

SOAS Student Disciplinary Procedure 2016/17

1 Introduction and general principles

1.1 Persons registering as students of SOAS become members of the School and as such commit themselves to abiding by its regulations, which will be brought to their attention at the point of registration. Student handbooks provide guidance on the standard of behaviour expected of members, but are not exhaustive: the School is a community, and has the right to regulate the behaviour of its members. Members work and socialise together, and the School expects them not to behave in ways which endanger this partnership, but to uphold the standards and values agreed by the School (see SOAS core values: <http://www.soas.ac.uk/corevalues/>).

1.2 The School reserves the right to protect and defend its good name and reputation as might reasonably be expected from any reputable organisation or profession, and will do so through this disciplinary procedure. The School also has a duty of care to its students and staff, and a responsibility to intervene where the behaviour of one or more of its members threatens the safety of others.

1.3 The School's Charter and Standing Orders make the Director responsible to the Board of Trustees for the discipline of the School (Standing Order XI (ii)).

1.4 This procedure seeks to operate in a fair manner; it does not seek to reproduce elements of the criminal law or criminal justice system and is not a formal legal process, although the School has legal obligations which will apply to this procedure: for instance, the duty to act fairly and reasonably in relation to all parties in the application of this procedure. The rules of evidence in English law do not apply; the standard of proof required is the balance of probabilities: that is, it is more likely than not that the alleged misconduct occurred. The procedure complies with the rules of natural justice, which confer on a student the right to know the case against them; the right to be given an opportunity to defend themselves; and the right for the case to be considered by an impartial arbiter.

1.5 The School will take all reasonable steps to comply with the time limits set in this procedure. There may however be circumstances which, in the reasonable opinion of the person leading the procedure (in section 3, the Director; in sections 4 and 5, the Director's nominee/ Chair of the Disciplinary Panel; in section 6, the Chair of the Appeal Panel), require an extension of the set limits. A working day is a weekday, excluding Saturday, Sunday, Bank Holidays and days when the School is closed. Students are asked to note that outside of term time, staff absences may make such delays more likely. In

such cases the student should be given an explanation for the delay and told when a response can be expected.

1.6 Once a student is made aware that disciplinary proceedings are being brought against them, it is their responsibility to ensure that up to date contact details are lodged with the Information Compliance Manager so that they can be contacted in a timely fashion at each stage of the procedure.

1.7 If an allegation of misconduct is received under the Student Complaints Procedure which in the judgement of the Information Compliance Manager would more appropriately be dealt with under the Student Disciplinary Procedure, the Student Disciplinary Procedure will take precedence over action under the Student Complaints Procedure.

1.8 The School will seek to ensure that all allegations of misconduct are treated seriously and constructively, and dealt with fairly, promptly and with due regard to its Respect at SOAS Policy. The School reserves the right not to proceed with any investigation following an allegation of misconduct if it is considered that there are insufficient grounds or evidence to do so.

1.9 Once a report of misconduct that falls within the scope of this procedure has been made, this essentially becomes a matter between the accused student and the School, rather than a dispute between the person reporting misconduct (who may see themselves as a “complainant”) and the student. It is the School that will be taking action against the student once it has been decided to proceed under the disciplinary process.

1.10 The School will normally treat proceedings following an allegation of misconduct as confidential, but will make information (such as the outcome of the disciplinary process) available where required to do so by natural justice, by law (for instance under the Data Protection Act 1998), or in appropriate circumstances (for example to protect its members).

1.11 A student or member of staff who is party to disciplinary proceedings may be accompanied by a friend, colleague or Union representative at any meeting or hearing which forms part of this procedure. Such a person is present in a purely supportive capacity, and may not present evidence on their behalf, unless to allow them to do so would constitute reasonable adjustment under the Equality Act 2010. It is the responsibility of the parties to notify such friends of the date and venue of the hearing.

1.12 Professional legal advisors are not allowed to attend meetings or hearings which form part of this procedure, subject to the School’s discretion outlined in 1.16.

1.13 Where, after reasonable attempts, it proves impossible to schedule a hearing with the student in attendance, the person leading the procedure may decide to continue in their absence.

1.14 This procedure has been ratified by the Board of Trustees. It is available to all students via the School's website. It will be revised periodically and at least every five years. All parties are asked to ensure that they are referring to the most up to date version. Cases will be handled under the most recently published version at the time they are received.

