

**UNIVERSITY OF BIRMINGHAM**

**CODE OF PRACTICE ON STUDENT CONCERNS AND COMPLAINTS**

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## 1 Introduction

- 1.1 The University of Birmingham is committed to providing a high quality educational experience, fully supported by a range of academic and administrative services and facilities. From time to time, however, things do go wrong, and the University recognises the need for students to be able to express their dissatisfaction where this happens.
- 1.2 It is through this Code of Practice that the University provides students with an accessible system for raising concerns and complaints, and ensures that these are handled as fairly, consistently and quickly as possible. Students who raise concerns or complaints through this Code of Practice may do so without fear of recrimination.
- 1.3 The Code of Practice applies to all Registered Students of the University, Students on Leave of Absence, External Resit Students, Thesis Awaited Students and Graduands. However, it can be used by former students<sup>1</sup> provided that the event(s) or issues raised took place while they were Registered Students and that exceptional circumstances prevented them from raising the matter within one month of the relevant incident (as set out in paragraph 3.1 below). This Code of Practice also applies to Apprentices at the University of Birmingham.
- 1.4 The Code of Practice can be used for both individual and collective concerns or complaints. Where a group complaint is submitted, the University will normally require one student to act as the nominated point of contact for the purposes of the complaint procedure. However, the University reserves the right to handle complaints individually, or to look at remedies individually, if deemed appropriate. Consent to their inclusion should always be sought from individuals named in a group complaint before the complaint is submitted.
- 1.5 Students may contact **Guild Advice** in the Guild of Students for free, confidential and impartial advice and support throughout the process of raising a concern or a complaint.
- 1.6 Where a student's concern/complaint is considered to be unreasonable, or a student's behaviour in relation to the concern/complaint is considered to be unacceptable, action may be taken as set out in Appendix 2. In appropriate cases, disciplinary action may be taken against the student.
- 1.7 All information received as a result of an investigation into a concern or a complaint will remain confidential to those involved in the process and those who may need to be consulted in order to reach an appropriate outcome. However, it should be noted that, in the interests of natural justice, key individuals referred to in the complaint will be informed of the complaint and outcome.
- 1.8 No concerns or complaints from third parties will be dealt with under this Code of Practice. The University will correspond only with the Student. Even if the address provided by the Student is that of a 'Friend', solicitor, or other third party, no correspondence will be entered into with that (or any other) third party.

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<sup>1</sup> For the purposes of this Code of Practice, the term 'student' therefore applies to both current and former students of the University.

1.9 Anonymous concerns or complaints will not be dealt with under this Code of Practice.

1.10 The Code of Practice on Student Concerns and Complaints cannot be used to challenge the professional academic judgment of examiners on the performance of students.

1.11 The procedure should **not** be used for any of the following, for which separate procedures exist:

- Appeals against academic assessment and progress decisions, or requests for academic redress;
- Review of admissions decisions;
- Appeals against disciplinary or other penalties;
- Claims in respect of personal injury or damage to property;
- Staff-related issues, where the student is also a member of staff;
- Concerns or complaints concerning the Guild of Students;
- Concerns or complaints concerning businesses operating on University premises, but not owned by the University;
- Concerns or complaints about decisions by third parties relating to access to disabled students allowance;
- Concerns more appropriately handled according to the procedures set out in the Harassment & Bullying Policy;
- Concerns or complaints falling within other procedures established within the University.

If, upon receipt of a complaint, it is felt that the matter falls into one of the categories listed above, the student making the complaint ("the Complainant") will be advised how to proceed. The University may decide that, in the interests of fairness, a case which contains elements falling within these categories should be resolved solely within one of those designated procedures, or that a complaint submitted under one of these procedures should be referred alternatively to another more appropriate procedure.

1.12 In the case of students based at the University's overseas campuses working days will reflect national public holidays and any locally designated closed days.

