

**REGULATIONS OF THE UNIVERSITY OF BIRMINGHAM****SECTION 8 - STUDENT CONDUCT****Executive Brief**

Sets out the principles and Regulations to be followed in cases of Student misconduct, including instances of misconduct which do not take place on University property.

## Section 8: Student Conduct

### 8.1 Introduction

8.1.1 These Regulations apply to all Registered Students, students on Leave of Absence, students with Thesis Awaited Status, External Resit Students, and Graduands (“Students”).

These Regulations apply to the conduct of University Students regardless of location. For example, they apply to incidences of misconduct as defined in this Regulation, whether on or off University premises, or by means of electronic communication. The University will normally take action where:

- (a) The misconduct is against a student or a member of University staff, irrespective of location;
- (b) The misconduct is against visitors to the University where it occurs on University premises; or
- (c) The misconduct occurs during the course of a University activity.

In determining what action may be taken under these Regulations, the University will take into consideration the individual circumstances of the matter, including the evidence available, and whether it has an impact upon a member of the University community's ability to engage in any University activity.

Where there are more appropriate University procedures available, these may be utilised rather than commencing action under this Regulation. However, following completion of alternative University procedures and if it has not been possible to resolve the matter (for example, due to repeated instances of misconduct), the University reserves the right to commence action under this Regulation.

The scope of these Regulations is wider for Students subject to Fitness to Practise requirements (including those registered on an intercalated programme) as they are also required to comply with the relevant Code of Professional Conduct and Fitness to Practise. Students registered for a programme which the programme requirements define as a Fitness to Practise programmes are subject to Fitness to Practise procedures.

Under these Regulations the University has the power to take disciplinary action against Students including the option to suspend Students and/or require Students to withdraw.

Once disciplinary proceedings against a Student commence under these Regulations, no disciplinary action may be taken against the Student under other disciplinary rules or Regulations within the University for the same misconduct. For these purposes, suspension or removal of a Student from a University committee is not disciplinary action in itself.

Whilst disciplinary proceedings (including any appeal) are ongoing, the University may impose an administrative ‘Hold’ on the Student’s record which could prevent them from accessing certain services, progressing on their programme, graduating, or withdrawing from the University.

The University reserves the right to refuse to accept a Student’s request to withdraw from the University until any proceedings commenced in relation to Regulation 8.2.1 are completed. If a Student withdraws or is withdrawn from the University during the course of an investigation or proceedings commenced under this Regulation, the University

reserves the right to continue with the investigation and disciplinary process, which may include referral to a College Misconduct and Fitness to Practise Committee.

Anonymous concerns will not normally be dealt with under this Regulation; however the University retains the right to investigate a matter where other evidence may corroborate the reported concern and there is sufficient evidence overall in order to invoke this Regulation.

For Students subject to Fitness to Practise requirements, temporary suspension from placement or from study or other restrictions imposed on health grounds will be dealt with in accordance with the procedures in this Regulation. For those Students not subject to Fitness to Practice requirements, any action on health grounds will be considered under the Code of Practice on Health Wellbeing and Fitness to Study.

8.1.2 The following should be followed where applicable:

- (a) Code of Practice on Misconduct and Fitness to Practise Committee;
- (b) Code of Practice on Student Attendance / Engagement and Reasonable Diligence;
- (c) Code of Practice on Academic Integrity;
- (d) Harassment and Bullying Policy
- (e) Code of Practice on Freedom of Speech on Campus.
- (f) Code of Practice on Health, Wellbeing and Fitness to Study
- (g) Library and Learning Space Regulations
- (h) Code of Practice for Research
- (i) General Conditions of Use of Computing and Network Facilities

8.1.3 All investigations carried out under this Regulation shall be carried out in accordance with the guidelines approved, from time to time, by Senate or its delegated authority. These are available on the University's website.

