1. Introduction

1.1. This procedure has been prepared in accordance with the Office of Independent Adjudicator’s (OIA’s) Good Practice Framework: Disciplinary Procedures.[1]

1.2. This procedure applies to all students registered with on any of the ICR’s taught courses and research degrees.

Definition

1.3. Misconduct is defined as any action or behaviour by an individual, which disrupts or intends to disrupt the ICR or any student, staff member or visitor to the ICR. Student misconduct is dealt with by this procedure.

1.4. The following circumstances are examples of misconduct, although this list is not exhaustive:

   1.4.1. Relying on forged, falsified or fraudulent documentation or other forms of deception that are intended to gain an advantage, for example submitting fraudulent mitigating circumstances claims or falsifying medical evidence;
   1.4.2. Theft of property of the ICR, or the Royal Marsden NHS trust, or property belonging to its employees, students or visitors;
   1.4.3. Behaviour likely to bring the ICR into disrepute;
   1.4.4. Violence, bullying, harassment, abusive or threatening behavior, sexual misconduct or hate crimes by a student, occurring either physically or virtually to a student, employee or visitor (see 1.7 below);
   1.4.5. Damage or misuse to the ICR or the Royal Marsden NHS Trust’s property, or that of its employees, students or visitors;
   1.4.6. Disruptive behavior on the ICR or the Royal Marsden NHS Trust’s premises, for example setting off fire alarms, obstructing access to buildings or
rooms, or not following a reasonable instructions issued by employees in the conduct of their role;

1.4.7. Incapability as a result of being under the influence of alcohol, or abuse of drugs or toxic substances;

1.4.8. Unauthorised use or misuse of computer records, internet access, or disregard for the ICR’s IT Acceptable Use Policies;

1.4.9. Causing a health or safety concern, not following health and safety procedures, or compromising the safety of and/or wellbeing of staff, other students, or visitors;

1.4.10. Breaching the ICR’s regulations, programme-specific Code of Practice, or any other policy referred to in the Terms and Conditions of Enrolment;

1.4.11. Persistent or prolonged unauthorised absence from study; and

1.4.12. Other behavior which may also constitute a criminal offence.

Other related procedures (available on Nexus)

1.5. The ICR’s Procedure for the Investigation of Misconduct in Research would be followed in cases of research misconduct.

1.6. The Code of Practice for Examination Offences specifies the procedure which must be followed where an allegation of examination offence (including plagiarism) is made against a student. The ICR also publishes guidance on avoiding plagiarism for students.

1.7. Challenging bullying and harassment – policy and procedure:

1.7.1. This includes an appendix that defines acceptable and unacceptable behaviours.

1.7.2. Where a student is alleged to have behaved in this way then the matter will be investigated using the student discipline procedure. If the allegation relates to a member of staff’s behaviour then it will be investigated under the challenging bullying and harassment procedure.

Overview

1.8. This procedure includes information on four possible stages for dealing with allegations of misconduct.

1.8.1. Stage 1: Preliminary consideration, where the relevant investigator decides whether the matter can be dealt with informally or whether to invoke a formal procedure;

1.8.2. Stage 2: Formal investigation, where the investigator formally investigates the allegation, and the Academic Dean or deputy chairs a Discipline Committee which holds a hearing to consider the investigation and decides whether or not to uphold the allegation.
1.8.3. Stage 3: An appeal procedure is available for students who are unsatisfied with the outcome of Stage 2. The Chief Executive Officer arranges a Review to consider whether the procedure was correctly followed and whether the outcome was reasonable in all the circumstances.

1.9. External redress: Where a student is unsatisfied with the outcome of the ICR’s procedures, they can raise a complaint with the Office of the Independent Adjudicator, the external ombudsman for Higher Education Providers.

1.10. Details of each stage are provided in sections 4-8 of this procedure. A flowchart visualising the process is also included - see Appendix A.

2. General Principles

Roles

2.1. The ICR will allocate the allegation of misconduct to members of staff for investigation and decision-making who have had no previous involvement in the matter.