1.15 This procedure uses the term 'the student' to refer to the person against whom an allegation of misconduct is made. The procedure may nevertheless be used to bring allegations against more than one student in the same proceeding where their role in, and responsibility for, the alleged misconduct is joint.

1.16 Where the allegations against a student concern conduct that would amount to a serious offence, the School reserves the right to exercise its discretion with regard to elements of this procedure, in order to ensure any investigation and hearing is as fair as possible to the student, and to allow the student every opportunity to provide a full defence commensurate with the severity of the allegations. The variations in procedure are likely to include, but may not be limited to, paragraphs 1.12 and 6.6 of this document.

2 Scope of the School's jurisdiction

2.1 For the purposes of this procedure, misconduct is defined as improper interference, in the broadest sense, with the proper functioning or activities of the School, or of those who work or study in the School; or action which otherwise damages the School. A list of possible actions occasioning misconduct can be found in Appendix 1; this list is intended to be illustrative, not exhaustive, and there may be occasions upon which other forms of behaviour are judged to be misconduct. There may also be occasions where conduct listed in the appendix will not be treated as misconduct because it does not interfere with or damage the functioning of the School.

2.2 Misconduct shall be assumed to fall under the jurisdiction of the School's internal disciplinary procedures where it meets one or more of the following criteria:

(a) It is a breach of the School's own codes and regulations, policies and procedures.

(b) It occurs on School premises.

(c) It endangers or is detrimental to other members of, or visitors to, the School.

(d) It jeopardises or damages the good name and reputation of the School.

2.3 Where student misconduct does not breach the School's codes, regulations, policies or procedures; does not occur on School premises; does

not involve other members of (or visitors to) the School; and has no bearing on the School's good name or reputation, the School shall have no jurisdiction.

2.4 Where an allegation of misconduct, duly defined under this procedure and falling under the jurisdiction of the School, is received, and the School judges it to be appropriate to continue with its internal disciplinary procedures, the fact that the allegation is or has been the subject of criminal proceedings or a police investigation shall not prevent it from doing so. Any internal action may be deferred pending police investigation or prosecution. The School reserves the right to involve the police at any time where it considers it appropriate to do so (for example, if an individual's health or safety was at imminent risk).

2.5 The School encourages anyone from the SOAS community to report incidents of gender based violence to the police at an early stage. However, where an individual chooses not to report such a case to the police, the School will consider allegations of gender based violence on a case-by-case basis in accordance with this procedure and the School's guidance on preventing and responding to gender based violence (<https://www.soas.ac.uk/equalitydiversity/gender-based-violence/>).

3 Suspension and exclusion

3.1 A student who is the subject of an allegation of misconduct, or against whom a criminal charge is pending, or who is the subject of police investigation may, in cases of great urgency, be suspended or excluded from the School by the Director with immediate effect pending the disciplinary hearing or trial.

3.2 The definitions of suspension and exclusion are as follows:

(a) Suspension involves a total prohibition on attendance or access to the School (or one part of it) and on any participation in School activities; but it may be subject to qualification, such as permission to attend for the purpose of an examination. Suspension shall be used only where exclusion from specified activities or facilities would be inadequate.

(b) Exclusion involves a restriction on attendance at or to the School (or one part of it) or prohibition on exercising the functions or duty of any office or committee membership in the School, the exact details of which will be specified in writing.

3.3 An order of suspension or exclusion may include a requirement that the student should have no contact of any kind with a named or specified person or persons.

3.4 Suspension or exclusion pending a hearing must not be used as a penalty. The power to suspend or exclude under this provision is to protect the members of the School community in general or a particular member or

members. This measure shall only be used where the Director is of the opinion that it is urgent and necessary to take such action. Written reasons for the decision shall be recorded and made available to the student or students concerned.

3.5 Suspension shall be reviewed within 10 working days, and every 10 working days thereafter.

4 Stage 1: Investigation

4.1 Any person wishing to report misconduct on the part of a student of the School should do using the Form for Reporting Serious Student Misconduct. Where such a report is made in good faith, the person reporting misconduct will not suffer any disadvantage or recrimination. They should note, however, the laws of natural justice (see 1.4) may mean that it is not possible for their evidence to be presented anonymously; and if their allegation is discovered to be mischievous, malicious or vexatious, they themselves may be subject to disciplinary action.

4.2 Following an allegation of misconduct, the Information Compliance Manager will make an initial assessment on whether the misconduct falls within the scope of the School's jurisdiction (as set out in section 2) and whether there are sufficient grounds and evidence to proceed.