## 2 Stages of the Code of Practice

2.1 The Code of Practice on Student Concerns and Complaints is divided into two main stages which **must be followed sequentially**: the formal stage and the review stage, as follows:

### Stage 1) Raising a Concern

- After initial consideration of a concern by a relevant member of staff in line with the procedures set out in paragraphs 3.1-3.2, a Complainant can raise a formal complaint with Student Conduct, Complaints & Appeals (SCCA), following the procedures set out in paragraphs 3.3 - 3.10.

### Stage 2) Senate Review Panel

- If the Complainant remains unhappy following the investigation of their complaint, they can request a Senate Review Panel following the procedures set out in paragraphs 4.6 - 4.11.

2.2 Following completion of the Senate Review Panel stage, the Complainant may be eligible to complain to the Office of the Independent Adjudicator for Higher Education, an independent body which reviews student complaints.

2.3 If the Complainant is an Apprentice at the University of Birmingham then, following completion of the Senate Review stage, they also have the opportunity to raise their complaint with the Education & Skills Funding Agency (ESFA) if they are not satisfied with the University's response. Apprentices can contact the Department for Education if they are unhappy with how the ESFA has dealt with their complaint. Complainants who are Apprentices at the University of Birmingham also have the opportunity to have their complaint independently reviewed by the Office of the Independent Adjudicator (OIA).

### 3 Raising a Concern – Formal stage

3.1 It is expected that most concerns will be resolved informally and as close to the origin of the concerns as possible. Complainants should first discuss their concerns with Guild Advice.<sup>2</sup> The Complainant should raise their concerns with the most appropriate member of staff within the relevant School/Corporate Service (e.g. the Programme Director, Personal Academic Tutor or Supervisor or Manager) who will try to resolve the matter informally. Save in exceptional circumstances concerns should normally be raised with an appropriate member of staff **within one month** of the relevant incident.

3.2 Complainants should attempt to raise their concerns locally and informally within the relevant School/ Department and/or Corporate Service. In cases of complaints made about other students, Complainants should first consider whether the matter can be resolved by following the procedures outlined in the Policy on Harassment & Bullying. The University accepts that this will not always be possible, practical, or appropriate, but any complaint submission should include either evidence of or reference to attempts at local resolution, or an explanation of why local resolution would be inappropriate in the circumstances.

3.3 If the Complainant remains dissatisfied following consideration of and feedback and/or action regarding their concerns by an appropriate member of staff, the Complainant should raise their concerns in writing using the Concern Review Form and send the completed form to SCCA **within one month** of the date of the initial response from an appropriate member of staff (as detailed in paragraph 3.1). Complainants should be aware that this initial response might not always take the form of a written response, depending on the circumstances. Complainants wishing to submit a formal complaint should ensure that this is done in a timely manner; lengthy attempts at informal resolution might not be considered eligible grounds for a complaint to be submitted significantly later than the relevant incident.

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<sup>2</sup> For students studying at the University's overseas campuses the responsibilities of the Guild of Students will be undertaken through the appropriate local student representation system.