8.1.4 An incident which may constitute a criminal offence may be reported by the University to the police. The University will review the incident and, determine whether any action should be taken under University Regulation Section 8 - Student Conduct, regardless of whether or not the incident is investigated by the police and/or results in a conviction. Police investigations will normally take precedence over a University conduct investigation, which would be suspended until the conclusion of the police investigation and any subsequent consideration by the courts.

## **8.2 Disciplinary Offences**

8.2.1 Any Student will be subject to disciplinary measures if they are found to have breached the disciplinary offences as defined below:

- (a) any breach of any University Statute, Ordinance, Regulation, Code of Practice or Code of Professional Conduct and Fitness to Practise;

- (b) violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language, including, but not limited to, that of a sexual, racial, homophobic, disablist, ageist, gender-based or religious nature, with due regard to legally protected characteristics;
- (c) sexual misconduct, which includes unwanted touching, kissing, sexual acts and unwanted sexual intercourse;
- (d) Harassment, bullying, or coercion of any student or member of Staff of the University, or any visitor to the University;
- (e) fraud, deceit, deception, or dishonesty in relation to the University or its Staff, students or visitors;
- (f) theft, misappropriation or misuse of University property, or the property of the University's Staff, students or visitors;
- (g) conduct likely to bring the University into disrepute or adversely affecting other members or Staff of the University;
- (h) misuse, or unauthorised use, of University premises;
- (i) damage to University property, or the property of the University's Staff, students or visitors, caused intentionally or recklessly;
- (j) action likely to cause injury or impair safety on University premises;
- (k) "Academic Misconduct", which means Plagiarism (when judged serious by the Academic Unit, as specified in the Code of Practice on Academic Integrity or by a College Misconduct and Fitness to Practise Committee), actions which constitute an examination irregularity (as described in Regulation 7.2.3 (d) and the Code of Practice on Academic Integrity) or other actions or conduct by a student, or students, in exams, assessed work, or other work required for academic progress, which intentionally or otherwise gives or has the potential to give a student an unfair advantage or benefit, whether successful or not;
- (l) failure to respect the reasonable exercise of the rights of others to freedom of belief and freedom of speech;
- (m) failure to disclose identity (i.e. name, University ID number, address and / or Principal Academic Unit at the University) to a member of Staff of the University. This includes obscuring or attempting to disguise identity so that it cannot be ascertained by a member of Staff of the University in circumstances in which it is reasonable to require that such information be given;
- (n) causing nuisance by the distribution of advertising materials on University premises without specific permission. This includes mounting posters on notice boards or on any other surface, distributing unsolicited leaflets in residences or Principal Academic Units, or handing leaflets to passers-by on University premises;

- (o) conduct resulting in the Student receiving a formal police caution, community resolution order or other penalty imposed by the police, even if the Student is not subsequently charged or convicted of an offence;
- (p) conviction of a criminal offence or relevant adverse judgement by any court of competent jurisdiction;
- (q) conviction of a breach of military discipline by due process of military law;
- (r) accessing or using confidential information or material, or giving confidential information or material to others without permission or the right to do so (unless the disclosure is permitted under the Public Interest Disclosure Act 1998 or in accordance with the University's Public Interest Disclosure Procedure or is required by law);
- (s) breaching the trust or confidence of the University in relation to holding office or membership of any University committee;
- (t) behaving in an inappropriate or unacceptable manner during or in connection with attendance at or conduct of a meeting of a University committee; which includes trying to influence the outcome of College or University Misconduct and Fitness to Practise Committee decisions in advance of, during any adjournments to, or after the conclusion of the hearing;
- (u) production, possession, storage, supply or offer to supply, sale, use or misuse of a controlled drug or psychoactive substance as defined by the Misuse of Drugs Act 1971 and Psychoactive Substances Act 2016 (as amended from time to time) on University property;
- (v) failure to comply with any sanction imposed under University disciplinary procedures;
- (w) failure to comply with any sanction imposed under the formal disciplinary procedures of the Guild of Students or University of Birmingham Sport;
- (x) contempt of the University's discipline procedures by failure to co-operate with the University's discipline authorities or otherwise.
- (y) serious disruption to, obstruction of or interference with the work, duties, or activities of any Student, member of Staff, or visitor to the University;

8.2.2 Where a Student commits a criminal offence so serious that they may receive a custodial sentence, the Academic Registrar may withdraw the Student from the University with immediate effect in accordance with Regulation 5: Admission and Registration. Where the Academic Registrar does not require the immediate withdrawal of the Student, the case will be considered by the College Misconduct and Fitness to Practise Committee in accordance with this Regulation.

