

Student Disciplinary Procedure

Approving committee:	Academic Board
Minute reference:	RDC/6/19/4.6; TCC/6/19/4.6
Document owner:	Academic Services - Education Policy and Quality
Key Contact(s):	Stuart Bell; Hilary Glover
Date of Equality Impact Assessment:	12/11/2019
Equality Impact Assessment Outcome:	No impact
Latest review date:	24/01/2022
Next review date:	31/07/2026

1. Introduction

1.1. This procedure applies to all students registered on any of the ICR's taught courses and research degrees. It specifies the steps which must be followed where there is allegation of non-academic misconduct by a student, except at the investigation stage in the case of any form of bullying or harassment (see sections **2.3.4** and **3.**). It defines the range of penalties which may be imposed in the event that an allegation is proven, and the right of appeal.

1.2. Where students and staff are involved in an allegation or where the allegation is made towards a student who is also a member of staff, there should usually be a joint investigation stage involving Registry and HR and Academic Services to ensure parity and to avoid duplication.

1.3. This procedure includes information on three possible stages for dealing with allegations of misconduct once it has been decided to invoke the formal procedure.

1.3.1. Stage 1: Investigation, where the investigator investigates the allegation;

1.3.2. Stage 2: 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;

1.3.3. Stage 3: An appeal procedure is available for students who are unsatisfied with the outcome of Stages 1 or 2 – the Review Procedure for non-academic appeals will consider whether the procedure was followed correctly and whether the outcome was reasonable in all the circumstances.

1.4. An appropriate trained and experienced member of staff may be nominated by the Registrar or deputy to take on any of the roles detailed in this procedure, in the event that those named have had any previous involvement in the matter, or could be reasonably perceived by the student to be biased, or are unavailable at the time of the investigation. Consideration of the individuals who will undertake roles at each stage should be considered at the start of the process, so as to ensure appropriate members of staff will be available to cover later stages.

1.5. The ICR aims to process any allegation of misconduct within 90 calendar days of the start of the formal investigation. This time frame would normally exclude the time taken by a criminal investigation or prosecution. This timeframe requires students to comply with any timescales set down in this procedure. 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. In these circumstances all the parties involved will be notified and kept updated as to the progress of the case.

1.6. Appropriate and proportionate written records will be kept by the 'Case Handler' (a senior member of Academic Services' staff providing administrative support) throughout the process and stored confidentially in accordance with the ICR's policies on record retention and data protection legislation.

1.7. Except in the case of **1.8.**, no person will be told any more about the investigation than is strictly necessary in order to obtain the information required and to enable the administration, investigation, decision-making process to take place. Where personal data requires processing in the context of an investigation and resolution of a student disciplinary allegation, personal data will only be disclosed to those persons who need such data for the purposes of conducting the investigation.

1.8. 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, employing NHS Trusts or other healthcare providers, legal representatives or to government and law enforcement agencies in the UK or overseas, as appropriate.

1.9. 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. 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, and/or to refer the student to support services accessed via the Registry. If a student appears unable to engage effectively with the disciplinary process, the ICR may suggest that the student appoints a representative. It may be appropriate to suspend the disciplinary process until the student has accessed appropriate support.

1.10. 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.

1.11. The ICR aims to balance the rights of all parties involved in investigations. All will be treated with dignity and respect. No one should expect to suffer any reprisals for making a complaint in good faith, and any evidence of recrimination should be brought immediately to the attention of the Registrar. If, however, a complaint is judged to be discriminatory, malicious or vexatious, the complainant may be subject to disciplinary procedures.

2. Definition

2.1. 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.

2.2. 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>

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

2.3.1. Relying on forged, falsified or fraudulent documentation or other forms of deception that are intended to gain an advantage, for example submitting fraudulent extenuating circumstances claims or falsifying medical evidence;

2.3.2. Theft of property of the ICR, or any location in which the ICR operates, or property belonging to its employees, students or visitors;

2.3.3. Behaviour likely to bring the ICR into disrepute;

2.3.4. Violence, bullying, harassment, abusive or threatening behaviour, sexual misconduct or hate crimes by a student, occurring either physically or virtually to a student, employee or visitor (see section 3.);

2.3.5. Damage or misuse to the property of the ICR, or any location in which the ICR operates for teaching or research, or the damage or misuse of the property of the employees, students or visitors of those locations;

2.3.6. Disruptive behaviour on the ICR or any location in which the ICR operates, 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;

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

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

2.3.9. 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;

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

2.3.11. Persistent or prolonged unauthorised absence from study;

2.3.12. Other behaviour which may also constitute a criminal offence.

3. Cases of alleged bullying and harassment

3.1. The ICR does not tolerate bullying or harassment of any kind and will always take any such allegations extremely seriously. Any allegation, whether relating to staff or student behaviour will be investigated under ICR's Bullying and Harassment procedure. This includes an appendix that further defines unacceptable behaviours and provides a list of support for both parties – the alleged perpetrator and those making the allegation.