- 3.4 Copies of the Concern Review Form are available on the [University's Intranet Pages](#) or from Guild Advice.
- 3.5 Complainants are advised to consult Guild Advice before submitting the form. The form should detail the aspects of the Complainant's concerns, what action has already been taken (if applicable) to attempt a resolution, and why the action taken has not led to resolution of the matter. The desired redress (i.e. outcome) should be clearly stated and any relevant supporting evidence attached. The form is designed to ensure that the University is provided with the information necessary to investigate the concerns, and if the Complainant does not set out their concerns in writing using the form, it is likely that the investigation process will be longer.
- 3.6 Upon receipt of a completed Concern Review Form, SCCA will review the complaint to determine whether the matter is eligible for consideration under the Student Concerns and Complaints procedure, whether it would more appropriately be dealt with under separate procedures as detailed in paragraph 1.11, and whether the complaint has been submitted by the deadline. If a complaint relates to the conduct of another Student, then the provisions in A1.3-A1.13 of Appendix 1 apply.
- 3.7 Any complaint not submitted within one month of the relevant incident, and where a valid explanation for the delay has not been provided, will not be accepted for consideration and a Completion of Procedures letter will be issued to the Complainant.
- 3.8 An appropriate Investigating Officer ('IO') will be appointed by the Head of School/Corporate Service, who will investigate the complaint/concern. The IO will determine whether to arrange a meeting with the Complainant to discuss the issues in detail. Such meetings may be conducted remotely, where appropriate. If in the IO's opinion it is not necessary or appropriate to hold such a meeting (for example, in the interests of finding a timely resolution) or if, after reasonable attempts to arrange the meeting the Complainant is unwilling or unable to attend, the IO may proceed with their investigation notwithstanding that a meeting with the Complainant has not taken place.
- 3.9 The meeting with the Complainant, and any subsequent meetings held with other parties as part of the investigation, will not normally be recorded. Attendees can be provided with a copy of the meeting notes following the meeting.
- 3.10 The Complainant is entitled to be accompanied at any such meeting by a 'Friend', as defined in Section 1 of the University Regulations. The role of the Friend is normally to support the Complainant, rather than to participate actively in any meeting.
- 3.11 The IO will investigate the matter and provide a detailed written response to the Complainant normally within 20 working days of the date of the receipt of the Review Form. While every effort will be made to meet these timescales, more complex matters may require a longer investigation. Where this aim is not achievable, students will be informed at the earliest possible opportunity and kept informed of progress.
- 3.12 If all parties are agreeable, mediation or alternative means of resolving the matter may be attempted at any stage of the procedure.

#### 4 Senate Review Panel – Review stage

4.1 Following completion of the initial stage, the Complainant may request a review of the Stage 1 decision. Upon receipt of a completed Senate Review Panel Submission Form, eligible cases will be reviewed by the Senate Review Panel. This is a paper-based review which the student does not attend.

4.2 **Complainants are strongly recommended to consult Guild Advice before submitting a Senate Review request.** If a complaint relates to the conduct of another student then the provisions in A1.3-A1.13 of Appendix 1 apply.

4.3 Requests for a Senate Review must be submitted on specific grounds. The Senate Review Panel does not consider the complaint afresh or involve a further investigation, and as such, requests for a review which do not meet one or more of the following grounds will normally be rejected as ineligible. Eligible grounds for a Senate Review request are:

- (a) that there was a procedural irregularity in the conduct of the investigation which had a demonstrable impact on the Stage 1 decision;
- (b) that relevant new material evidence has come to light that was not available for a good reason at the time of the Stage 1 decision;
- (c) that there is compelling evidence to demonstrate that the Stage 1 decision was unreasonable.

Senate Review requests based on grounds (c) must be supported by evidence and a clear rationale for the unreasonable nature of the decision. Claims that amount simply to an expression of dissatisfaction with the decision will not be considered.

4.4 The request should detail the aspects of the complaint, what action has been taken to attempt a resolution with the School or Corporate Service, and how the request meets one or both of the grounds detailed in paragraph 4.3. The desired redress (i.e. outcome) should be stated clearly. The Senate Review Panel Form is designed so that the University is provided with the information necessary to consider the complaint in full. When completed, the Senate Review request should be sent to Registry.

4.5 The request must be made **within one month** of the date of the response from the IO. Requests received after one month will only be considered by SCCA in the most exceptional circumstances. Requests must be submitted on the Senate Review Panel Form, which must be completed in full, with accompanying evidence. Requests which are not submitted on the Senate Review Panel Form will not normally be processed.

4.6 SCCA will declare ineligible requests which it considers:

- (a) are not submitted on one or more of the grounds specified in paragraph 4.3;

- (b) are not submitted within the timeframe specified in paragraph 4.5 or which are submitted outside that timeframe but there are not sufficiently exceptional circumstances to justify considering it out of time;
- (c) are submitted without corroborating evidence.

