

Student Misconduct (discipline) and Fitness to Practise Investigations – guidance for students

This guidance is for you if you are being investigated by the University in accordance with Regulation 8 due to concerns over your conduct and/or fitness to practise. This guidance explains the steps involved in that investigation.

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 that may also be a disciplinary offence, we will normally start a disciplinary investigation. However, we may put the investigation on hold until the police investigation and any related court proceedings are complete.

If we have good reason to believe you have committed a serious disciplinary or criminal offence, we may temporarily suspend you from your studies. We may also suspend or restrict your right to use some or all of our premises or facilities. This is sometimes called a 'debarment'. You may also be suspended from your placement if there are concerns about your conduct or behaviour.

If we decide to suspend you from your studies or to restrict (debar) you from certain areas or activities (or both), the Academic Registrar or Head of College (or a person nominated by them), will write to you with details of that decision. The decision to restrict (debar) or suspend you would not be based on any judgement we have made on the possible outcome of the investigation. It is a preventative measure to protect all our students (including you), staff, visitors, and those who you may come into contact with whilst on placement.

The initial stage

The Investigating Officer will write to you to let you know that we have received a concern about you and have started an investigation. This is normally within 10 working days after the concern is brought to our attention. The Investigating Officer will give you a summary of the concerns or allegation(s) against you and ask you to come to an interview.

The purpose of the interview is:

- to tell you about the concern/allegations
- to explain the disciplinary/fitness to practise procedures
- for you to respond to the concern/allegations and to give your account of what happened
- for the Investigating Officer to ask questions in order to gather the facts of the case.

You may bring someone, referred to in the process as a Friend, with you to the interview. A Friend is defined within University Regulation 1 as either:

- a member of staff of the University, or
- a registered student of the University, or
- a Sabbatical Officer of the Guild of Students, or
- a Guild Advisor of the Guild of Students

They must not be a witness to the alleged breach/incident.

The Friend's role is to act as an observer and give moral support. They cannot answer questions, translate for you, or interpret your responses. Further information can be found in the Guidance for Friends' document: <https://intranet.birmingham.ac.uk/as/registry/policy/conduct/documents/public/friends-guidance-pdf-20kb.pdf>

When you come to the interview you should bring any information that you think is relevant to the investigation. If the information is about you, the Investigating Officer may use it during the investigation. The information may also be passed to a Committee appointed to make a decision on the case. If the information is about another person (for example, a relative), you will need to get their permission to give us the information for the purpose of this investigation.

You are expected to attend the interview. If you do not co-operate, the investigation will still go ahead. Also, if you refuse to co-operate, this may provide (additional) grounds for concern about your Fitness to Practise. In addition, the Investigating Officer may add an allegation of "Contempt of the University's disciplinary procedures by failure to cooperate with the University's discipline authorities or otherwise" (under paragraph 8.2.1 (x) of Regulation 8) to the investigation.

During the investigation, a 'hold' may be placed on your student record. This means that your marks may not be formally processed and released to you online (in the usual way). You may also not be able to continue to the next stage of your studies (progress) or your graduation may be affected.

The interview

At the beginning of the interview the Investigating Officer will introduce themselves and anyone else who is there. Normally there will be someone there to take notes. The Investigating Officer will:

- tell you the procedures that will be followed under University Regulation 8; and
- give you the opportunity to ask questions about the procedures.

The Investigating Officer will confirm the allegations which have been made against you. You will not be allowed to see or receive copies of any statements or evidence at this stage, unless the Investigating Officer decides to give them to you. You will not normally be allowed to record the interview.

You will be given the opportunity to respond to the allegations and explain your version of events. The Investigating Officer will then ask questions of you to try and find out the facts of the case.

You can talk to the Investigating Officer about whether any other people may be able to provide information or evidence relating to the case. You can suggest potential witnesses that you would like the Investigating Officer to contact. However, only the Investigating Officer can decide if it is necessary or appropriate to do so. If you provide witness statements at the interview, they must include contact details in case the Investigating Officer needs to ask the witness any questions.

At the end of the interview, the Investigating Officer will tell you the next steps. They will also tell you if they think there is enough evidence to make a decision at this stage. The Investigating Officer may need to gather more information before reaching a decision, and they may need to have 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 given to you at the end of the interview or shortly afterwards.

