

## Guidance for Students Making a Complaint about another Student(s) Part Two: The formal complaint and investigation process

You should read the accompanying document [‘Guidance for Students Making a Complaint about another Student\(s\): Reporting Options’](#) before you submit a formal complaint to the University.

Complaints which are about the conduct of another student may be dealt with under the University’s student disciplinary procedures. If you wish to make a formal report/complaint for the purpose of initiating an internal disciplinary process, we advise that you read this guidance carefully. This will make sure that you are fully aware of what the process would involve before you make a formal complaint to the University.

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 disciplinary offence will not be investigated under this process. Where there are more appropriate University procedures available, these may be utilised rather than commencing action under this Regulation.

This document gives information on:

- What the University can investigate
- How to make a complaint about another student’s behaviour
- What to include in a ‘Complaints about other students’ Concern Review Form
- The investigation process
- Possible outcomes of an investigation
- Notification of outcome
- Withdrawing a complaint
- Support

### What the University can investigate

From the 2021-22 academic year, University Regulations permit the University to take disciplinary action in relation to misconduct against a student of the University or a member of staff, regardless of where it happened. The University would consider the circumstances, including the evidence available in determining what action may be taken.

If the incident or behaviour occurred before the start of the 2021-22 academic year, the University will not normally investigate incidents that were 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. This is because

the previous regulations only permitted the University to take action that occurred on campus or whilst engaged in a University-related activity.

### How to make a complaint about another student's behaviour

You should complete a 'Complaints about other students' Concern Review Form, which is available on the University webpage below:

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

### What to include in a 'Complaints about other students' Concern Review Form

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

You also should include the names of people who we may need to contact as potential witnesses in relation to the concerns/complaint you have reported. To be a witness the person would need to have some evidence about the behaviour towards you or the impact of the behaviour towards you. This means they should have either directly observed the behaviour towards you, observed you or the other student, or spoken with you or the other student soon after the incident occurred. A witness is different to someone who may have their own complaint.

Once you have completed this form it should be submitted to: [student-complaints@contacts.bham.ac.uk](mailto:student-complaints@contacts.bham.ac.uk)

### The investigation process

The investigation is an evidence-based process and decisions are made on the balance of probabilities. The investigation is not looking at whether your complaint is upheld but whether there is evidence that it is more likely than not that a disciplinary offence has occurred.

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 as a low level matter or referred to a College Misconduct and Fitness to Practise Committee, particularly if there are several witnesses to interview, or other evidence to review.

Some or all the following steps may be taken when a complaint about another student is received:

a. Receipt of complaint

The 'Complaints about other students' Concern Review Form will be received by the Student Conduct, Complaints and Appeals Team (SCCA) and, if it is eligible, it will be sent to an Investigating Officer (either in SCCA or in the College for students subject to fitness to practise requirements). An investigation may be started to look at whether a disciplinary offence has occurred in accordance with the University Regulations. Your complaint may form part of the evidence for the investigation.

b. Meeting with the Investigating Officer

The Investigating Officer may invite you to a meeting to discuss your complaint and they may need to ask you questions about this and the incidents(s). The Investigating Officer may also ask if you have any further evidence to support your complaint, such as 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 staff, or
- a registered student of the University, or
- an Officer of the Guild of Students, or
- A Guild Advisor of the Guild of Students.

The "Friend" should not also be a potential witness to the incident(s). 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>

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

c. Consideration of precautionary measures

During an investigation we would normally ask that the student under investigation and the student who has made the 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 or significant criminal offence, then the student who is under investigation may be restricted from accessing some of 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 restricting their access to certain parts of the campus or University-owned accommodation.

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>

If you are worried about any repercussions of making a report, you can discuss this with the Investigating Officer, and we will look at whether any precautionary measures should be put in place to address your concerns.

#### d. Witness statement

Following your meeting with the Investigating Officer, they may need to write a witness statement compiled from the information you provide. The Investigating Officer may need to meet with you more than once 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.