4.7 A Completion of Procedures letter will be issued to any student whose appeal is declared ineligible.

### **The Senate Review Panel**

4.8 The Senate Review Panel will be chaired by a Pro-Vice-Chancellor (normally the Pro-Vice-Chancellor (Education)) or their deputy. The Panel will comprise a Chair, up to 2 members of staff appointed by the Chair and a full-time Registered Student nominated by the Guild of Students who is from a different School to the Complainant and who has received training from the University on complaint procedures. If the Registered Student member of the Panel is not in attendance for whatever reason, the Panel may proceed in their absence at the discretion of the Chair.

4.9 The Senate Review Panel will carry out a paper-based review of the complaint, based upon the key documents generated at earlier stages of the process and any further documentation which the Complainant and the School/Corporate Service wish to add. The review does not normally include a 'hearing' or a meeting with either party.

4.10 The School or Corporate Service will be asked to provide a response to the Senate Review Panel submission for consideration by the Panel, a copy of which will be sent to the Complainant for information.

4.11 The role of the Senate Review Panel is to determine whether:

- (a) the appropriate processes have been followed during consideration of the case;
- (b) those considering the case have exercised fairness and proportionality in applying their judgement;
- (c) it is appropriate, irrespective of their assessment of a) and b) above, to propose an alternative resolution to the Complainant at this stage of the Code of Practice.

4.12 The Senate Review Panel cannot overturn the decision of a staff or student disciplinary procedure or a Misconduct and Fitness to Practice Committee, although see paragraph 4.13 for possible outcomes following a Senate Review.

4.13 Following the Review, the Panel may decide:

- (a) that the processes followed and judgements applied were appropriate; or
- (b) that the case be referred to an earlier stage of the Code of Practice for re-investigation; or
- (c) that, irrespective of their assessment of a) and b) above, an alternative resolution be proposed to the Complainant.

4.14 The outcome of the Senate Review Panel meeting will be communicated to the Complainant in writing, normally within five working days of the Panel meeting.

## 5 Next Steps for Complainants

### Grievance to Council

5.1 The Senate Review completes the internal procedures of the Code of Practice on Student Concerns and Complaints. Should the Complainant still feel aggrieved, it may be possible to raise a grievance to the University Council, provided that, in the opinion of the Registrar and Secretary, the complaint concerns matters of University governance. Further details are available on the [University's Intranet Pages](#).

5.2 The Complainant should inform the University within one month whether they wish to submit a grievance to Council. If this is not submitted, the University will issue a Completion of Procedures letter.

### Office of the Independent Adjudicator (OIA)

5.3 If the complaint does not meet the criteria for pursuing a grievance to Council, or if the grievance procedure has been completed without achieving a resolution of satisfaction to the Complainant, the University will issue a Completion of Procedures Letter.

5.4 The OIA will normally review a case only if all internal University procedures have been exhausted.

5.5 Guidance on the OIA scheme can be obtained through the Registrar and Secretary, Director of Academic Services, Guild of Students, or the OIA website: [www.oiahe.org.uk](http://www.oiahe.org.uk).

### Education and Skills Funding Agency (ESFA)

5.6 If the Complainant is an Apprentice at the University of Birmingham and has completed the internal procedures of the University and remains dissatisfied, they can raise their complaint with the Education & Skills Funding Agency (ESFA). You must contact the ESFA within 12 month after the issue happened.

ESFA complaints team  
[complaints.ESFA@education.gov.uk](mailto:complaints.ESFA@education.gov.uk)

Complaints team  
Education and Skills Funding Agency  
Cheylesmore House  
Quinton Road  
Coventry  
CV1 2WT

5.7 If Apprentices are unhappy with the ESFA response they can contact the department for Education:

<https://www.gov.uk/government/organisations/department-for-education/about/complaints-procedure>

5.8 Complainants who are Apprentices at the University of Birmingham also have the opportunity to have their complaint independently reviewed by the OIA.

## Appendix 1: Complaints against Staff and Students

### Complaints against Staff

A1.1 For cases relating to staff conduct or allegations of bullying and harassment against a member of staff, the IO may determine on the following outcomes:

- That the appropriate staff procedure be initiated by an appropriate person in accordance with the procedure that applies to the conditions of employment for the member of staff against whom the complaint is raised. The Director of Human Resources or nominee shall identify the appropriate person in consultation with the School/Corporate Service and notify relevant parties of the procedure that is to be followed; or
- That there is insufficient evidence of the Complainant's concerns relating to the professional conduct of the staff member or the allegations of bullying and harassment against a member of staff.