4.3 If the Information Compliance Manager decides it is appropriate to continue with the procedure, they will inform the Director, who will appoint a nominee to investigate the allegation of misconduct. The Director's nominee will normally be any head of an academic department or professional service who has not previously been involved in the case.

4.4 The Information Compliance Manager will inform the student against whom the allegation is made, and will keep them informed of all subsequent developments.

4.5 The Director's nominee may rule that the allegation should not be the subject of further action under this procedure, either because of the nature of the allegation or because the Director's nominee, having considered the circumstances, considers that there is no case to answer.

4.6 Unless the allegation is summarily dismissed, the Director's nominee will hold a preliminary interview with the student before deciding whether, and how, to proceed. The preliminary interview shall be held within 10 working days of the allegation being brought to the attention of the student. The Information Compliance Manager will provide secretarial support in making arrangements for, and in writing up a brief report of, the interview.

4.7 The outcome of the preliminary interview may be a decision to dismiss the allegation, to propose a summary penalty, or to investigate further by holding a formal hearing. Where a summary penalty is proposed, the student

or students concerned may accept it, or may request that the matter be brought before a formal hearing.

4.8 A summary penalty may include, but need not be limited to, some or any of the following:

- (a) Giving the student a warning, with or without conditions.
- (b) Requiring the student to make a written apology and/or undertaking regarding future behaviour.
- (c) Imposing a fine not exceeding £250.
- (d) Making a financial charge for damage caused.
- (e) Restricting access to specified facilities, activities or persons who are members of the School or closely connected with it. In this case, the penalty shall be for a fixed period not extending beyond the current programme of study of those concerned.

5 Stage 2: Disciplinary Hearing

5.1 If a hearing is to be held, the arrangements will be made by the Information Compliance Manager. The hearing shall be fixed for a date within 15 working days from the decision to proceed, where possible. The following procedures will apply:

- (a) The Disciplinary Panel shall usually be chaired by the Dean of the student's Faculty, unless they have previously been involved in the case, in which case the Director shall nominate another member of Academic Board. In nominating a Chair, the Director delegates to them the authority to carry out whatever action is decided upon by the Panel within the scope of this procedure.
- (b) In addition to the Chair, the Disciplinary Panel shall consist of a member of the Academic Board who has not previously been directly involved in the case, and a Students' Union Co-President, or, in the event that all the Co-Presidents have previously been involved in the case, a member of the Students' Union Executive.
- (c) The student will be informed of their right to be accompanied at that hearing by a friend, colleague or Students' Union representative as described in paragraph 1.11.
- (d) The student will have at least five working days' notice of the hearing and will be in receipt of any documentation in relation to the hearing at least five working days prior to the hearing.
- (e) The Chair of the Disciplinary Panel has discretion as to how the hearing will be conducted.

(f) The Chair of the Disciplinary Panel shall make such investigations as they deem appropriate by considering written or oral evidence and holding such discussions as are appropriate, having regard to the rules of natural justice which require that all parties should know of allegations made against them and be given the opportunity to make representations on those allegations or on any other important evidence.

(g) The hearing will be in private.

(h) The Information Compliance Manager will make a written note of the hearing's proceedings.

(i) Decisions of the Disciplinary Panel shall be made on the basis of a simple majority.

5.2 Following the hearing, the Panel must decide on one of the following outcomes:

a) Dismiss the allegations;

OR

b) Find that further investigation is needed before a decision can be taken, and agree to reconvene the hearing within 15 working days (the Panel must specify as closely as practicable what information is needed and from whom they will obtain it; where possible, evidence should be presented in person to the reconvened hearing);

OR

c) Find some or all of the allegations justified and suggest a penalty. Such penalty may include, but need not be limited to, some or any of the following:

(i) Excluding the student permanently from the School.

(ii) Excluding the student for all or part of the remainder of the academic session.

(iii) Restricting access to specified facilities, activities or persons who are members of the School or closely connected with it. In this case, the penalty shall be for a fixed period not extending beyond the current programme of study of those concerned.

(iv) Making a financial charge for damage caused.

(v) Imposing a fine not exceeding £500.

(vi) Requiring the student to make a written apology and undertaking regarding future behaviour.

(vii) Giving the student a warning, with or without conditions.

5.3 Depending on the severity of the offence, the penalty imposed may be recorded on the student's academic record and may then be referred to in references that the School is asked to provide for the student either during the student's attendance at the School or after the student has left the School.

