

## Student Disciplinary Procedure

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<i>Note: All policies must be read in conjunction with all other SOAS policy, procedure and guidance documents. Printed copies of policies may not be the most up to date, therefore please refer to the policy pages on the SOAS external website or intranet for the latest version.</i>			

### 1. Introduction and general principles

- 1.1 Persons registering as students of SOAS become members of the University and as such commit themselves to abiding by its regulations, which are 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 University is a community and has the right to regulate the behaviour of its members. Members work and socialise together, and the University expects them not to behave in ways which endanger this partnership.
- 1.2 The University 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 University 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 In order to ensure that any disciplinary response reflects the relationship outlined in 1.1, the University has published a code of conduct (Appendix 1) setting out the type of behaviour that is unacceptable and providing an indication of the sanctions which may be imposed on students in relation to any such breaches.
- 1.4 The University Charter and Standing Orders make the Vice-Chancellor responsible to the Board of Trustees for the discipline of the University (Standing Order XI (ii)).

#### 1.5 The rules of natural justice

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 it is not a formal legal process, although the University 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. This 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.

- 1.6 The University will take all reasonable steps to comply with the time limits set out in this procedure. There may however be circumstances which, in the reasonable opinion of the person leading the procedure, require an extension of the set limits. A working day is a weekday, excluding Saturday, Sunday, bank holidays and days when the University 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.
- 1.7 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 Student Casework team so that they can be contacted in a timely fashion at each stage of the procedure.
- 1.8 If an allegation of misconduct is received under the Student Complaints Procedure which is more appropriately dealt with under the Student Disciplinary Procedure, the Student Disciplinary Procedure will take precedence over action under the Student Complaints Procedure.
- 1.9 The University 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 Dignity and Respect at SOAS Policy. The University 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.
- 1.10 Once a report of misconduct that falls within the scope of this procedure has been made, it becomes a matter between the accused student and the University, rather than a dispute between the person reporting misconduct (who may see themselves as a “complainant”) and the student. It is the University that will be taking action against the student once it has been decided to proceed under the disciplinary process.
- 1.11 **Confidentiality**

The University 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 2018), or in appropriate circumstances (for example to protect its members). It should be noted that following a review of the allegation and information collected the University may need to inform a relevant authority or liaise with a student’s next of kin. Any such action will normally be taken following a risk assessment.

### 1.12 **Accompaniment at meetings**

A student or member of staff who is party to disciplinary proceedings may be accompanied by a friend, family member, colleague or Union/Students' 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 any such persons of the date and venue of the hearing.

1.13 Professional legal advisors are not allowed to attend meetings or hearings which form part of this procedure, subject to the University's discretion outlined in paragraph 1.17.

1.14 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.

1.15 This procedure uses the term 'the student' to refer to the person against whom an allegation of misconduct is made. This 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 In cases in which the student makes serious allegations against the complainant/witness before or during the hearing, the Panel may wish to consider if the complainant/witness will be given the opportunity to engage with the allegations and provide counter evidence. It is the responsibility of the investigator and the chair to make sure that all parties benefit from the principles of natural justice.

### 1.17 **Variations for serious offences**

Where the allegations against a student concern conduct that would amount to a serious offence, the University reserves the right to exercise its discretion with regard to elements of this procedure, in order to ensure any investigation and hearing is fair, 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, paragraph 1.13 of this procedure.

## 2. **Scope of the University 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 University, or of those who work or study in the University; or action which otherwise damages the University. A list of possible actions occasioning misconduct can be found in the code of conduct at 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 code will not be treated as misconduct because it does not interfere with or damage the functioning of the University.

2.2 Misconduct shall be assumed to fall under the jurisdiction of this procedure where it meets one or more of the following criteria:

- (a) It is a breach of the University's own codes and regulations, policies and procedures.
- (b) It occurs on University premises.
- (c) It endangers or is detrimental to other members of, or visitors to, the University.
- (d) It jeopardises or damages the good name and reputation of the University.

2.3 Where student misconduct does not breach the University codes, regulations, policies or procedures; does not occur on University premises; does not involve other members of (or visitors to) the University; and has no bearing on the University good name or reputation, the University shall have no jurisdiction.