#### e. Consideration of the evidence

The Investigating Officer will collect other evidence as appropriate. This may include a meeting with the student you have complained about. We would not normally deal with anonymous complaints as we will need to disclose your name and some information about the complaint to the student you have complained about so that they can respond to the allegations.

Where two or more students submit a complaint about the same student, they would be considered as separate complaints as the evidence is individual to each reporting student and decisions will be based on the relevant evidence for each complaint.

If the matter is referred to a College Misconduct and Fitness to Practise Committee (see below), we would need to provide the responding student with your witness statement and any evidence you have provided which is relevant to the matter, e.g., photographs or copies of messages.

You should be aware that when an incident has occurred off-campus, the University will have no access to third-party CCTV footage, or other evidence (such as forensic evidence or related to mobile phone data) and the University cannot compel anybody to talk to them as part of an investigation.

## Possible outcomes of an investigation

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

i. 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, based on the evidence, we will not be taking any further action. This does not mean that the University is questioning whether you are telling the truth; it normally means that there is not enough evidence which can be used in misconduct proceedings to support an allegation that a University disciplinary offence has occurred.

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.

ii. Low-level (summary) action

It may be decided 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 and Fitness to Practise Committee. If the responding student admits the alleged offence and agrees, the matter may be dealt with applying one of the low-level (summary) sanctions such as issuing a formal written warning (reprimand), community service, or an agreement to future behaviour (undertaking).

iii. 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 there is a case to answer (sufficient evidence) and:

- the Investigating Officer decides that the matter is too serious to be dealt with as a low-level matter,
- the student under investigation denies the allegation,
- the student under investigation does not agree to the matter being dealt with as a low-level matter.

If the Committee decide the alleged misconduct is proven, a range of sanctions could be imposed by the Committee which range from a formal written warning (reprimand), restricted access to 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 the evidence including any aggravating factors or mitigating circumstances. The procedures related to the Committee process are outlined in the Code of Practice on Misconduct and Fitness to Practise Committee.

It is recommended that you read the [‘Guidance for Students Making a Complaint about another Student\(s\): Attending a College Misconduct and Fitness to Practise Committee’](#) document before submitting a complaint so that are aware of what the process may involve.

### Notification of outcome

We understand that you may want to know what action has been taken since you made your complaint as well as the outcome of the investigation. To comply with our confidentiality obligations to all students and data protection law, we cannot usually inform you of any specific precautionary or disciplinary action that may have been taken against the student you have complained about, although we can inform you of the impact of any these decisions for you (for instance, whether you can expect to see the other student on campus). If the matter is referred to a College Misconduct and Fitness to Practise Committee, we will be able to tell you whether the alleged offences were proven or not. We will provide you with as much information as is lawful and appropriate.

A record of your complaint will be kept by Student Conduct, Complaints and Appeals and, if your complaint was about a student registered on a fitness to practise programme, it may also be kept by the relevant College. This information will be retained in accordance with the University’s Data Protection Policy.

### Withdrawing a complaint

We appreciate that engaging in a misconduct process can be difficult. If, at a later stage, you decide that you no longer wish to pursue your complaint, we will decide whether the investigation can continue, but this would be unlikely if your complaint was the main evidence as we would not be able to use your statement or complaint without your engagement with the process.

### Support

You should not discuss this matter with other witnesses or the student you have complained about, 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 trained

Responder or Counsellor; or someone from outside of the University, such as a family member or GP.

If you are having any difficulties with your assessments due to personal circumstances, you can contact your School or College Wellbeing Officer to discuss the appropriate support and procedures: <https://intranet.birmingham.ac.uk/student/your-wellbeing/wellbeing-officers.aspx>

Further information about Wellbeing Support, including that related to your mental health and safety can be found on the following webpage:

<https://intranet.birmingham.ac.uk/student/your-wellbeing/index.aspx>

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 on the following webpage:

<https://intranet.birmingham.ac.uk/student/your-wellbeing/sexual-misconduct-and-violence/sources-of-support.aspx>