5.4 The Chair, supported by the Information Compliance Manager, should then within 10 working days of the hearing issue a report, incorporating an account of the proceedings and a note of the Panel's decision with brief reasons. The report should be sent to the student, and copied to their Head of Department and to the Director. Where appropriate it may also be copied to other interested parties.

6 Right to appeal

6.1 Where the Disciplinary Panel decides to impose a penalty, the student shall have the right to appeal against the decision if one or more of the following grounds are met:

- (a) There is evidence that the Disciplinary Panel failed to follow this procedure in a significant way that would have changed the outcome of the hearing and/or the penalty proposed;
- (b) There is evidence that the Disciplinary Panel failed to consider or did not have access to evidence that would have changed the outcome of the investigation and/or the penalty proposed; or
- (c) The conclusions of the Disciplinary Panel's report and/or resolution proposed are manifestly unreasonable (ie there is an obvious or clear quality to the unreasonableness of the report and/or the resolution).

6.2 The student must lodge a written appeal to the Information Compliance Manager within 10 working days of the notification of the decision, stating which of the grounds at 6.1 apply and reasons why. The Information Compliance Manager will decide whether the student's appeal is valid. If the appeal is not deemed valid, the student will be sent a Completion of Procedures letter explaining the decision and that the student's only recourse is to appeal to the Office of the Independent Adjudicator (section 7).

6.3 If the Information Compliance Manager decides that the student's appeal is valid, they must notify the Director and other relevant staff of the appeal. The penalty imposed by the Disciplinary Panel is not carried out unless it is subsequently confirmed by the Appeal Panel.

6.4 The Information Compliance Manager shall, within 10 working days of receipt of a valid appeal, set up a Panel to hear the appeal. The Appeal Panel shall consist of:

- a Chair, nominated by the Director, who shall normally be a lay member of the Board of Trustees. In nominating a Chair, the Director delegates to them the authority to carry out whatever action is decided upon by the Appeal Panel within the scope of this procedure;
- one member of the standing panel nominated by the Academic Board; and
- a Students' Union Co-President or, in the event that all the Co-Presidents have previously been involved in the case, a member of the Students' Union Executive.

The secretary to the Appeal Panel will be the Information Compliance Manager.

6.5 The Information Compliance Manager shall ensure the following actions are taken within the number of days specified following the receipt of the written appeal:

WITHIN 5 WORKING DAYS:

- All parties must be informed of the appeal and invited to submit any further evidence they wish the Appeal Panel to consider.
- All parties must be informed of their right to be accompanied to the hearing by one friend, colleague or Union representative as described in paragraph 1.11.

WITHIN 15 WORKING DAYS:

- Any further evidence must be lodged with the Information Compliance Manager.
- A date must be arranged for the Appeal Panel hearing which is convenient for the Chair, members of the Panel and the student, and all parties must be informed of it.

WITHIN 20 WORKING DAYS:

- Any additional evidence submitted must be circulated to all parties.
- The Information Compliance Manager must be informed of the name of any person attending the hearing in a supportive capacity.

WITHIN 25 WORKING DAYS:

- The Appeal Panel hearing must be held.

6.6 The hearing shall be a review of the decision and not a rehearing of the original allegation, subject to the School's discretion outlined in 1.16 (for example in cases of particular seriousness that involve complex and conflicting factual evidence and sensitive judgements about witness credibility).

6.7 The Chair has the power to regulate the procedure of the hearing within the spirit of this procedure, having regard to the rules of natural justice and the need to maintain informality and reasonable dispatch in the proceedings, and may, for example, decide on the following matters:

- (a) Whether to invite further witnesses or request additional information;
- (b) Whether, in exceptional circumstances, the Panel should consider documents or hear evidence in the absence of the parties;
- (c) Whether, in exceptional circumstances, to allow evidence to be considered which was not submitted in advance of the hearing.

6.8 Following the hearing, the Panel must decide on one of the following outcomes:

- a) To dismiss the allegations;
- OR
- b) To uphold the penalty imposed;
- OR
- c) To vary the penalty imposed.

The Panel shall endeavour to reach a unanimous decision. If the decision is not unanimous, the Chair's decision shall be final.

6.9 The Chair, supported by the Information Compliance Manager, should then within 10 working days of the hearing issue a report, incorporating an account of the proceedings and a note of the Panel's decision with brief reasons. The report should be sent to the student, and copied to their Head of Department and to the Director. Where appropriate it may also be copied to other interested parties.