What happens next?

The University investigation is an evidence-based process and decisions are made on the balance of probabilities. Possible outcomes include:

- No further action
- A low-level sanction
- Referral to the College Misconduct and Fitness to Practise Committee

Summary (low level) sanction

For less serious offences it is possible to agree a 'summary sanction'. This is a formal lower-level penalty that you can agree with the Investigating Officer if you admit the offence.

The possible summary sanctions, as set out in paragraph 8.3.2 of Regulation 8, are as follows:

- A formal written warning (also known as a reprimand)
- Community service
- An agreement (sometimes called an undertaking) that you behave appropriately and/or co-operate with appropriate personal or academic support
- Making good any damage
- Being barred from University residences (halls) if you were visiting or using the facilities when the offence was committed.

If you accept a low-level sanction, this will be confirmed in writing. The case will then be closed immediately unless there are other actions to be completed, such as those set out in any undertaking you are agreeing to.

Referral to the College Misconduct and Fitness to Practise Committee

The case will be referred to a College Misconduct and Fitness to Practise Committee if:

- you deny the allegation; or
- you do not agree to a low-level sanction; or
- the offence is considered more serious than one which a summary sanction could be appropriate for.

In health-related cases, the concern will be referred to a Committee if it is considered that the health concern may be impairing your fitness to practise.

If the matter is referred to a Committee, we will normally tell you this in writing.

The Investigating Officer will complete the investigation and prepare their report as soon as possible. The report will set out the allegations and the evidence they think is relevant to the case (for example, copies of witness statements). You will not normally receive a copy of any original complaint forms. You will be asked to respond to this report and can provide any further evidence or information you want the Committee to consider.

The Committee will normally aim to consider your case within six to eight weeks of the Investigating Officer's report being sent to you. There may be times when delays cannot be avoided (for example, if staff or witnesses are not available for a good reason). You will be sent (normally by email) all the papers that will be seen by the Committee at least 10 working days before the date of the Committee hearing.

Whilst any misconduct and fitness to practise proceedings are underway (including an appeal to the University Misconduct and Fitness to Practise Committee), you may not be able to use certain services (such as SCOUNL), continue with your studies or graduate.

If you are unable to attend the hearing

The date of the Committee is based on the availability of the Committee members. If there is a good reason why you cannot attend at the above time and date, you must contact us as soon as possible. If you are unable to attend in person, it may be possible to arrange for you to attend the Committee by video or telephone. If you wish to ask us to reschedule the hearing to another date, your request for a postponement must be supported by appropriate evidence showing why you are unable to attend at the date and time given. Your request would be considered by the Chair, who may agree to postpone the Committee or decide the Committee should proceed as arranged. If the Chair decides that the Committee should not be postponed, the Committee can decide to hear the matter in your absence (if this happens, no adverse inference will be drawn from your absence). If the Chair

agrees to postpone the hearing, then there it is likely that there will be a delay (normally of at least 6 weeks) before a new date can be arranged. This would mean there will also be a delay in concluding your case.

Confidentiality

The Investigating Officer may need to contact other members of staff or students as part of the investigation, but only if this is necessary. If there is a criminal investigation, we may need to pass information to the police.

All cases will be recorded by the School. The School will keep this information in line with its record retention policy. We will normally store any documents for seven years before we destroy them.

Help and Support

It is recommended that you contact the Guild Advice at the Guild of Students for advice above the investigation. If the matter is referred to a Committee, the Guild of Students may be able to help you prepare your case for the hearing. A full-time Guild Officer or Guild Advisor could also come to the hearing with you. The Investigating Officer would not be able to give you advice on how to prepare your case. Further information about Guild Advice can be found on their website: www.guildofstudents.com/support/guildadvice/contactus/

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. Your School Wellbeing Officers, Guild Advice or your Personal Tutor would be able to tell you about any procedures you could follow. More information about advice and support services is available on the Student Conduct webpages: www.intranet.birmingham.ac.uk/conduct/help

If you need evidence of the investigation for other procedures, you can ask the Investigating Officer for written confirmation.

Information on University regulations can be found on the intranet: <https://intranet.birmingham.ac.uk/as/registry/legislation/codesofpractice/index.aspx>