#### 2.4 **Criminal investigation/prosecution**

If a report is made to the police and the matter is considered under the criminal process then save for taking any precautionary action (see section 3), the University will not take any disciplinary action against the student until the criminal process is at an end (i.e. when a decision is made not to charge the student or not to pursue the prosecution or when a court reaches a determination).

2.5 The University encourages anyone from the SOAS community to report incidents of sexual misconduct or 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 University will consider these allegations on a case-by-case basis in accordance with this procedure and the University guidance on preventing and responding to gender based violence.

### 3. Precautionary action

3.1 A student who is the subject of an allegation of misconduct or having committed a criminal offence may be subject to reasonable and proportionate precautionary measures pending the outcome of disciplinary/criminal proceedings.

3.2 Precautionary action may include:

- Imposing conditions on the accused student (for example, requiring the accused student not to contact the reporting student and/or certain witnesses and/or requiring the accused student to move accommodation).

- Suspending the accused student from their studies (suspension means that the student is prohibited from participating in the academic activity of the University and the student's registration on their course is put on hold). A qualified or partial suspension may be put in place where appropriate, for example, the student may be allowed to continue with their studies online.
- Excluding the accused student (exclusion means that the student is prohibited from taking part in University activities, using University facilities and/or entering University grounds or premises. A qualified or partial exclusion may be put in place where appropriate).

- 3.3 Any such action is a precautionary measure only, it is not a penalty or sanction and does not indicate that the University has concluded that the accused student has committed a breach of discipline or a criminal offence. The purpose of such measures is to protect the reporting student or other members of the University community whilst the allegation is being dealt with as part of a criminal process or disciplinary process.
- 3.4 The decision to suspend a student as a precautionary measure must be made by the Provost on the basis that it is urgent and necessary to take such action. Reasons for the decision will be provided to the student in writing and the student will have an opportunity to appeal the decision to the Vice-Chancellor. The student may also request a review of the decision at any stage if there is a material change in the circumstances of the case. Suspension shall otherwise be reviewed every **10 working days** after the initial decision has been taken however students will not be notified of the review unless there has been an amendment and/or removal of the precautionary suspension.

#### 4. Reporting misconduct

- 4.1 Any person wishing to report misconduct on the part of a student at the University can do so using the 'Form for Reporting Serious Student Misconduct' which is available via the Student Information Desk (SID). This way of reporting will not always be necessary if there is a need for immediate action to be taken. Where such a report is made in good faith, the person reporting misconduct will not suffer any disadvantage or recrimination. They should note, however, that the rules of natural justice (see 1.5) 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 Student Casework team will make an initial assessment on whether the misconduct falls within the scope of the University jurisdiction and whether there are sufficient grounds and evidence to proceed.

#### 5. Stage 1: investigation

- 5.1 If the misconduct is deemed as falling under this procedure the Student Casework team will appoint an investigator. This may be a member of the Student Casework team.

- 5.2 The Student Casework team will inform the accused student and will keep them informed of all subsequent developments.
- 5.3 The investigator may decide to hold a preliminary interview with the student, but this is not mandatory and the student may be asked to provide a written statement. The preliminary interview will normally be held within **10 working days** of the allegation being brought to the attention of the student. The Student Casework team will provide administrative support.
- 5.4 The outcome of the preliminary interview may be a decision to dismiss the allegation or to propose a summary penalty or to progress to a formal hearing.
- 5.5 A summary penalty may include, but need not be limited to, some or any of the following:
- Giving the student a warning, with or without conditions
  - Requiring the student to provide a written apology
  - Requiring the student to sign an undertaking regarding future behaviour
  - Requiring the student to attend a relevant workshop/training session
  - Imposing a fine not exceeding £250
  - Making a financial charge for damage caused
  - Restricting access to specified facilities, activities or persons who are members of the University or closely connected with it. In this case, the penalty shall be for a fixed period not extending beyond the student's current programme of study
  - Referral to a Student Disciplinary Hearing.
- 5.6 The student will be provided with an outcome letter normally within **20 working days** of being informed of the allegation however the student will be notified if additional time is required. The outcome letter will confirm that a student may appeal the decision if they believe their circumstances meet the available grounds (as per paragraph 7.1).

## 6. Stage 2: disciplinary hearing

- 6.1 If a hearing is to be held, the arrangements will be made by the Student Casework team. The hearing shall be fixed for a date within **15 working days** from the decision to proceed where possible.

