

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

Part Three: Attending 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.

This guidance supplements the '[Guidance for Students Making a Complaint about another Student\(s\): Reporting Options](#)' and '[Guidance for Students Making a Complaint about another Student\(s\): The formal complaint and investigation process](#)' documents. These documents will be particularly relevant if you have been advised that the concerns you have raised will be referred to a College Misconduct and Fitness to Practise Committee.

This guidance includes information on:

- Committee arrangements
- Attending the Committee
- Others in attendance at the Committee
- The Committee process
- Committee decision-making
- Sanctions
- Notification of outcome
- Support

Committee arrangements

If the matter is referred to a College Misconduct and Fitness to Practise Committee, there are several factors to consider when scheduling the Committee such as avoiding assessment periods as well as working to the availability of Committee panel members. There are also procedural timeframes that must be met to ensure a fair hearing, which will impact on the time it can take for the Committee to be held and the investigation process to be completed.

Attending the Committee

You may be asked to attend a College Misconduct and Fitness to Practise Committee hearing as a witness. We would look at how to make the hearing as comfortable for you as possible.

Where it is possible, we may arrange for you to give your evidence from behind a screen or through videoconferencing (such as Zoom) from a separate location. If you attend the Committee (including attending by videoconferencing), it is possible that you may see or hear the student subject to the allegations.

At the hearing, 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.

Your "Friend" can offer support and act as a reassuring presence but cannot comment on or answer questions on your behalf. The "Friend" should not also be a potential witness.

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>

You do not have to be accompanied and are welcome to attend on your own if you prefer to do so.

Others in attendance at the Committee

The following people are normally present at the Committee hearing:

- The responding student (the student under investigation) and their Friend
- The Case Presenter (who is normally the Investigating Officer)
- The Committee panel members (normally three academic members of staff and possibly a student nominated by the Guild of Students)
- The Committee Secretary

The Case Presenter's role is neutral and involves presenting information about the case, including your evidence and evidence from the responding student. The Case Presenter is normally the person who has investigated the matter.

The Committee panel is made up of academic members of staff and in cases involving a responding student registered on a fitness to practise programme, a practise professional from outside of the University. The Guild of Students will also be asked to nominate a student member to the Committee panel. The Committee panel will have received relevant training.

The student under investigation can be present throughout the evidence stage of the hearing so that they hear and see all the evidence. They are not present when the Committee panel deliberate in private to decide whether the allegations are proven. The responding student is also not present if the allegations are found proven and the Committee panel need to decide which sanction should be imposed.

If you are attending the hearing, we will let you know who will be in attendance, so you know who to expect to see/hear. You must not contact any of the Committee panel members.

The Committee process

The hearing takes place in private so you will be invited to be present as a witness for the parts of the hearing which involve you giving evidence from your witness statement.

Witnesses can be questioned on the evidence they have given. You will not normally be asked to make a statement if you have provided a written statement, so what would normally happen is as follows:

- The Case Presenter (normally the Investigating Officer) may ask you questions;
- The responding student (under investigation) or their Friend may ask you questions (you would not be asked these questions directly; instead, the student would ask each question of the Chair who would decide whether the question is allowed and can be answered). The Chair would ask you that question or rephrase it.
- The Committee panel may ask you questions.

As a witness, you should only speak about matters that are referred to in your witness statement. We appreciate that you may be concerned about being questioned, but the Chair will decide whether any question can be asked or whether it should be rephrased before you are requested to answer. We may also be able to put arrangements in place where you cannot see, or been seen by the other student, although they will be able to hear you, and similarly, you will hear them if they attend.

After leaving the hearing, the meeting will continue. You will not hear any statements from other witnesses or the responding student. After you leave the hearing, you may want to have someone available to talk to, although you should not discuss your testimony with another witness.

The procedures related to the Committee process 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 following webpage:

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

Committee decision-making

The Committee will decide on the evidence and the standard of proof is the balance of probabilities. The Committee members will have the Investigating Officer's Report in relation to the allegations concerning your complaint and any response received from the student under investigation. If any of the offences are found proven, the Committee will decide on an appropriate sanction.

We cannot say what the likely outcome of a Committee will be as it will be the Committee's panel decision.

Sanctions

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. There is also the option to impose what is called a suspended sanction. This means that a decision is made on the sanction, for instance, withdrawal from the University, but it does not come into immediate effect and will only do so if certain conditions are not met (e.g., something is done or not done).

Each case is decided by the Committee on its own merits, taking into consideration all the evidence including any aggravating factors or mitigating circumstances.

We cannot say what the likely sanction will be as it is the Committee's panel decision.

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. We will normally have advised you of the alleged disciplinary offences referred to the Committee and we will tell you whether the Committee decided if any of those offences have been found proven.

We will normally be in contact you within one month of the Committee hearing to let you know whether the offences have been found proven and give you what information we can about any sanction and the impact of this on you (for instance, whether you can expect to

see the other student on campus), as appropriate and in accordance with data protection law.

The Committee will most likely be the last point that would need to be involved with the process. Depending on the outcome of the College Misconduct and Fitness to Practise Committee, the student may have a right of appeal, but it would be unlikely that you would need to be involved in any appeal hearing. We would advise you if the responding student submitted an appeal and if there was to be any impact on you as a result of this.

Support

After you leave the hearing, you may want to have someone available to talk to. You should not discuss your testimony with other witnesses 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>