2.2. Alternative trained and experienced academic (or Academic Services staff in the case of Stage 1 and 2) may be nominated to take on the roles detailed in Table 1 in the event that any of the investigating officers or decision-makers are involved in the allegation of misconduct, could be reasonably perceived by the student to be biased, or are unavailable at the time of the investigation.

Table 1. Investigating officers for each stage of the Student Disciplinary Procedure

<table>
<thead>
<tr>
<th>Stage</th>
<th>Investigating Officers and decision makers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stage 1 – Preliminary Consideration and Stage 2 – Investigating Officers</td>
<td>Taught courses: Course Director</td>
</tr>
<tr>
<td>Stage 3 – Chair of the Discipline Committee</td>
<td></td>
</tr>
<tr>
<td>Stage 4 – Review</td>
<td></td>
</tr>
</tbody>
</table>
2.3. The ICR aims to process any allegation of misconduct within 90 calendar days of the start of the investigation. This timeframe would normally exclude the time taken by a criminal investigation or prosecution.

2.4. The 90 calendar day timeframe requires students to comply with any timescales set down in this procedure.

2.5. There will occasionally be circumstances when, for good reasons, the ICR will extend the timeframe to allow a student longer to respond to allegations or to investigate further due to the complexity of the case. Requests for extended time are considered on a case by case basis.

Principles of the procedure

2.6. This procedure seeks to ensure that the ICR acts fairly and reasonably in relation to all parties involved in disciplinary proceedings.

2.7. This procedure complies with the rules of natural justice which give students:

2.7.1. the right to know the case against them;
2.7.2. the right to be given an opportunity to defend themselves; and
2.7.3. the right for the case to be considered by impartial decision-makers.

2.8. The standard of proof used to consider whether or not alleged misconduct is found to have been proven will be the civil standard, i.e. on the balance of probabilities.

2.9. The burden of proof, the responsibility of proving a breach of the discipline procedure, rests with the ICR. It is the ICR’s responsibility to prove that the behaviour occurred, it is not the student's responsibility to prove that it did not occur.

2.10. The procedure does not prevent the same allegation of misconduct being investigated again if new evidence emerges, which for good reason, could not have been obtained by the provider at the time. However, consideration will be given to: the outcome that was initially obtained; the length of time that has elapsed and the impact of this on the investigation; the severity of the offence; the impact on the student; and whether the allegation, if found, would impact the student’s fitness to practice.

2.11. There are circumstances where this procedure may be used to take action against a former student, these circumstances may include where a disciplinary investigation has already begun and to close the case without conclusion would be
inappropriate, for example because of the seriousness of the allegation; alternatively, ICR may only become aware of a disciplinary concern once a student has left and to take no action would be disproportionate and/or harm the ICR’s reputation.

**Expectations of Behaviour during the procedure**

2.12. All parties are expected to act reasonably and fairly towards each other, and to treat the processes themselves with respect. This applies in relation to all correspondence and when attending formal hearings. Not adhering to this requirement may make the current allegation of misconduct more serious or it could be the subject of an additional allegation of misconduct.

2.13. This disciplinary procedure is part of a wider framework that gives clear information to students about their expected standards of behaviour. Please read the student charter and the relevant student handbooks for more information - [https://bit.ly/ICRpolicies](https://bit.ly/ICRpolicies)

**Confidentiality and Disclosure of Information**

2.14. The ICR will ensure an appropriate level of confidentiality to those involved that is sufficient to allow an effective investigation. Staff will only share necessary information on a need-to-know basis to enable the administration, investigation, decision-making to take place and to safeguard ICR students, employees and visitors.

2.15. The ICR may, where it is under a duty or considers it right to do so, disclose any information from these proceedings at any stage to professional, statutory or regulatory bodies, legal representatives or to government and law enforcement agencies in the UK or overseas, as appropriate.

**Consideration of Disabilities**

2.16. Reasonable adjustments will be made to this procedure to enable students with disabilities to engage with equal opportunity. Students should inform the ICR where adjustments are insufficient.

2.17. If a student responding to an alleged breach of misconduct states that the disciplinary concern took place as a result of an underlying disability, the ICR will consider carefully whether to proceed with disciplinary action, or to refer the student to support services accessed via the Registry.