A1.2 Complainants cannot initiate disciplinary procedures or require that disciplinary procedures be initiated; the decision on whether staff disciplinary procedures should be initiated will be taken in accordance with the University's Ordinances and the relevant terms and conditions of employment. The details or outcome of any staff procedure that results from a student complaint cannot normally be shared with the Complainant.

### Staff and Student Complaints against Students

A1.3 Students or Staff wishing to complain about the behaviour of another student should complete the Concern Review Form subtitled 'Complaints about other Students'. As set out in paragraph 3.2, Complainants should first consider whether the matter can be resolved by following the procedures outlined in the Policy on Harassment & Bullying. The University's student disciplinary procedures are intended to address misconduct by students and do not exist to resolve personal disputes.

A1.4 It will not normally be possible to accept anonymous concerns, or to withhold the identity of the Complainant from the Student(s) about whom a concern has been raised. In exceptional circumstances, an anonymous concern may be accepted where there is sufficient evidence corroborating the reported concern to invoke University Regulations, Section 8.

A1.5 As set out in paragraph 3.3, complaints should normally be submitted within one month of the incident. However, complaints submitted after this deadline may be considered if there is good reason for submitting the complaint late, such as in exceptional circumstances or where a serious breach of University Regulations, Section 8 is alleged. Complainants are urged to submit their complaint as soon as possible, as this is more likely to facilitate a thorough investigation where such an investigation is required.

A1.6 Upon receipt of a complaint regarding another student, SCCA (and/or the Case Manager in Fitness to Practise areas, where applicable or appropriate) will first review the form and determine whether the following criteria are met:

- The concern raised relates to a currently Registered Student of the University, and to behaviour which took place during the Student's period of registration at the University;
- The allegations made by the Complainant appear to indicate that a breach of University Regulations, Section 8 might have occurred;
- This procedure is the most appropriate procedure to use to investigate the matter, and the matter should not be referred instead to an alternative procedure (such as that set out in the Harassment & Bullying Policy);
- The Concern has not already been investigated using this procedure or any other relevant University procedure;
- The complaint is otherwise eligible for consideration according to the criteria set out in paragraph 3.6 and University Regulations, Section 8.

A1.7 Based on the criteria set out in paragraph A1.6, SCCA team or Case Manager will determine whether the concern should be accepted for investigation as a student conduct matter, according to the procedure set out in University Regulations, Section 8. Where a concern is not accepted for investigation, the Complainant will be issued with a copy of this decision in writing and advised on the next steps available to them.

A1.8 The Complainant cannot challenge a decision not to proceed with a disciplinary investigation, or the outcome decision of a College or University Misconduct and Fitness to Practise Committee following an investigation. However, if there are concerns about how the matter was handled or the process used in reaching a decision, and/or if the Complainant has evidence of a material procedural irregularity or new material evidence which might have changed this decision were it known at the time, they may submit a Senate Review request following the procedures set out in Section 4, Senate Review Panel – Review stage. Alternatively, if the Complainant so wishes, they can request a Completion of Procedures letter.

A1.9 If it is determined the complaint should be investigated as a student conduct matter, an Investigating Officer will be appointed and the case will be considered in accordance with University Regulations, Section 8.

A1.10 Following an investigation, the Investigating Officer will determine whether to take no further action, to impose a summary sanction, or to refer the matter to a College Misconduct and Fitness to Practise Committee. Where no further action is taken or a summary sanction is imposed, the Complainant will be issued with a copy of this decision in writing and advised on the next steps available to them as set out in Section 4, Senate Review Panel – Review stage, as well as any necessary information about the procedure to be followed during a College Misconduct and Fitness to Practise Committee, if applicable.

