

Guidance for Students Making a Complaint about another Student(s)

Q I have been affected by the conduct or behaviour of another Student – what can I do?

A If you want to receive support or discuss how the conduct has affected you, you may want to speak with the University Student Support services or your Wellbeing Officer. The details of your School Wellbeing Officer can be found in your Student Handbook or at the link below:

<https://intranet.birmingham.ac.uk/student/Your-Wellbeing/wellbeing-officers.aspx>

The webpage with contact details for Student Support can be found at the webpage below:

<https://intranet.birmingham.ac.uk/as/studentservices/index.aspx>

If you feel you are being bullied or harassed, you may want to consider the informal procedures under the Harassment and Bullying Policy. You can ask an appropriate person who is not directly involved, such as a Personal Tutor or Wellbeing Officer to speak with the other student to help them understand how their behaviour is affecting you, which will hopefully resolve the situation. If you want to discuss your options, you can contact the Harassment Advisory Service. Details about the Harassment Advisory Service and a copy of the Harassment and Bullying Policy can be found at the webpage below:

<https://intranet.birmingham.ac.uk/as/studentservices/conduct/harassment/index.aspx>

If you have been sexually assaulted, you may want to report the incident to the University. This report is primarily about making a disclosure and a way of accessing support, you can either choose to speak to a trained Responder or report anonymously. Submitting an online report will not automatically initiate University disciplinary procedures against any student(s) you are complaining about, as this is a separate process. If you do wish to make a formal report for the purpose of initiating an internal disciplinary process, we would advise that a meeting be arranged with a member of the Student Conduct, Complaints and Appeals Team – a Responder can help arrange the meeting. This will make sure you are fully aware of what the process would involve before you submit a formal report to the Conduct, Complaints and Appeals Team. If you would like to speak to a Responder, further information is available on the following webpage:

<https://intranet.birmingham.ac.uk/as/studentservices/you-report-we-support/index.aspx>

If the matter is serious, or where you have already used the informal procedures under the Harassment and Bullying Policy, you may want consider whether you want to submit a formal complaint. Complaints which are about the conduct of another student may be dealt with under the University's student disciplinary procedures. If your complaint about another student is not dealt with under the University's student disciplinary procedures then you usually will be informed of the reason for this. Complaints which do not relate to the conduct of another student will be dealt with in the usual way under the University's Code of Practice on Student Concerns and Complaints.

The University's student disciplinary procedures are intended to address misconduct by students rather than resolve disputes between individuals. Incidents which are not a potential breach of University regulations will not be investigated under this process. However, the University does have a conciliation process to help students resolve individual disputes which you may be able to benefit from.

Q The incident(s) happened off-campus – will the University be able to take action against the other student?

A The University Regulations specify that the University can take action in relation to conduct on campus, connected to a programme of study, fieldwork, placements, or whilst engaged in any other University-related activity. The University will not normally investigate incidents that are not on University premises, unless they relate to a Student registered on a Fitness to Practise programme (such as Medicine, Social Work, Pharmacy), or result in action by the police or courts.

Q I am afraid of seeing the other Student on campus or in accommodation – what will happen?

A We would normally ask that the subject of an investigation and the Student who has made a complaint to stay away from each other.

In cases where there is a reasonable suspicion that the Student being investigated 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 significant criminal offence, then the Student who is the subject of your complaint may be debarred from some or all of the University premises, or temporarily suspended from their programme. The University owes a duty of care towards its students and may take steps to reduce or remove any risks by, for example, suspending a student or debarring them from certain parts of the campus.

You may also want to discuss your accommodation options with Living, particularly if you live in third-party accommodation or with a Customer Service Manager if you live in University-owned accommodation. Further information is available on the following webpage:

<https://www.birmingham.ac.uk/study/accommodation/contact-us.aspx>

Q I have reported the matter to the police and they are investigating will the University also investigate?

A If the police are investigating the same incident or related matter, the University will normally start its own investigation, but then immediately put it on hold until the police investigation and any related court proceedings are complete. The University would not normally investigate whilst there is an ongoing police investigation.

