

Guidance for Students registered on Fitness to Practise programmes: Student Misconduct and Fitness to Practise Investigations

This guidance is for students who are being investigated by the University in accordance with Regulation 8 due to concerns over their conduct and/or fitness to practise.

The University expects the highest standards of behaviour from students on courses leading to a professionally recognised qualification. Fitness to Practise regulations ensure that you meet professional standards of conduct for awards that lead to a professionally recognised qualification, for example Medicine, Initial Teacher Training and Dentistry. When you register for a programme of study subject to Fitness to Practise regulations, you have to sign and agree to abide by a programme-specific Code of Professional Conduct.

If you are being investigated by the police in relation to an incident which may also be a disciplinary offence, the University will normally start its disciplinary investigation but may then put it 'on hold' until the police investigation and any related court proceedings are complete. In cases where there is reasonable suspicion that a student has committed a serious or significant disciplinary or criminal offence, then you may be temporarily suspended from your programme, or some or all of the University premises or facilities. The decision to impose any debarment or suspension is made without judgement on the possible outcome of the investigation, but as a preventative measure as the University has a duty of care to its students (including you), staff, and visitors.

The initial stage

Upon receipt of a concern, complaint, report of an incident, or an allegation against a student or students, you will be notified in writing (normally within 10 working days after the concern is brought to our attention). You will be given a summary of the concern/allegation(s) against you and will be invited for an interview with the Investigating Officer (IO).

The purpose of the interview is:

- to inform you of the concern/allegations
- to explain the disciplinary/fitness to practise procedures
- for you to respond to the concern/allegations and explain what may have happened
- for the IO to ask questions in order to ascertain the facts of the case.

You may bring a "Friend" to the interview. A Friend is defined in University Regulation 1 as a current member of academic staff of the University, a registered student at the University of Birmingham, or a full-time Officer of the Guild of Students. The role of the Friend is to act as an observer and give moral support. Your Friend cannot also be a witness to the alleged breach/incident.

You should bring with you to the interview any information that you think is relevant. If the information is about yourself, then the Investigating Officer may use this information for the investigation and it may be disclosed a Committee appointed under the University's Regulations to consider and determine the case. If the information is about another person (such as a relative), then you will need to obtain their permission to disclose this information to the University for the purpose of this investigation.

You are expected to attend the interview. If you do not engage with the process, the investigation will continue. You may also be subject to the charge of "Contempt of the University's disciplinary procedures by failure to cooperate with the University's discipline authorities or otherwise" (8.2.1 (x) Section 8 - Student Conduct). Furthermore, if you refuse to engage in the investigative process, this may provide (additional) grounds for concern about your Fitness to Practise.

During this process, a 'Hold' may be placed on your student record. As a result, your marks may not be formally processed and released to you online and/or your progression or graduation may be affected.

The interview

At the beginning of the interview the IO should introduce themselves and any other people present. Normally

there will be a note taker. At the beginning of the interview, you will:

- be informed of the procedures that will be followed in accordance with University Regulation Section 8 - Student Conduct.
- have an opportunity to ask questions about the procedures;

The IO will then confirm the allegations which have been made against you. You will not be entitled to see or receive copies of any statements or evidence at this stage of the procedure, unless the IO decides to disclose it to you. You will not normally be permitted to record the interview.

You will be given the opportunity to respond to the allegations and put forward any explanation you may wish to give. The IO will then ask questions of you to try and ascertain the facts of the case.

You may discuss with the IO whether any other people may be able to provide information or evidence and you may suggest potential witnesses that you would like the IO to contact. It is, however, for the IO to decide if it is necessary or appropriate to do so. If you provide written statements for the IO at the interview, please make sure they include contact details in case the IO needs to clarify details with the witness.

At the end of the interview the IO will inform you what the next steps may be, depending upon the nature of the concern/allegations, and whether or not the IO considers that there is sufficient evidence to make a decision at this stage. It may be necessary for the IO to collate further information before reaching a conclusion; this may include more than one interview with you. If the concern relates to your health, you may be asked to provide medical evidence.

A copy of the notes will normally be provided to you at the end of the interview or shortly afterwards.

What happens next – summary action

If it is decided that there is a case to answer and you admit the offence but the matter is not sufficiently serious to refer the case to a College Misconduct and Fitness to Practise Committee, then the matter could be dealt with summarily by applying one of the sanctions outlined in Para 8.3.2 of University Regulation 8 – Student Conduct:

- A reprimand
- Imposing a fine
- Community service
- An undertaking that you behave appropriately and/or engage with appropriate student support and/or remedial tuition
- To make good any damage
- An exclusion from University residences (if you were visiting or using the facilities when the offence was committed)

In order for a summary sanction to be applied you have to admit the offence and accept the summary sanction; by accepting the summary sanction you are admitting the offence.

If you accept a summary sanction, this will be confirmed in writing and the case will be closed immediately unless there are outstanding actions to be completed (for instance, if in accordance with 8.3.2. (d) you give an undertaking, the case will be closed if the agreed action(s) has been achieved by the agreed timeline; failure to complete the agreed undertaking successfully may result in further disciplinary action).

What happens next – Referral to the College Misconduct and Fitness to Practise Committee

The case will be referred to a College Misconduct and Fitness to Practise Committee for its consideration if you deny the allegation or do not wish for the matter to be dealt with as a summary offence, or the offence is deemed more serious than a summary offence. We will normally inform you of this decision in writing.

In health related cases, the concern will be referred to a College Fitness to Practise Committee for its consideration if it is considered that the health concern may be impairing your fitness to practise. We will normally inform you of this decision in writing.

The IO will conclude the investigation as soon as possible and will prepare an Investigating Officer's Report. This Report will include all the evidence on which the University intends to rely, for example, copies of witness statements. You will be asked for your response to this report and you may wish to include any further evidence or information you want the Committee to consider.

The Committee will normally hear the case within 6 - 8 weeks after the case has been referred to it by the Investigating Officer. There may be times when delays are unavoidable, for example if a police investigation is ongoing or if staff and/or student(s) are not available for a good reason. The full bundle of papers which will be considered by the Committee will be sent to you at least ten working days before the date of the Committee hearing.

Whilst any misconduct and fitness to practise proceedings are ongoing (including an appeal to the University Misconduct and Fitness to Practise Committee), there may be an impact on your ability to access certain services (such as SCONUL), progress on your programme and/or graduate.

Confidentiality

The Investigating Officer may need to contact other members of staff or students as part of the investigation but will do so only as necessary. In circumstances where there is a criminal investigation, the University may be required to disclose information to the police.

All cases will be recorded by the School and information will be retained in accordance with the School's record retention policy.

Help and Support

It is recommended that you contact the Guild Advice for advice (<https://www.guildofstudents.com/support/guildadvice/who-we-are-guild-advice/>) in relation to the investigation. If the matter does proceed to a Committee, the Guild of Students may be able to help you prepare your case. A full-time Guild Officer could also act as a Friend in the hearing. The Investigating Officer would not be able to advise you on how to prepare your case.

For information about advice and support services please access the following link:

www.intranet.birmingham.ac.uk/conduct/help

Information on University regulations can be found on the intranet:

<https://intranet.birmingham.ac.uk/as/registry/legislation/codesofpractice/index.aspx>

You may also want to consider discussing whether you need to make use of any University procedures including the Code of Practice on Extenuating Circumstances, and your departmental Welfare Tutor or Personal Tutor would be able to advise you on these. You can request written confirmation from IO that an investigation has taken place in support of a submission regarding Extenuating Circumstances.