6.10 The Appeal Panel's decision constitutes the final stage of the appeal.

7 Office of the Independent Adjudicator

7.1 At the end of the internal appeal procedure, the student has the right, if they so wish, to submit a request for the School's decision to be reviewed by

the Office of the Independent Adjudicator (OIA). The OIA provides an independent scheme for the review of student complaints under the Higher Education Act 2004. Further information on the OIA can be obtained from the Information Compliance Manager, from the Students' Union and online at <http://www.oiahe.org.uk/>.

7.2 Following the decision of an internal appeal panel, a written notification of their decision will be sent to the student. This letter will follow the prescribed format for a 'Completion of Procedures' letter laid out by the OIA. A student wishing to appeal to the OIA must do so within 12 months of receiving this letter.

7.3 The role of the OIA is to consider whether or not the School has properly applied its regulations and followed its procedures, and whether or not the decision made by the School was reasonable in all the circumstances.

7.4 The OIA will use its own discretion in deciding whether or not to review the appeal.

7.5 If the OIA decides to review an appeal, it will seek further information from the School and may also request further information from the student. The School will co-operate with the OIA in any such requests and respond to them promptly, and will expect the student to do the same.

APPENDIX 1 – EXAMPLES OF MISCONDUCT

Subject to the provisions of paragraph 2.1 of this procedure, the following shall constitute misconduct:

- (a) Disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the School, whether on School premises or elsewhere.
- (b) Obstruction of, or improper interference with, the functions, duties or activities of any student or employee of the School or any authorised visitor to the School.
- (c) Violent, indecent, disorderly, threatening or offensive behaviour or language whilst on School premises or engaged in any School activity.
- (d) Fraud, theft, deceit, deception or dishonesty in relation to the School or its staff or in connection with holding any office in the School or in relation to being a student of the School, including deliberate falsification of records (such as entry qualifications).
- (e) Action likely to cause injury or impair safety on School premises or to those engaged in School activities.
- (f) Breaking of the provisions of the School's Respect at SOAS Policy.
- (g) Breaking of the provisions of any of the School's codes, rules, regulations or policies, as published on the School's website.
- (h) Examination offences, including plagiarism.
- (i) Intentional or reckless damage to, defacement of or misappropriation of, School property; the property of other members of the School community (including visitors to the School); or property used in School activities, including a student not being permitted to lend their ID card to another student or any other person.
- (j) Misuse or unauthorised use of the School's premises, property or name, including computer misuse.
- (k) Behaviour which brings the School into disrepute, including defamation of the School in any forum.
- (l) Failure to disclose full name and other relevant details to an officer or employee of the School in circumstances when it is reasonable to require that such information be given.
- (m) Failure to comply with a previous penalty under this procedure.

(n) Serious incapability whilst on School premises brought on by alcohol or illegal drugs.

(o) Serious negligence which causes or might cause unacceptable loss, damage or injury.

(p) Serious breach of confidence (subject to the Public Interest Disclosure Act 1998).

(q) Failure to pay School fees or other unacceptable debt to the School.

APPENDIX 2 – SOURCES OF HELP FOR STUDENTS INVOLVED WITH THE STUDENT DISCIPLINARY PROCEDURE

- Information Compliance Manager
studentcomplaints@soas.ac.uk
- Associate Deans / Heads of Department
<https://www.soas.ac.uk/languagecultures/>
<https://www.soas.ac.uk/artshumanities/>
<https://www.soas.ac.uk/lawsocialsciences/>
- Student's academic or personal tutor or supervisor
- Students' Union
<https://www.soas.ac.uk/su/staff/>
- Diversity and Inclusion Managers
<https://www.soas.ac.uk/equalitydiversity/contact/>
- Student Counselling Service
<https://www.soas.ac.uk/counselling/>
- Gower Street GP Practice
<http://www.gowerstreetpractice.org.uk/>
- The Chaplaincy
<https://www.soas.ac.uk/chaplaincy/>

Persons listed above who are officers of the School may refuse to provide services to students seeking advice regarding disciplinary procedures if:

- a) they are themselves party to events giving rise to disciplinary procedures;
- b) they are previously committed to supporting another party in the case and judge that a conflict of interests may arise;
- c) they have reason to believe that their safety may be at risk.

Where officers of the School agree to provide support services, they may choose to do so by telephone/ e-mail rather than in person. Students who have been suspended or excluded from School premises may not breach that suspension for the purpose of contacting support services.