As outlined above, if a Student is being investigated by the police, the University will consider whether any preventative measures need to be put in place. In circumstances where there is a criminal investigation, the University may be required to disclose information to the police. Where this is the case, the University would consider whether the information should be released, and may discuss the request with you.

Q How do I make a complaint?

A A concern review form is available on the University webpage below:

<https://intranet.birmingham.ac.uk/as/registry/policy/complaint-appeal/complaints/index.aspx>

Once you have completed this form it should be submitted to:

student-complaints@contacts.bham.ac.uk

Q What do I need to include in my complaint?

A You would need to provide information about the incident or events which have prompted your complaint including: what, when, where, and who; e.g. observations of behaviour and impact,

dates, times, locations, name(s) of those involved and any witnesses who could be contacted. You should also provide any evidence that may support your complaint e.g. copies of messages or any photographs.

Q Will my account be sufficient evidence for the University to take action?

A We understand that reporting certain incidents is often an extremely difficult thing to do. The investigation process is an evidence-based process and decisions are made on the balance of probabilities, which means we would be looking at whether the evidence supports that it is more likely than not that a breach has occurred. If the University determines that no further action can be taken it does not mean that the University is questioning whether or not you are telling the truth, it normally means that there is insufficient evidence which can be used in misconduct proceedings to support that there has been a breach of University Regulations.

Q What happens when the University receives my complaint?

A The Complaint will be received by the Student Conduct, Complaints and Appeals Team and eligible complaints will be sent to an Investigating Officer to investigate and may result in the other student(s) being investigated in relation to potential breaches of University Regulations. Your complaint may form part of the evidence of the potential breaches.

Q Will the other Student(s) know I made a complaint against them?

A Yes – We would not normally deal with anonymous complaints. We will need to disclose your name and a summary of the complaint to the Student you have complained about so that they can respond to the allegations. If the matter proceeds to a College Misconduct Committee we would need to provide the Student with your witness statement and any evidence you have provided which is relevant to the matter, e.g. photographs or copies of messages.

If you are worried about any repercussions of this you need to discuss this with the Investigating Officer and we will look at whether any measure can be put in place to address your concerns.

Q Who else will know about my complaint?

A The Student Conduct, Complaints and Appeals Team will receive the complaint and if it is eligible it will be sent to an Investigating Officer to investigate. Information is only shared within the University as is necessary for the investigation and support of any disciplinary process e.g. Secretary and panel of a College Misconduct Committee.

If we need to contact witnesses, we will only provide them with such information as they need to know in order to provide their evidence.

Q Can I talk about this complaint with other people?

A You should not discuss this matter with other witnesses or the student about whom you are making the complaint, as doing so may jeopardise a fair investigation. If you want to speak to someone, you may want to talk to a Wellbeing Officer or staff from Student Services, such as a Wellbeing Officer or Counsellor.

Q Do I have to attend a meeting with the Investigating Officer?

A The Investigating Officer may invite you to a meeting to discuss your complaint and they may need to ask you questions about the incident(s). The Investigating Officer may also ask if you have any further evidence to support your complaint e.g. photographs or copies of messages. If you are invited to attend a meeting, you may be accompanied by a “Friend”. A “Friend” is defined in University Regulations as a member of academic staff, a registered student of the University, or an Officer of the Guild of Students. The “Friend” should not also be a potential witness to the incident(s).

If you do not attend the meeting, it may affect the University’s ability to proceed with the investigation and take any further action.

Q Would I need to be involved in the investigation process?

A Following your meeting with the Investigating Officer, they may need to write a witness statement made up of the information you provide. The Investigating Officer may need to meet with you more than once in order to clarify and confirm the contents of your witness statement. Once you confirm the contents of your witness statement you will be asked to approve and sign it.

Q What are the possible outcomes of a Student Conduct investigation?

A The University investigates concerns about a Student’s conduct in accordance with Regulation 8 – Student Conduct. The University investigation is an evidence-based process and decisions are made on the balance of probabilities. Possible outcomes include:

No further action

After gathering information which may involve speaking to you and the Student(s) against whom the complaint is made, we may determine that, on the basis of the evidence, we will not be taking any further action. This does not mean that the University is questioning whether or not you are telling the truth; it normally means that there is insufficient evidence which can be used in misconduct proceedings to support that there has been a breach of University Regulations.