Whether or not the Academic Registrar refers the matter to the College Misconduct and Fitness to Practise Committee, the Academic Registrar (or nominee) may with immediate effect impose a temporary suspension and restrictions as set out in section 8.6 and a

suspension from placement, if relevant, as set out in section 8.4. The suspension and restrictions will normally remain in place until the University process is complete.

Where the custodial sentence received exceeds three months, for the duration of the custodial sentence, Section 8.7 and the requirement for a regular review under Section 8.9 will not apply to any temporary suspension and restrictions imposed. The right of appeal under Section 8.8 and the right to make representations under 8.9 will still apply.

Where the custodial sentence received exceeds three months but is completed before the University process is complete the Academic Registrar (or nominee) will undertake a review in accordance with the normal procedures as set out in Regulation 8.

### **8.3 Initial Procedure**

8.3.1 An alleged offence will be investigated by the Investigating Officer, who will be nominated by the Academic Registrar (or delegated authority). For those allegations relating to plagiarism and/or students on programmes subject to Fitness to Practise procedures, the Investigating Officer shall be nominated by the Head of College (or delegated authority). In exceptional circumstances, the University may appoint a third-party to investigate the allegation(s). This will only occur at the discretion of the Academic Registrar (or their nominee), or for students subject to Fitness to Practise procedures, the Head of College shall make this decision in consultation with the Academic Registrar (or nominee).

8.3.2 As part of the University's investigation, the Student will be informed of the allegation(s) in writing and invited to attend a meeting with the Investigating Officer. In exceptional circumstances, when the Student is unable to attend a meeting in person or remotely, the University may, at its discretion, approve arrangements for the Student to submit written representations. The Student may be accompanied by a Friend, as defined in Regulation 1.

For Students registered on a Fitness to Practice programme, in accordance with any programme requirements, the Investigating Officer may present their findings to a decision-maker who is appointed by the Head of College or their nominee.

If the Investigating Officer or decision-maker decides that there is a case to answer but the matter is not so serious that it should be referred to a College Misconduct and Fitness to Practise Committee, the matter can be dealt with by imposing a low-level sanction when the following conditions are met:

- (i) The Student admits the alleged offence and
- (ii) The Student consents to this action.

One of the following low-level sanctions may be imposed:

- (a) giving the Student a formal written warning;
- (b) with the Student's consent, and for Students aged 18 or over only, Community Service (as defined in Regulation 1), the specific details of which must be explained to the Student before consent is obtained;
- (c) An agreement with the Student as to their behaviour or to engage with appropriate student support and/or academic support, the details of which, and the consequences of failing to comply, must be explained to the Student before the agreement is reached

- (d) requiring that the Student make good any damage as determined by the University, including covering the costs of repair;
- (e) Exclusion from, or restricting access to, University residences for up to 12 months for Students who do not live in University accommodation, but who committed the offence when visiting University residences;

8.3.3 Before requiring the Student to make good any damages by way of a payment the Investigating Officer must ask the Student if there are any exceptional financial circumstances that should be considered. The Investigating Officer may as a result agree for the payment to be paid by instalments.

8.3.4 The decision of the Investigating Officer or decision-maker will be confirmed to the Student in writing. A record of all such decisions and penalties shall be kept by the Investigating Officer and should be considered in any subsequent proceedings under this Regulation.