A1.11 In cases where it has been determined that a College Misconduct and Fitness to Practise Committee should be held, the date of the Committee and the subsequent communication of any decision made to the Complainant will be taken into consideration when setting deadlines by which the Complainant can submit a Senate Review request, should they wish to do so. Following the Senate Review Panel stage, the Complainant will be issued with a Completion of Procedures letter.

A1.12 A Senate Review Panel cannot overturn any decision taken previously by the University to commence or not commence disciplinary proceedings against a student; nor can a Senate Review Panel change the decision of a College or University Misconduct and Fitness to Practise Committee. See paragraph 4.13 for possible outcomes following a Senate Review.

A1.13 Information about the outcome of a disciplinary investigation and any subsequent proceedings will be shared with the Complainant in accordance with data protection legislation. It will not normally be possible to inform the Complainant of any specific precautionary or disciplinary action that may have been taken against the student subject to an investigation. If the matter is referred to a College Misconduct and Fitness to Practise Committee, Complainants should expect to be informed whether the alleged offences were proven or not, and the impact of any outcome on the Complainant.

## Appendix 2: Unreasonable concerns/complaints and unacceptable behaviour

A2.1 The University understands that raising a concern or complaint can be stressful for students. However, the University does not expect Staff dealing with concerns/complaints to address unreasonable issues or to tolerate behaviour which it considers to be unacceptable.

A2.2 Concerns or complaints which the University considers to be unreasonable may include:

- concerns/complaints which are malicious and/or obsessive and/or excessively prolific and/or repetitious;
- concerns/complaints which do not clearly identify the precise issues which the student wishes to be investigated.

A2.3 Behaviour which the University considers to be unacceptable may include:

- communication which is offensive, aggressive, intimidating, defamatory or harassing;
- communication which is excessively persistent or demanding;
- unreasonable refusal to co-operate with the requirements of the Student Concerns and Complaints Procedure;
- adoption of a 'scattergun' approach, for instance, raising the same concern/complaint with multiple members staff;
- covert recording of meetings and conversations.

A2.4 If such communication or behaviour is identified, the University may take steps to terminate consideration of the complaint. This is not a decision that will be taken lightly and will apply only to the complaint at hand, and not necessarily to any future complaints about other matters.

A2.5 The initial decision as to whether a concern/complaint is unreasonable and/or whether a student's behaviour is unacceptable will be taken by the Director of Registry (or nominee), in consultation with and other relevant colleagues.

A2.6 If it is determined that a concern/complaint is unreasonable, or that the nature of the communication and/or behaviour within a complaint submission is unacceptable, the student will be informed of the initial decision has been taken and asked to revise and resubmit the concern/complaint by a specified deadline or to alter their behaviour. If the student does not do so, or if the Director of Registry (or nominee) considers that the resubmitted document continues to be unreasonable or that the nature of the communication continues to be unacceptable, the University will terminate the consideration of the concern/complaint.

A2.7 The period of termination or restriction of contact will only be extended if there are good reasons for doing so. The University may be unable to continue with its consideration of the concern/complaint while the termination or restriction of contact is in operation. In appropriate cases, the University may also take disciplinary action against the student.

A2.8 If the student wishes to appeal against the decision to terminate consideration of the concern/complaint and/or the decision to terminate or restrict contact as described above, they may do so by writing to the case handler. The case handler will arrange for the student's

appeal to be considered by the Director of Academic Services (or nominee), who will consult with the Pro-Vice-Chancellor (normally Education) (or their deputy) and a Sabbatical Officer of the Guild of Students. If the Director of Academic Services confirms the decision, the student will be advised in writing that they may request a Completion of Procedures letter in order to complain to the OIA.

A2.9 A decision to terminate the University's consideration of the concern/complaint does not prevent the student from raising a new and different concern/complaint about other matters, but further concerns/complaints about the same matter will not be considered. New and different concerns/complaints from students whose behaviour has previously been deemed unreasonable or unacceptable will be treated on their merits. Restrictions imposed in respect of an earlier concern/complaint will not automatically apply to a new matter.