**Record-Keeping and Monitoring**

2.18. Written records will be kept throughout the process and stored confidentially in accordance with the ICR's policies on record retention and data protection legislation. These will include:
2.18.1. all relevant documentation, correspondence and notes of meetings;
2.18.2. the Investigating Officer's Report;
2.18.3. the decision of the Formal Hearing;
2.18.4. whether an appeal was made against any decision taken and its outcome;
2.18.5. the dates of and attendees at meetings;
2.18.6. any subsequent developments.

3. Precautionary Actions

3.1. The Registrar or deputy shall have the power to impose precautionary actions on students where it is necessary to do so in order for a full investigation to be carried out by the ICR or the police, or to protect any person whilst an allegation of misconduct or criminal matter is being considered.

3.2. Precautionary action may include temporarily excluding a student from the ICR; or limiting their ability to access facilities or buildings; or imposing conditions on a student, for example avoiding contact with specified persons.

3.3. Precautionary actions do not constitute any penalty or sanction or imply any finding of wrongdoing. Precautionary actions will be used proportionately and only where necessary. For this reason, a risk assessment must be produced to demonstrate that the reasons for the decision, outweigh any potential disadvantage to the student.

3.4. In reaching a decision about whether precautionary action is required, the Registrar or deputy will consider all available information and give the student the opportunity to make representations. Where the urgency of the situation dictates that it would not be possible to ask the student in advance for representations regarding precautionary action then the student will be given an opportunity to do so once informed of the precautionary action. Any student representations made will necessitate a review of the precautionary actions by the Registrar or deputy.

3.5. The Registrar or deputy will set out the decision, the details of any precautionary action and the reasons for the decision. The letter will also include the right to appeal the decision and the circumstances under which the action will be reviewed.

3.6. Precautionary action will be put in place for periods of up to two months after which time there will be an automatic review. A review can also follow a material change in circumstances.

3.7. If the student wishes to appeal the precautionary action decision then they will need to provide representations and any evidence within one week of receiving the decision.
3.8. Any appeal will be considered by the Chief Operating Officer or deputy within 7 days.

4. Stage 1 – Preliminary Consideration of the allegation

4.1. All allegations of misconduct should be made in writing to the Investigating Officer. The Investigating Officer will consider the allegation and may consult with the student’s supervisor or Dean’s Team representative and the relevant Head of Division. Statements made by a third party may also be considered.

4.2. The Investigating Officer will then decide whether the matter can be dealt with informally or whether it requires formal investigation.

4.3. Factors that may enable an allegation of misconduct to be handled informally include:

   4.3.1. no substantive harm or damage was caused;
   4.3.2. the actions taken were unplanned;
   4.3.3. the actions taken were caused by a student’s underlying health condition or disability;

4.4. The student will be informed that an allegation of misconduct has been made, the Investigating Officer’s decision of the preliminary consideration and reasons for the decision.

4.5. If the matter is dealt with informally, a verbal or written warning may be issued to the student and a record will be kept on the student’s file. This warning will make any future penalty for misconduct more serious and the warning will be kept on the student’s record for the length of their registration. Students may also be required to attend an educative session to prevent further recurrences of misconduct.

4.6. If the student is unsatisfied with the outcome of the preliminary consideration then the student can request that the allegation of misconduct is formally investigated and considered by a Discipline Committee. When considering the matter, the Discipline Committee will have access to the full range of sanctions.

4.7. If the allegation of misconduct cannot be resolved informally or if the Investigating Officer considers the allegation is more serious, the formal investigation will be invoked. This will normally be within 10 working days of the disciplinary concern being submitted to the Investigating Officer.
5. Stage 2 – Formal Investigation

5.1. The Investigating Officer will write to the student (via email) and outline the next steps of the process and provide indicative timeframes and the support available to them.

5.2. The Investigating Officer will invite the complainant and/or any witnesses to attend individual meeting, provide written statements and any other evidence they consider relevant to the matter.

5.3. Once this information is gathered, the Investigating Officer will invite the student to attend an investigation meeting. The student is permitted to bring an ICR colleague such as a Student Committee representative for support.

