

## 11K - STUDENT DISCIPLINARY POLICY

### 1. SCOPE AND PURPOSE

- 1.1 BU is committed to a working and learning environment that is free from unlawful activity, that treats staff and students with dignity and respect in both the physical and online environment, and where they can work and study safely. [The Student Agreement and the policies and procedures described within it](#) outlines expectations and responsibilities for students.
- 1.2 These Procedures refer to matters relating to current students' conduct and which may affect their suitability to study at Bournemouth University. It may not apply to the following:
- Allegations in respect of misconduct relating to professional practice. These shall normally be dealt with in accordance with *11H - Fitness to Practise Procedures*. Where a case is considered suitable for initial investigation under the Student Disciplinary Procedures, and the student is on a professional programme, the student may also be referred for consideration under the Fitness to Practice Procedures at a later stage
  - Academic Misconduct. This shall normally be dealt with in accordance with the *6H - Academic Offences: Policy and Procedure for Taught Awards* or *6M - Misconduct in Academic Research: Policy and Procedure*
  - Minor misconduct in University Accommodation will normally be dealt with in accordance with [Bournemouth University Rules and Information - Residences](#). More serious or repeated misconduct in University Accommodation, particularly those which may constitute a criminal offence, may be considered under these procedures.
  - Allegations which may indicate that the case needs to be considered under BU's Prevent Duty. In this case the BU Prevent Policy will be followed
  - General disputes between individuals will not be considered unless there is an independently evidenced case of misconduct as defined in these procedures.
- 1.3 On occasion, where it appears that the student alleged of misconduct is suffering from illness it may be more appropriate for the Support to Study Procedures to be followed. However regardless of any illness or personal circumstances, students are still expected to maintain effecting working relationships with other members of the BU community and inappropriate behaviour will not be tolerated. Students may access wellbeing support through any of the services listed on our [Students Health and Wellbeing pages](#)

### 2. KEY RESPONSIBILITIES

- 2.1 Under 4.2 (f) of the Articles of Government for Bournemouth University, the Vice-Chancellor is responsible for the maintenance of student discipline and for the suspension or expulsion of students on disciplinary grounds.
- 2.2 The Director of Student Services will normally act as the Vice-Chancellor's nominee in respect of the operation of disciplinary issues. The Director of Student Services may delegate the consideration of disciplinary allegations to another member of the Student Services Executive Team.
- 2.3 Executive Deans of Faculty and Directors/Heads of Professional Services are responsible for dealing with issues of minor discipline arising in their Faculty/Professional Service

- 2.4 The Director of Marketing and Communications is responsible for BU's social media accounts and ensuring that the reputation of the university is not impacted by any online social media activity.
- 2.5 All members of the BU community have personal responsibility for their own behaviour and are responsible for ensuring that their conduct is in line with the standards set out in the Student Agreement, and related Policies and Procedures.
- 2.6 SUBU Advice are available for free, independent, confidential advice for all students at Bournemouth University, including support with the Disciplinary Procedure proceedings and all students who are alleged of misconduct should be advised to contact SUBU Advice at the earliest opportunity.
- 2.7 References within the Student Disciplinary Procedure to any University officer shall include their properly appointed nominee.