The Disciplinary Panel shall be made up of a minimum of three members of the University. Both senior academic and non-academic members of staff may be panel members and they will be appointed by the Student Casework team.

- (a) In addition 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 will be invited to be a panel member. If there is a conflict of interest an alternative panel member will be appointed who may be a student representative.
- (b) The student will be informed of their right to be accompanied at that hearing by a friend, family member, colleague or Students' Union representative as described in paragraph 1.12.
- (c) The student will have at least **five working days'** notice of the hearing and will be in receipt of any documentation which is relevant to the hearing. The University may not be able to share some information due to data protection and confidentiality restrictions.
- (d) On behalf of the University, the stage 1 investigator may be present to provide the evidence against the student to the Disciplinary Panel. This is normally reserved for when the matter is complex and the attendance will be beneficial to explain the circumstances.
- (e) The Chair of the Disciplinary Panel has discretion as to how the hearing will be conducted.
- (f) The hearing will be in private. Witnesses will not normally be required to attend but they may be present in complex matters.
- (g) The Student Casework team will minute the hearing.
- (h) Decisions of the Disciplinary Panel shall be made on a simple majority and on the balance of probabilities.

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

- a) Dismiss the allegations, OR
- b) Find some or all the allegations proven and suggest a penalty. Such penalty may include, but need not be limited to, some or any of the following:
  - Excluding the student permanently from the University
  - Excluding the student for all or part of the remainder of the academic session

- Restricting access to specified facilities, activities or persons who are members of the University or closely connected with it. In this case, the penalty shall be for a fixed period not extending beyond the student's current programme of study
  - Making a financial charge for damage caused
  - Imposing a fine not exceeding £500
  - Requiring the student to make a written apology
  - Requiring the student to sign an undertaking regarding future behaviour
  - Giving the student a warning, with or without conditions
  - Requiring the student to attend a relevant workshop/training session.
- 6.3 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 University is asked to provide for the student either during the student's attendance at the University or after the student has left the University.
- 6.4 The Student Casework team will provide the student with an outcome letter within **10 working days** of the hearing. The outcome letter will confirm that a student may appeal the decision if they believe their circumstances meet the available grounds as set out in paragraph 7.1.

## 7. Right of appeal

- 7.1 Following a stage 1 summary penalty or where a 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 this procedure was not followed in a significant way that would have changed the outcome of the hearing and/or the penalty;
  - (b) There is evidence that the Disciplinary Panel or Stage 1 investigator 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 Stage 1 investigator or Disciplinary Panel are manifestly unreasonable (i.e. there is an obvious or clear quality to the unreasonableness of the report and/or the resolution).
- 7.2 The student must lodge a written appeal to the Student Casework team within **10 working days** of the date that the notification of the decision is sent to the student, stating which of



the grounds apply and the reasons why. The Student Casework team 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 confirming that the student's only recourse is to appeal to the Office of the Independent Adjudicator for Higher Education (OIA).

- 7.3 If the student's appeal is considered to be valid, the matter will be referred to a senior member of staff to complete a review of the appeal.
- 7.4 The appeal and information gathered at all steps of the procedure will be presented to the senior member of staff and, following consideration of the information, they will have the following available outcomes:
- Dismiss the appeal and uphold the original decision(s); or
  - Amend the penalty imposed; or
  - Refer the matter to a new constituted Disciplinary Panel.
- 7.5 The disciplinary hearing process described at section 6 will be followed if the matter is referred to be heard by a new Disciplinary Panel.
- 7.6 The student will be provided with the outcome of the appeal normally within **15 working days** of submitting the appeal request.
- 7.7 Once the student has completed the internal procedures, they will be provided with the 'completion of procedures' letter referenced at paragraph 7.2.

## 8. Office of the Independent Adjudicator for Higher Education

- 8.1 As explained previously, at the end of the internal appeal procedure, the student has the right, if they so wish, to submit a request for the University decision to be reviewed by the OIA. The OIA provides an independent scheme for the review of student complaints under the Higher Education Act 2004. Further information about the OIA can be obtained from the Students' Union and online at <http://www.oiahe.org.uk/>.
- 8.2 The role of the OIA is to consider whether or not the University has properly applied its regulations and followed its procedures, and whether or not the decision made by the University was reasonable in all the circumstances.