3.2. Where the bullying and harassment investigation deems it necessary, the case will be referred back to the student disciplinary procedure in order for the Discipline Committee to decide on appropriate sanctions (see section 8.).

4. Other related procedures (available on Nexus)

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

4.2. 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.

5. Principles of the procedure

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

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

5.2.1. The right to know the case against them;

5.2.2. The right to be given an opportunity to defend themselves;

5.2.3. The right for the case to be considered by impartial decision-makers.

5.3. 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.

5.4. 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.

5.5. 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 ICR 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 and appropriate, would impact the student's fitness to practice.

5.6. 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.

6. Precautionary Actions

6.1. 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.

6.2. 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.

6.3. 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.

6.4. 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.

6.5. 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.

6.6. 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.

6.7. 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.

6.8. Any appeal will be considered by the Chief Operating Officer or deputy within 7 days.

7. Preliminary Consideration of the allegation

7.1. All allegations of misconduct should be sent by email to studentcasework@icr.ac.uk. An Investigating Officer will be assigned to consider the allegation (usually the Deputy Registrar or their nominee) 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.

7.2. The Investigating Officer will then decide whether the matter can be dealt with informally or whether it requires formal investigation. If it is an allegation of bullying, harassment or sexual misconduct, the case will be referred to the ICR's bullying and harassment policy for investigation. Where students are involved, Academic Services will work with HR to support the process and the student(s).

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

7.3.1. No substantive harm or damage was caused;

7.3.2. The actions taken were unplanned;

7.3.3. The actions taken were caused by a student's underlying health condition or disability.

7.4. 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.

7.5. 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. Students may also be required to attend an educative session to prevent further recurrences of misconduct. The reporting party should be informed of this outcome.

7.6. 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.

7.7. If the allegation of misconduct cannot be resolved informally or if the Investigating Officer considers the allegation is more serious, the investigation will be invoked. This will normally be within 10 working days of the disciplinary concern being submitted to the Investigating Officer. If the Deputy Registrar or their nominee deems that a full investigation is necessary, they will nominate a senior member of Academic Services staff to act as Case Handler to provide administrative support throughout the case.

8. Stage 1 – Formal Investigation

8.1. The Investigating Officer will write to the student (via email) and reporting party and outline the next steps of the process and provide indicative timeframes and the support available to them as appropriate. The student will be provided with the contact details of the Case Handler who they can contact with any queries about the progress of the case.

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

8.3. Once this information is gathered, the student(s) (and/or their representative) will be invited to attend an investigation meeting with the Investigating Officer.

8.4. Following the Investigating Officer's investigation, an investigation report will be produced outlining the investigation findings

8.5. As part of this report, the Investigating Officer in consultation with a senior academic (usually a member of the Academic Dean's Team or a Course Director) will determine one or more of the following outcomes:

8.5.1. No further action to be taken;

8.5.2. Issue a verbal or written warning;

8.5.3. Require the student(s) to make good any damage by imposing the cost of repair or replacement to goods or premises;

8.5.4. Require the student(s) to make a written apology to any parties that have been harmed;

8.5.5. Require the student(s) to engage with educative or reflective sanctions, for example to attend an educative workshop;

8.5.6. Proceed to a hearing.

8.6. If the discipline concern is fully dismissed then no sanctions can be imposed. No record will be stored on the student's file other than a letter to this effect will be sent to the student and held separately by the Deputy Registrar.

8.7. The outcome will be reported to both to the student(s) the allegation is made against and to the complainant.

8.8. If the outcome is not to proceed to a hearing, the student has the choice to accept the decision and may request a Completion of Procedures letter or may decide to proceed to a hearing instead, where the Discipline Committee will have access to a wider range of sanctions.

8.9. If a hearing will be taking place, 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.

9. Stage 2 – Hearing

9.1. 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 usually no later than 15 working days after.

9.2. The Discipline Committee will comprise of at least three people, invited by the Chair, and including senior members of Faculty or senior Professional Services staff and including a student representative as nominated by the student president where possible. No member of the Discipline Committee should be involved in any issues relating to the complaint.

9.3. The Case Handler will keep a written record of the hearing, setting out who attended, a brief outline of the proceedings, and the reasons for the decisions taken, including any penalty applied. The reasons given should be sufficiently detailed to enable the student to understand the rationale for the decision and for any penalty applied. It is not normally necessary to make an oral recording or full transcript, but it may be helpful to do so, particularly where the case is complex, or there is a significant factual dispute.

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

9.5. The student will be invited to attend the hearing and may 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, in exceptional circumstances, where an allegation is particularly serious this will may be permitted, for example if the outcome may impact 'fitness to practice'. If more than one student is involved, a group hearing can take place, at which all students are permitted to bring someone to support them.