Advisory letter

We may send the student an advisory letter to the Student(s) against whom the complaint is made, outlining that a complaint has been made against them and the University will be taking no further action. We may need to name you as a complainant in this letter, and you will have the opportunity to talk about this with the Investigating Officer.

Summary action

It may be determined that, based on the evidence, that there is a case to answer but it is not sufficiently serious to refer the case to a College Misconduct Committee. If the Student admits the alleged offence and agrees, the matter may be dealt with summarily by applying one of the summary sanctions (by issuing a reprimand, fine, community service, or an undertaking).

Non-summary action (Referral to a College Misconduct and Fitness to Practise Committee)

A matter may be referred to a College Misconduct and Fitness to Practise Committee if following the investigation, it is determined that an offence has occurred which is more serious than a summary offence, or if the Student denies the allegation and/or does not agree to the matter being

dealt with summarily. If the alleged misconduct is found proven, a range of penalties could be applied by a Committee which range from a reprimand, debarment from certain University facilities, suspension from the University, or withdrawal from the University. However, each case is decided by the Committee on its own merits, taking into consideration all of the evidence including any aggravating factors or mitigating circumstances. The procedures related to the arrangements and conduct of the Committee are outlined in the Code of Practice on Misconduct and Fitness to Practise Committee.

The regulations and Code of Practice can be found via the webpage below:

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

Q Will I have to attend a College Misconduct and Fitness to Practise Committee?

A You may be asked to attend a College Misconduct Committee as a witness. Where it is possible, we may arrange for you to give your evidence from behind a screen or through video-conferencing. If you attend the Committee (including attending by video-conferencing), it is possible that you may see the student subject to the allegations. If you are invited to attend a Committee, you may be accompanied by a "Friend". A "Friend" is defined in University Regulations as a member of academic staff, a registered student of the University, or an Officer of the Guild of Students. Your "Friend" can offer support and act as a reassuring presence but cannot comment or answer questions. The "Friend" should not also be a potential witness to the incident(s).

Q If I attend a College Misconduct and Fitness to Practise Committee, will I be questioned?

A Yes. You may be asked questions by the Case Presenter (normally the Investigating Officer), the Student subject to the allegations, and/or by the Committee. The questions will be asked through the Chair. We appreciate that you may be concerned about being questioned, but the Chair will decide whether any particular question can be asked or whether it should be rephrased before you are requested to answer.

Q How long will it take to investigate my complaint?

A The circumstances behind any complaint are unique, so the length of each investigation can vary. Some investigations can take several weeks (or even several months) before a decision is made about whether there is sufficient evidence, or whether the matter can be dealt with summarily or referred to a College Misconduct and Fitness to Practise Committee, particularly if there are a number of witnesses to interview, or other evidence to review.

If the matter is referred to a College Misconduct and Fitness to Practise Committee, as well as working to the availability of Committee panel members, there are procedural timeframes that have to be met to ensure a fair hearing, which will impact on the time it can take for the investigation process to be completed.

Q Will you tell me the outcome of any investigation?

A We understand that you may want to know what action has been taken since you made your complaint as well as the outcome of any investigation. In order to comply with our confidentiality obligations to all students we cannot usually inform you of any precautionary or disciplinary action that may have been taken against the Student who you have complained about. We will provide you with as much information as is lawful and appropriate. If your complaint does not relate to the

conduct of another student you will usually be entitled to a response as specified in the Code of Practice on Student Concerns and Complaints.

Q What happens to my data?

A A record of your complaint will be kept by the Student Conduct, Complaints and Appeals Team and will be retained in accordance with the departmental record retention policy. Any documentation will normally be held for a period of seven years before it is confidentially disposed of.

Q Is there any support I can receive?

A If you need to talk to someone about the incident or events there are support services available, and more details about these can be found at the below web page:

<https://intranet.birmingham.ac.uk/as/studentservices/index.aspx>