8.3.5 The matter shall be referred for consideration by a College Misconduct and Fitness to Practise Committee by the Investigating Officer or decision-maker in the following instances:

- If the Investigating Officer or decision-maker deems the alleged offence to be of a serious nature;
- If the student denies the allegation;
- If the student does not wish the matter to be dealt with as a low-level offence;
- If the allegation is of serious plagiarism which has become a student conduct case under the Code of Practice on Academic Integrity.

8.3.6 A College Misconduct and Fitness to Practise Committee shall be convened according to the Code of Practice on Misconduct and Fitness to Practise Committee.

#### **8.4 Suspension from Placements**

8.4.1 The Academic Registrar or the relevant Head of College (for students subject to Fitness to Practise procedures) or their nominee may suspend a Student from attending placements with immediate effect when there is a reasonable suspicion that a Student:

- (a) may have committed a disciplinary offence under Regulation 8.2; or
- (b) may have a medical illness or condition including, but not limited to, alcohol, drug and substance abuse which, in the judgement of the Academic Registrar or the relevant Head of College (for Students subject to Fitness to Practise procedures), or their nominee, means they are a possible danger to themselves or to others with whom they will come into contact whilst attending a placement; or
- (c) may otherwise have behaved in such a way that the placement provider is not willing to continue to provide the placement,

The decision to suspend the Student may be taken in consultation with the current or prospective placement provider (where appropriate).

In the case of suspension under (b) above, the decision must be taken in consultation with the University Medical Officer or their nominee, and where the Student is not following a fitness to practise programme the matter should be dealt with as a Level 3 Serious/Persistent Concern in accordance with the Code of Practice on Health, Wellbeing and Fitness to Study.

## **8.5 Temporary Restrictions or Suspension of Students on Health Grounds**

- 8.5.1 When there is a reasonable suspicion that a Student has a medical illness or condition including, but not limited to, alcohol, drug and substance abuse, which means they may be a possible danger to themselves or others with whom they will come into contact, the Academic Registrar or the relevant Head of College (for students subject to Fitness to Practise procedures), or their nominee may with immediate effect;
- (i) temporarily suspend the Student from their programme of study; and/or
  - (ii) temporarily restrict the Student's access to, or use of, University facilities; and/or
  - (iii) temporarily restrict the Student's access to, or use of, University premises or University property; and/or
  - (iv) temporarily restrict the Student from attending or participating in events or social activities connected to the University.
- 8.5.2 The decision made under 8.5.1 must be made in consultation with the University Medical Officer. For students not subject to Fitness to Practise procedures, the processes under level 3 of the Code of Practice on Health, Wellbeing and Fitness to Study will be followed.

## **8.6 Temporary Restrictions or Suspension of Students on Grounds of Misconduct**

- 8.6.1 Where there is a reasonable suspicion that a Student has committed a serious or significant disciplinary offence or has been accused of, charged with, or is being investigated by, the police for a serious or significant criminal offence, the Academic Registrar or their nominee may, with immediate effect:
- (i) temporarily suspend the Student from their programme of study; and/or
  - (ii) temporarily restrict the Student's access to, or use of some or all of University facilities; and/or
  - (iii) temporarily restrict the Student from entering the whole or any part of the University premises or property; and/or
  - (iv) temporarily prevent the Student from attending or participating in events or social activities connected to the University.
- 8.6.2 The Academic Registrar's decision in 8.6.1 above may be taken in consultation with the relevant Head of College.
- 8.6.3 The decision to impose any temporary restrictions or suspension on the grounds of an alleged disciplinary or criminal offence is made as a precautionary measure and does not prejudice the outcome of any University disciplinary process, police investigation, or court proceeding.

## **8.7 Duration of Temporary Restrictions or Suspensions**

- 8.7.1 Temporary restrictions or suspensions imposed under Regulation 8.4, 8.5 (for students subject to Fitness to Practise procedures only) and 8.6 will be for an initial period not exceeding three months and may be extended in accordance with Regulation 8.9.1.