### 3. DEFINITIONS OF MISCONDUCT

- 3.1 Any student studying or registered at the University shall be subject to disciplinary measures if they are alleged to have committed misconduct. The essence of misconduct under these regulations is:
  - a) improper interference with the functioning or activities of the University, or any member of the university community
  - b) action which otherwise damages the University or its reputation, whether directly or by association
  - c) action which is deemed an unacceptable risk to the university or its community
  - d) action which breaches the Equality Act 2010
- 3.2 The following are *some* examples of misconduct, whether occurring on University or SUBU premises, in university partnered accommodation, via social media or elsewhere. The list is not exhaustive:
  - a) Relevant criminal conviction, unspent criminal conviction or investigation for an offence within the following categories:
    - Offences concerned with violent or threatening behaviour or the causing of physical or mental harm to others, whether or not such harm was intended or actually caused
    - Sexual offences, including those listed in the Sexual Offences Act 2003
    - Offences concerned with harassment, stalking or malicious communications
    - Unlawful supply of controlled drugs or substances, including trafficking offences
    - Offences involving firearms
    - Any "hate crime" as defined by the Crown Prosecution Service and equivalent offences or findings in other jurisdictions
    - Arson
    - Offences involving terrorism
    - An offence under section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour), or any equivalent offence in another jurisdiction
  - b) disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the University;
  - c) obstruction of, or improper interference with, the functions, duties or activities of any student or member of staff of the University, or any visitor to the University;
  - d) failure to respect the rights of others to freedom of belief and freedom of speech;
  - e) violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language including behaviour deemed to be a 'statutory nuisance'<sup>1</sup>;

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<sup>1</sup> A 'Statutory Nuisance' is one that would be covered under the Environmental Protection Act 1990, eg noise

- f) publication of defamatory material likely to unjustly damage the reputation of a member of staff, student or another member of the BU community
- g) harassment, racial harassment including anti-Semitism and islamophobia, bullying or victimisation, of any member of the BU community, or any visitor to the University (see Appendix 1 for definitions)
- h) sexual misconduct (see Appendix 1 for definitions)
- i) fraud, deceit, deception or dishonesty in relation to the University or its staff, students or visitors;
- j) theft, misappropriation, damage, misuse or unauthorised use of University property or premises, or the property of the University's staff, students or visitors, caused intentionally or recklessly;
- k) Use and/or supply of drugs on university or SUBU premises or any associated third party premises (eg university allocated accommodation)
- l) action likely to cause injury or impair safety on University premises;
- m) breach of the provisions of any University rule, regulation, policy, procedure or code of practice;
- n) breaches of any public health guidance or any behaviour which may endanger the health of others whether on or off-campus
- o) failure to disclose personal details to a member of staff of the University in circumstances in which it is reasonable to require that such information be given;
- p) failure to comply with any reasonable instruction(s) relating to discipline issues with the Vice-Chancellor's authority.

#### **4. THIRD PARTY REPRESENTATION**

- 4.1 BU does not normally use legal professionals in the handling of cases and does not expect that students will need to do so either. The engagement of legal professionals by students is normally not permitted. Students may be accompanied and supported at any stage in the procedure by a friend.
- 4.2 Alternatively, students may choose to appoint a Third-Party representative, including SUBU Advice, at any point during the process. In particular students who are under 18 will be required to appoint a third-party representative. However, students are still expected to attend any meeting to discuss the allegations and to respond directly. Please refer to *11L – Third Party Involvement: Procedure* for further details.

#### **5. CRIMINAL ACTIVITY**

- 5.1 The University will consider reporting any suspected criminal offence to the police if it has not previously been reported. In considering whether or not an offence should be reported the university will consider the severity and impact of the offence and the wishes of any victim or survivor. Allegations that may indicate a future risk to others will normally be reported.
- 5.2 Although the university may take action under these procedures where criminal activity has been found to have occurred, it is unable to investigate criminal activity itself. If a student chooses not to report an alleged crime to the police, the university may have limited evidence on which to base their investigations.
- 5.3 Where the alleged misconduct is under investigation by the police the university will normally defer action, other than suspension if appropriate, until the police and courts have dealt with the matter.
- 5.4 Students are required to keep the university informed of any criminal investigations, charges or convictions in order that a risk assessment can be made as to the suitability of their continued study at Bournemouth University.
- 5.5 Where the allegations highlight a potential safeguarding risk, the university may report this to the Local Safeguarding Board or any relevant other third party agency, professional or accrediting body.