5.4. Following the Investigating Officer’s investigation, an investigation report will be produced outlining the investigation findings.

5.5. The report and date of the hearing will be sent to all parties involved in the investigation, no later than 10 working days before the hearing.

6. Stage 3 – Hearing

6.1. The report will be considered by a Discipline Committee at a hearing chaired by the Academic Dean (or Deputy) as soon as possible after the investigation is complete, and no later than 15 working days after.

6.2. The Discipline Committee will compromise of at least three people, invited by the Chair, and including senior members of Faculty not involved in any issues relating to the complaint. A member of Registry will take notes.

6.3. The Chair will determine the conduct and format of the hearing, and may decide to permit attendance via Skype or video-link if necessary.

6.4. The student will be invited to attend the heading and bring an ICR colleague such as a Student Committee representative for support, or to help represent their case. It is not expected that a student will need legal representation. However, where an allegation is serious this will be permitted.

6.5. If an individual made the allegation of misconduct, the complainant and anyone accompanying them will be invited to the hearing.

6.6. Both the student and the Investigating Officer may call witnesses to the hearing.

6.7. The Investigating Officer will present the investigation to the Discipline
6.8. The student should be given the opportunity to respond to the points raised by the Investigating Officer.

6.9. If the student does not turn up for the hearing, it may go ahead in their absence.

6.10. On conclusion of the fact-finding part of the hearing, the Discipline Committee will decide whether the allegation of misconduct is upheld or dismissed.

6.11. Only the members of the Discipline Committee should be present to consider its decision.

6.12. If the Discipline Committee upholds the allegation, it may decide to:

   6.12.1. issue a verbal or written warning;
   6.12.2. require the student to make good any damage by imposing the cost of repair or replacement to goods or premises;
   6.12.3. require the student to make a written apology to any parties that have been harmed;
   6.12.4. require the student to engage with educative or reflective sanctions, for example to undertake a written reflection or attend an educative workshop;
   6.12.5. limit or prohibit the student’s access to facilities, buildings or events of the ICR or the Royal Marsden NHS Trust;
   6.12.6. limit or prohibit the student from contacting or interacting with specific students, staff or visitors of the ICR or the Royal Marsden NHS Trust;
   6.12.7. suspend the student for up to a year from study and/or from any of the ICR’s premises;
   6.12.8. expel the student permanently from the ICR.

6.13. If the discipline concern is dismissed then no sanctions can be imposed.

6.14. The student will normally be notified of the Discipline Committee’s decision (via email) within 7 days of the hearing.

6.15. If the allegation is upheld the student will be given the opportunity to provide any mitigation in relation to sanctions.

7. Stage 4 – Review

7.1. The student has the right to review the Discipline Committee’s decision by using the ICR Review Procedure.
8. External Redress

8.1. Where the student is not satisfied with the outcome of the Review Procedure, the student may raise a complaint with the Office of the Independent Adjudicator for Higher Education (OIAHE), provided that the complaint to the OIA is eligible under its rules.

8.2. The OIAHE provides an independent scheme for the review of student complaints about a final decision of a higher education institution’s disciplinary or appeal bodies.

8.3. If a student decides to make a complaint to the OIA, their OIA Complaint Form must be received by the OIA within 12 months of the date of their appeal notification letter.

8.4. Full details of the OIAHE scheme are available from the Registry or on the OIAHE website: http://www.oiahe.org.uk.

9. Further Information

Advice and Support

9.1. Students involved in allegations of misconduct may wish to seek some additional support during this time.

9.2. The ICR offers a range of support services – including a free 24-hour counselling service, support from the Registry Operations team, the Employee (and Student) Assistance Programme and student wellbeing advisers. Find out more about these services on Nexus: https://bit.ly/ICRwelfare

9.3. Students who are invited to attend a Discipline Committee are permitted to bring a Student Committee representative (or a colleague/friend from the ICR – staff or student) for support or to help them represent their case. Find out more about the student committee, including their contact details, on Nexus: https://bit.ly/ICRstudentcommittee

10. Appendices

- Student Disciplinary Procedure - Appendicies.pdf
- Case Handler Guide.pdf