## **8.8 Appeal against a Temporary Restriction or Suspension**

- 8.8.1 A Student may appeal to the Pro-Vice-Chancellor (Education), or their nominee, against the decision made by the Academic Registrar or the relevant Head of College (for students subject to Fitness to Practise procedures), or their nominee, in accordance with paragraphs 8.4, 8.5 or 8.6. Students may appeal on one or more of the following grounds:

- a) the suspension, and/or temporary restriction is disproportionate;
- b) there has been a procedural irregularity;
- c) relevant new evidence which was not available at the time of the initial decision.

The Student must submit any appeal within 15 University working days of the date of the letter advising the student of the temporary restrictions or suspension imposed.

The Pro-Vice-Chancellor (Education) may decide to reject the appeal in full or in part, or uphold the appeal in full or in part. The Pro-Vice-Chancellor (Education) will have the full range of options outlined in paragraphs 8.4, 8.5 and 8.6 available to them should they deem it appropriate to modify the restrictions or suspension. The Pro-Vice-Chancellor (Education) may consult with relevant members of Staff and/or the University Medical Officer in order to reach a decision.

## **8.9 Review of Temporary Restrictions or Suspension**

- 8.9.1 The Student may make representations at any time under 8.8.1 c) (which may include new evidence which falls under 8.8.1 a) or b)

The Academic Registrar or their nominee will regularly review the decision to impose temporary restrictions or suspension on the grounds of misconduct in accordance with Regulations 8.4 and 8.6 shall be reviewed by the Academic Registrar or their nominee in consultation, where appropriate with the relevant Head of College.

Where a student subject to Fitness to Practice procedures has been suspended, or had restrictions imposed on them in accordance with Regulations 8.4 or 8.5, the relevant Head of College will normally review the decision.

Following any review by the Academic Registrar or relevant Head of College (for students subject to Fitness to Practise procedures), the temporary restrictions or suspension may be lifted, changed and /or extended for an additional period of up to three months.

- 8.9.2 A student may appeal to the Pro-Vice-Chancellor (Education) against a change made as part of any review under Regulation 8.9.1 to the temporary restriction or suspension. The grounds for the appeal, deadline and process for dealing with the appeal are set out in Regulation 8.8.1.

## **8.10 General Provisions**

- 8.10.1 A record of all proceedings shall be kept by the Secretary to the College Misconduct and Fitness to Practise Committee and University Misconduct and Fitness to Practise Committee, but no reference to the record shall be made in the student's personal file, except as permitted by this Regulation and the Code of Practice on Misconduct and Fitness to Practice Committee.
- 8.10.2 If a student does not comply with any sanction or condition imposed by a College Misconduct and Fitness to Practise Committee, or University Misconduct or Fitness to Practise Committee, the Academic Registrar or their nominee, or the Head of College (for Students subject to Fitness to Practise procedures) will be asked to decide whether to refer the matter back to the College Misconduct and Fitness to Practise Committee or for consideration as a separate disciplinary offence as per clause 8.2.1 (x) and/or (v) above.
- 8.10.3 The University has a duty to refer to the Independent Safeguarding Authority any information about a Student's conduct where such conduct gives rise to concerns about harm or the risk of harm to children or vulnerable adults.
- 8.10.4 In exceptional circumstances where new evidence emerges which for good reason, could not have been obtained by the University at the time of the original investigation, an investigation may be commenced in relation to a Student's alleged misconduct that has been previously investigated and found not proven, or where the University has considered an allegation and decided not to take action. In such a case the Academic Registrar or Head of College (for students subject to Fitness to Practise procedures) or their nominee will decide whether it is appropriate to take action after considering the nature of the alleged misconduct, the ability of the University to conduct a fair investigation, and whether it is fair, reasonable and proportionate to all parties concerned.
- 8.10.5 Any outcome of disciplinary proceedings under this Regulation cannot be overturned by a Senate Review Panel considering a complaint submitted by a Student in accordance with the Code of Practice on Concerns and Complaints.
- 8.10.6 Where a Student Conduct investigation is prompted by a complaint from another Student, information about that disciplinary investigation and any subsequent proceedings may be shared with the complainant Student in accordance with data protection legislation.