#### **6. SOCIAL MEDIA AND ONLINE ACTIVITY**

- 6.1 The university encourages good practice in the use of social media and online activity to protect its students and the reputation of the University. The guidance provided is not intended to interfere with lawful freedom of speech as set out in the [Code of Practice on Freedom of Speech](#).
- 6.2 Privacy does not exist in the world of Social Media, this applies even when a post is made to a private group as any member of the group could share it.
- 6.3 Action may be taken against students whether the activity related to university or personal purposes and whether or not BU facilities and equipment or personal equipment were used
- 6.4 Contact details or pictures of other students or University employees must not be used without their prior permission. Likewise students should not reveal confidential information, details of internal discussions or personal information about other students or staff.
- 6.5 BU reserves the right to monitor online references to the University. This may be done through keyword analysis through social media channels for instances including feedback, responding to complaints or enquires, and reputation management. The University may also monitor forums and blogs to gain indirect feedback on University services and facilities.
- 6.6 The University reserves the right to require the removal of any post that is in breach of University policy or procedure (including potentially offensive material) and to take any necessary steps to protect its facilities, students and employees from malware (malicious software) including blocking sites where this is an issue

## 7. ACCESSING OTHER RELEVANT BU DOCUMENTS

- 7.1 All student policies and procedures can be accessed [here](#). Of particular relevance may be:
  - *3E - Admissions Policy for Applicants with a Criminal Record*
  - *6H: Academic Offences: Policy and Procedure for Taught Award*
  - *6M: Misconduct in Academic Research: Policy and Procedures*
  - *11L – Third Party Involvement: Procedure*
  - *11H - Fitness to Practise Procedures*
- 7.2 Other documents with direct relevance to this are:
  - Code of Practice on Freedom of Speech
  - Quality and Diversity Policy
  - Faith and Belief Policy
  - Fitness to Practice: Procedure
  - Fraud Policy
  - Hate Crime Reporting Policy
  - Library Rules and Policies
  - Prevent Policy
  - Rules and Information – Residences
  - Safeguarding Policy
  - Student Agreement
  - Student Complaints: Policy and Procedure
  - Student Welfare Policy
  - Support to Study: Policy and Procedure
  - Student Charter
  - Unacceptable Behaviour Policy
  - Use of Information Technology Rules

## STUDENT DISCIPLINARY PROCEDURES

### 8. INFORMAL RESOLUTION

- 8.1 The University takes all allegations of misconduct seriously. However, we encourage resolution of issues on an informal basis in the first instance, where possible and appropriate and shall normally consider giving advice and guidance to improve conduct and behaviour before

initiating the Student Disciplinary Procedures. Minor breaches of student discipline should, where appropriate, be dealt with by means of an informal oral or written warning issued by any member of staff of the University.

- 8.2 This can be particularly relevant to allegations of poor behaviour including bullying, harassment or victimisation or racial microaggressions where people may not be aware of their behaviour and do not know that it is unacceptable until they receive appropriate feedback.
- 8.3 If you would like to raise an informal concern about someone's behaviour, you can speak to your course leader, academic advisor or another member of your teaching team. If you would like help or support with this you can contact SUBU Advice.
- 8.4 Informal resolution may not be appropriate for certain activities, including criminal activities. These should always be raised in accordance with Section 9 Initiation of Disciplinary Procedure

## 9. INITIATION OF STUDENT DISCIPLINARY PROCEDURE

- 9.1 The Disciplinary Procedure shall be initiated by any person reporting an allegation of misconduct to [conduct@bournemouth.ac.uk](mailto:conduct@bournemouth.ac.uk). Anyone raising an allegation of a disciplinary breach, in good faith, will not be subject to a detriment as a result.
- 9.2 The Complaints and Conduct team shall carry out an initial review of the allegations and decide whether any further action may need to be taken. If they believe that there may be grounds for proceeding the student will be informed of the allegations within **10 working days** of them being reported and asked to respond.
- 9.3 Once the student has responded a member of the Student Services Executive team will review the response and decide on next steps as follows:
  - there appears to be no case to answer and no further action will be taken, *or*
  - that the issue can be dealt with more appropriately under a different procedure, *or*
  - that no further action should be taken other than the provision of advice and guidance as appropriate and a note placed on the student file referring to this, *or*
  - that the matter can be dealt with under the summary procedures (see Section 12) *or*
  - that no further action, other than suspension if appropriate, (see Section 10) be taken whilst criminal investigations are ongoing, *or*
  - that further investigation is required *or*
  - that the matter be immediately referred to a Disciplinary panel

