulation 72 below), that they may request a Completion of Procedures letter.
67. A Panel decision remains in force until the outcome of any appeal is known.
68. If a finding of misconduct is made due wholly or in part to a student complaint, the reporting party will not normally be provided with details of the Disciplinary Panel outcome or the outcomes of any subsequent appeal. However, the reporting party may make a request to OSCAR for these details and such details will be considered on a case by case basis.
69. Where a Disciplinary Panel has decided to exclude a student and the student lodges an appeal against the Panel's findings and its penalty within 10 working days, the Chief Student Officer may seek a Managed Exclusion Order. The duration of the Order will be no longer than is reasonably required for the University to arrange a hearing by a Disciplinary Appeal Panel and the student to prepare for the hearing. The conditions attached to the Managed Exclusion Order will acknowledge the

student's need to be able to prepare for and attend the hearing. In these circumstances the student has no right of appeal against the imposition of the Managed Exclusion Order.

### **Appeal against the findings and outcomes of a Disciplinary Panel**

70. Students making an appeal against the findings and/or penalty made by a Disciplinary Panel do so by completing the relevant form which can be found on the OSCAR [web pages](#). Appeals must be received by OSCAR within 10 working days of the Panel conveying its findings to the student in writing. If the appeal is received on time it will be assigned to an OSCAR Case Manager.
71. If an appeal is received after the 10 working days deadline the student will be asked to provide any rationale reasonable in all of the circumstances ("reasons") as to why the appeal is late. The evidence will be considered by two OSCAR Case Managers who will determine whether the reasons are valid. If the two Case Managers cannot come to an agreement a third Case Manager will be consulted and a majority decision will be made. A decision on the validity of the reasons will normally be made within five working days of receiving the information. If the reasons are not deemed valid the appeal will not be considered and the student will be offered a Completion of Procedures letter. If there are valid reasons the appeal will be accepted and assigned to an OSCAR Case Manager.

### ***Grounds for making an appeal***

72. When making an appeal the student is required to show that they have evidence to demonstrate that one or more of the following grounds apply:
  - that the Panel failed to follow the University's regulations and/or procedures or failed to follow them with due care
  - that the Panel has shown bias or prejudice towards the student in reaching its findings or imposing the penalty
  - that relevant new evidence has become available that should be considered and there are valid reasons why it was not available to the Panel at the time
  - that the decision of the Panel was unreasonable and/or the penalty was not proportionate in all of the circumstances

### ***Investigations by OSCAR***

73. When OSCAR receives an appeal against the findings and/or penalty imposed by a Disciplinary Panel the Case Manager checks whether:
  - the appeal has identified the grounds on which it has been made
  - the grounds are consistent with Regulation 72 above
  - the grounds are supported by relevant evidence
74. The Case Manager consults with a second Case Manager and if at least one agrees that the appeal meets the requirements set out in Regulation 72 above a Disciplinary Appeal Panel will be convened.
75. Where both of the Case Managers consider that the appeal does not meet any of the requirements set out in Regulation 72 above the appeal will be dismissed and the Case Manager will write to the student explaining the grounds for the dismissal and that this communication constitutes a Completion of Procedures letter.
76. Where OSCAR has requested the student to provide additional information and the student fails to do so within 10 working days of the request being sent to the student's University email address, the student will be sent a further reminder and



warned that their appeal will be closed if a response is not received within a further calendar month.

77. Where OSCAR or the Chief Student Officer considers that an appeal appears vexatious or malicious they refer the matter for review to the University Secretary and General Counsel.<sup>4</sup> Following review, if it is decided that the appeal is vexatious or malicious, the University Secretary may direct that the appeal is dismissed. OSCAR will inform the student and issue a Completion of Procedures letter. The outcome of the University Secretary's review could also result in further disciplinary action.

### **Disciplinary Appeal Panels**

78. Disciplinary Appeal Panels are convened by OSCAR and conduct their business in accordance with the [Procedure for hearings by Panels](#) which detail how Panels work including, where relevant, the right of a student to attend a hearing and to be accompanied. It is expected that those asked to attend a hearing will acquaint themselves with the *Regulations*.