9.6. If an individual made the allegation of misconduct, the complainant will be invited to the hearing. They may bring a colleague (usually from the ICR, such as a Staff Union representative or a Student Committee representative) as appropriate for support.

9.7. Notice of the date, time and venue of the Hearing Committee should be provided at least 10 days before the meeting, along with details of the allegation being investigated, any evidence obtained in relation to the allegation and any written statement provided by the student.

9.8. The student and/or complainant must inform the Case Handler of anyone accompanying them no fewer than 5 working days before the Disciplinary Committee date.

9.9. Both the student(s) and the Investigating Officer may call witnesses to the hearing.

9.10. The Investigating Officer will present the investigation to the Discipline Committee.

9.11. The student(s) should be given the opportunity to respond to the points raised by the Investigating Officer.

9.12. If the student(s) do not turn up for the hearing, it may go ahead in their absence.

9.13. On conclusion of the fact-finding part of the hearing, and once the Committee is satisfied that sufficient evidence has been presented and the student has been given fair and reasonable opportunity to respond, the Discipline Committee will decide whether the allegation of misconduct is upheld or dismissed.

9.14. Only the members of the Discipline Committee and the case handler should be present to consider its decision.

9.15. If the Discipline Committee upholds all or part of the allegation, it may decide to:

9.15.1. Issue a verbal or written warning;

9.15.2. Require the student(s) to make good any damage by imposing the cost of repair or replacement to goods or premises;

9.15.3. Require the student(s) to make a written apology to any parties that have been harmed;

9.15.4. Require the student(s) to engage with educative sanctions, for example to attend an educative workshop;

9.15.5. Limit or prohibit the student's(s') access to facilities, buildings or events of the ICR;

9.15.6. Limit or prohibit the student(s) from contacting or interacting with specific students, staff or visitors of the ICR;

9.15.7. Suspend the student(s) for up to a year from study and/or from any of the ICR's premises;

9.15.8. Terminate the student's(s') registration at the ICR;

9.15.9. Withdraw a qualification previously awarded;

9.15.10. In addition the ICR reserves the right to take legal action if justified by the severity of the offence.

9.16. If the discipline concern is fully dismissed then no sanctions can be imposed. No record will be stored on the student's file other than a letter to this effect will be sent to the student and held separately by the Deputy Registrar.

9.17. The student(s) and the reporting party will normally be notified of the Discipline Committee's decision (via email) within 5 working days of the hearing.

9.18. If the allegation is upheld the student(s) will be given the opportunity to provide any mitigation in relation to sanctions.

9.19. If the student accepts the Committee's decision and the sanctions imposed, they may request a Completion of Procedures letter. If they do not wish to accept the decision they will proceed to stage 3 (see section 10.).

9.20. Non-compliance with the sanction agreed will be the subject of an additional allegation of misconduct.

10. Stage 3 – Review

10.1. The student(s) have the right to request a review the Discipline Committee's decision by using the ICR Review Procedure for Non-Academic Appeals.

10.2. If the conclusion of the Review Procedure is to refer the complaint back to the formal stage for reconsideration, this should be concluded as soon as possible and, where practicable, within the 90 calendar days' timeframe.

10.3. Once a decision has been reached following the reconsideration of the formal complaint, a Completion of Procedures Letter will be issued.

11. End of Procedure

Once a decision has been reached and either accepted by the student(s) who is the subject of the discipline concern or once it has reconsidered following recommendation via the Review Procedure, the Completion of Procedures Letter will be issued. This will include: i) the date of the end of the ICR's internal complaints procedure; a summary of the issues considered under the complaints procedure; advice on the right of the Complainant to submit a complaint to the Office of the Independent Adjudicator (OIA), within 12 months of the date on the letter.

11.1. The OIA provides an independent scheme for the review of student complaints about a final decision of a higher education institution's disciplinary or appeal bodies provided that the complaint to the OIA is eligible under its rules. More information about making a complaint to the OIA, the complaints it can and cannot look at and what it can do to put things right if something has gone wrong can be found here: <https://www.oiahe.org.uk/students>

12. Post investigation follow up

12.1. The ICR does not tolerate victimisation and any such instances will be dealt with as a further disciplinary matter. This includes circumstances where the reporting party or anyone supporting them is subject to a detriment by any other person because of their involvement in any investigation. The Registry will contact the reporting party six months after the Completion of Procedures letter is issued as post-investigation monitoring and to check they have experienced no unintended repercussions. Any evidence of recrimination should be brought immediately to the attention of the Registrar.

13. Advice and Support

13.1. Students involved in allegations of misconduct may wish to seek some additional support during this time. Reporting parties – whether staff or students – should also be advised on sources of support.

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

13.3. 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.