## 10. SUSPENSION FROM UNIVERSITY PREMISES OR ACTIVITIES

- 10.1 A student may be suspended from University/SUBU activities or premises and/or from exercising their functions or duties of any office or committee membership in the University or the Students' Union. Where possible no suspension will take place until after an initial review of allegations by a member of the Student Services Executive Team. However, on some occasions it may be necessary to implement a suspension immediately. In this case the student will be asked to respond to the allegations at the earliest possible opportunity after the suspension has been applied.
- 10.2 Suspension will normally only be applied in order to protect the University and its community to allow further consideration of the allegations unimpeded, to allow a full investigation of the facts and/or to allow for the conclusion of ongoing criminal investigations or proceedings. Suspension is a neutral act and not an assumption of guilt.
- 10.3 Suspension may be subject to qualification, such as permission to take an examination or to seek support from SUBU Advice or university support services. Terms of suspension may also include a requirement that the student does not make contact with a named person(s) of the BU community.
- 10.4 In all cases of suspension, the student will be provided with written reasons for the decision along with any conditions.
- 10.5 All suspensions shall be reported to the Vice-Chancellor and the student's Faculty Education Services Manager. The suspension may also be reported to the Chief Executive Officer of the Students' Union if it applies to SUBU activities and premises

- 10.6 Once a member of the Student Services Executive team has considered the student's representations, if the suspension still stands, the student may appeal against the suspension by emailing [COO@bournemouth.ac.uk](mailto:COO@bournemouth.ac.uk). The appeal will be considered by the Chief Operating Officer or another member of the University Leadership Team (ULT) unconnected with the case and a response will be provided within 5 working days.
- 10.7 All suspensions shall be subject to review, after **20 working days and every 20 working days thereafter**, to assess if there is evidence to indicate that there has been a change to the circumstances that caused the suspension to be applied in the first place. If there is no change to circumstances then the suspension will remain in place.
- 10.8 Any student who breaches the terms of their suspension may be subject to further disciplinary action.

## 11. INVESTIGATION PROCEDURE

- 11.1 Where the misconduct is denied by the student, or in more complex cases, the member of the Student Services Executive Team dealing with the case may appoint an Investigating Officer to fully review the allegations. The Investigating Officer will be a member of university staff appointed based on their understanding of the issues involved and will be supported by the Complaints and Conduct team as required.
- 11.2 The Investigating Officer will speak to all parties involved, including those raising the allegations, the student accused of misconduct, and any witnesses.
- 11.3 The Investigating Officer will lay out their findings in an Investigation Report and include their recommendations for consideration by the Student Services Executive team.
- 11.4 The Investigation should normally be completed within 20 working days. If there is a delay, then those involved should be kept informed along with the reasons.

## 12. SUMMARY PROCEDURES

- 12.1 If the student agrees, and where there is an admission of guilt from the student, the member of Student Services Executive Team considering the allegations may deal with the case summarily without recourse to a Disciplinary Panel, provided that they consider that it is appropriate to do so.
- 12.2 The penalties that can be applied under the Summary Procedures are those set out at Section 18 of these Procedures with the exception of expulsion from the University.
- 12.3 Following the issue of a penalty under the summary procedures, the student shall be provided with a record of the alleged misconduct, a brief summary of evidence received, the grounds for finding guilt, the penalty imposed, and the factors taken into account in deciding the penalty. A copy of the report shall be sent to the Education Service Manager of the student's faculty.
- 12.4 If the member of Student Services Executive team dealing with the case does not consider it appropriate to deal with the matter summarily, or if the student does not wish to accept the Summary Penalty, the matter shall be referred to a Disciplinary Hearing under the procedures set out at Section 13.