#### ***Membership of a Disciplinary Appeal Panel***

79. The membership of a Disciplinary Appeal Panel comprises three members from the pool of trained Panel members as follows:
- a member of the pool of trained Chair persons
  - a member of University staff
  - a sabbatical officer or a student member nominated by the Students' Union

A member of OSCAR is in attendance as Secretary to the Appeal Panel.

80. Members of a Disciplinary Appeal Panel should have no current academic or personal connection with the student (or students) considered by the Appeal Panel. Members of the Appeal Panel should have had no connection with the Disciplinary Panel that previously heard the matter.

#### ***Findings and outcomes of a Disciplinary Appeal Panel***

81. A Disciplinary Appeal Panel may come to one of six findings:
- (i) that the findings of the Disciplinary Panel should be confirmed and the appeal dismissed;
  - (ii) that a penalty imposed by the Disciplinary Panel should be varied;
  - (iii) that there has been a failure to follow the University's regulations and/or procedures or to follow them with due care such as to deny the student a fair hearing;
  - (iv) that there was bias or prejudice towards the student in the way the Disciplinary Panel reached its findings or in other aspects of the disciplinary procedure;
  - (v) that relevant new evidence that was not available to the Disciplinary Panel at the time for valid reasons should be taken into account;

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<sup>4</sup> The Office of the Independent Adjudicator defines examples of vexatious appeals as including: those that are obsessive, harassing or repetitive; insistence on pursuing non-meritorious appeals and/or unrealistic, unreasonable outcomes; insistence on pursuing meritorious appeals in an unreasonable manner; appeals which are designed to cause disruption or annoyance; demands for redress which lack any purpose or value.

- (vi) that the decision of the Disciplinary Panel was unreasonable and/or that the penalty was not proportionate with the evidence presented in all of the circumstances.

82. Where the finding is as in (iii), (iv), (v) and/or (vi) above the Disciplinary Appeal Panel may:

- direct that the matter be heard anew by a differently constituted Disciplinary Panel
- substitute the findings of the Disciplinary Panel with its own findings
- or, where the unfairness to the student is extreme, nullify the findings of the Disciplinary Panel, end the disciplinary procedure and, if relevant, reinstate the student

The Disciplinary Appeal Panel will also consider whether there has been any adverse impact upon the student and whether the University should provide a remedy.

83. Following a hearing by a Disciplinary Appeal Panel the Secretary conveys the findings of the Panel to the student and all relevant parties in writing. The Secretary's letter also states that it constitutes the completion of the University's procedures and that the student can request a review of the University's decision by the [Office of the Independent Adjudicator](#).

### **Reconsideration of an allegation in light of new evidence**

84. It may be appropriate for the University to reconsider an allegation if new evidence emerges which, for good reason, could not have been obtained at the time. In deciding whether it is appropriate to consider an allegation for a second time, the University will consider:

- (i) whether the outcome of the first process has been called into question, and if so why;
- (ii) the strength and reliability of the evidence;
- (iii) the length of time that has elapsed and the effect of this on the reliability of any evidence to be considered;
- (iv) the severity of the alleged offence;
- (v) the impact on the student of undergoing a second misconduct process;
- (vi) whether leaving the matter unaddressed would impact on matters of fitness to practise, or on any obligations the provider has to professional or regulatory bodies in respect of the particular student's character.

Reconsideration of an allegation will only take place in exceptional circumstances and following approval from the Academic Registrar.

### **Intermediate exit award**

85. Where a student's registration is terminated as a result of a Disciplinary or Disciplinary Appeal Panel hearing, the Chief Student Officer ensures that the student receives any intermediate exit award to which they are entitled and a copy of their transcript or its equivalent.

### **Records of Disciplinary Panel and Disciplinary Appeal Panel hearings**

86. Information on the student's disciplinary offence and any penalty imposed by the University will be included on the student's record but will not be divulged on transcripts or references.