## 13. THE DISCIPLINARY HEARING

- 13.1 The Disciplinary Hearing will be arranged as soon as is practicable, and normally within **20 working days** from the student being informed of the allegations or the conclusion of the further investigation. The student is entitled to a minimum of **10 working days'** notice for the Hearing, but this may be held earlier if the student agrees in writing. If there is a delay, the parties will be informed of the reasons for delay and kept informed of progress.
- 13.2 The student will be notified in writing of the allegation(s) as well as the date, time and location of the Hearing and will be invited to submit a written statement and any supporting evidence in their defence

- 13.3 If there are a series of related concerns/allegations the Hearing may, at its discretion, deal with all these at one hearing. If two or more students are involved in related allegations of misconduct, the Hearing may at its discretion deal with their cases together.
- 13.4 Students may be accompanied at a Hearing by a friend or representative for support or representation as appropriate (see Section 4). Any student attending a hearing may be asked to respond to the allegations directly, even when accompanied.
- 13.5 The Director of Student Services, member of the Student Services Executive or the Investigating Officer (if a full investigation has been carried out in accordance with section 11), shall normally attend to present the case. The person originally raising the allegations may be asked to attend as witness.
- 13.6 The university will make all reasonable efforts to ensure that the student or their representative is able to attend and may move the hearing to facilitate this on up to two occasions only.
- 13.7 The Hearing may take place in person or online depending on the circumstances.
- 13.8 Where, despite being given appropriate notice of the Hearing, a student fails to attend, the Hearing will proceed regardless. The Panel will base their decision on the evidence available to them at that time.

#### 14. THE DISCIPLINARY PANEL

- 14.1 Membership of the Disciplinary Panel shall consist of:
- A member of the University Leadership Team (Chair),
  - one independent member of academic staff
  - a representative of the Students' Union.
- 14.2 All Disciplinary Panel members shall be drawn from outside the student's Faculty. Members of the Disciplinary Panel must remain, and be seen to remain, impartial at all times.
- 14.3 The student will be notified in advance of the panel composition and the role of each of the members.
- 14.4 The Complaints and Conduct Team Leader shall normally act as Hearing Secretary and may be supported by a Committee Clerk. The role of the Secretary and Clerk is to convene the Hearing, prepare and circulate papers in advance of the meeting, advise on policy and procedure and precedents, and complete all documentation post-Hearing. The Hearing Secretary and Clerk are not members of the Disciplinary Panel and do not participate in the discussions regarding the case in question.

#### 15. Order of Proceedings

- 15.1 The Order of Proceedings shall normally be as follows:
- a) Introduction of those present;
  - b) The allegations of misconduct shall be set out by the case presenter;
  - c) The student, or their representative, shall respond to the allegations;
  - d) The Panel shall have the opportunity to question both the case presenter and the student;
  - e) Either party may call witnesses who shall attend only to present their evidence and to answer any questions that the Panel, or the other party may put to them through the Chair. Once their evidence has been heard and there are no more questions, witnesses shall be required to withdraw;
  - f) The case presenter shall sum up the allegations. New evidence is not admissible at this time;
  - g) The student shall sum up. New evidence is not admissible at this time ;
  - h) The case presenter and the student shall withdraw whilst the Panel reach their decision *in private*.

- 15.2 The order may be varied at the discretion of the Chair.
- 15.3 The Chair may impose time limits on oral addresses and submissions.
- 15.4 The Chair may ask for additional enquiries to be undertaken and may call for additional witnesses to attend.
- 15.5 At the discretion of the Chair, proceedings may be adjourned for a period not exceeding **20 working days** in the first instance, and its findings or decision deferred accordingly.
- 15.6 Wherever possible, the decision of the Disciplinary Panel shall be communicated verbally to the student and to the case presenter within **one hour** of adjourning to consider the evidence. Where this is not possible the decision of the Disciplinary Panel shall be communicated in writing to all parties, normally within **5 working days**. All verbal communications regarding the decision of the Disciplinary Panel shall be confirmed in writing, normally within **5 working days**.
- 15.7 The outcome will outline the reason for the Panel's decision
- 15.8 In cases where a penalty has been awarded the student will be notified of their right to appeal, the grounds for appeal and the process to be followed.
- 15.9 Except with the agreement of the Chair the proceedings of the Hearing shall remain confidential, with the exception of its decision.

## 16. DOCUMENTATION

- 16.1 All documentation must be submitted to the Hearing Secretary **7 working days** before the Hearing. All documentation to be considered at the Hearing will be circulated to all parties, by the Hearing Secretary, **5 working days** before the Hearing.
- 16.2 Any documentation submitted after the deadline will be accepted only at the Chair's discretion.
- 16.3 The Disciplinary Panel shall rely only on relevant evidence presented at the Hearing, or in written format beforehand. New written evidence will not normally be accepted during the Hearing. If, exceptionally, the Chair believes it is appropriate to accept new written evidence during the Hearing, the Hearing may be adjourned for a short time to allow all parties time to consider the evidence.
- 16.4 Evidence in the form of a covert recording will not normally be admissible. Should a student wish to submit any covert recording as evidence at any stage of the procedure, it will be considered on a case by case basis.
- 16.5 Documentation will be stored confidentially and only shared with those who need to access it in the consideration of the disciplinary case. Documentation will be destroyed in line with the university's records retention policy.
- 16.6 Where a case relates to a student on a programme leading to professional registration, information may be shared with the relevant Professional Body. If this is deemed appropriate the student will be notified in advance
- 16.7 Anonymous demographic information will be retained for the purposes of data monitoring.

## 17. WITNESSES

- 17.1 Witness statements relating to the concerns/allegation(s) may be provided by either party. Only witness statements that are signed and dated by the witness will be accepted.
- 17.2 Any party may request that their witnesses attend in person, by phone or via an online method. Requests for witnesses to attend must be submitted to the Hearing Secretary at least **5 working days** in advance of the hearing. Requests will be considered by the Panel Chair in advance of the Hearing.
- 17.3 The Panel Chair may also request that witnesses attend the Hearing. Normally witnesses will be informed in advance of the hearing that they are required to attend. In exceptional cases, the hearing may be adjourned to allow witnesses to attend on the day.
- 17.4 Witnesses shall attend only to present their evidence and to answer any questions that the Disciplinary Panel, or the other party, may put to them through the Chair. Once their evidence has been heard and there are no more questions, witnesses must withdraw.



## 18. HEARING OUTCOMES AND PENALTIES

- 18.1 The Panel shall find a student guilty of misconduct only if, on the evidence before it, it is satisfied on the balance of probability of the student's guilt. If the members of the Panel cannot agree, the verdict of the Panel shall be that of the majority of its members.
- 18.2 When determining the outcome, consideration shall be given to the seriousness of misconduct and the circumstances surrounding it, and any mitigating factors. Any previous relevant misconduct will also be taken into consideration.
- 18.3 If a student has been sentenced by a criminal court in respect of any misconduct that is dealt with under this procedure, the sanction imposed by the criminal court will be taken into consideration in determining the penalty under this procedure.
- 18.4 The penalties that may be imposed are one, or a combination of, the following:
- a) No case to answer. No further action will be taken.
  - b) There is a case to answer but that it is more appropriate to offer advice and guidance. In this circumstance the details of the case will be kept on the student's file and may be referred to in the case of any subsequent disciplinary allegations
  - c) A first written warning. This shall detail the allegation(s), state the outcome of the Hearing and outline any recommendations or conditions attached to the warning. This warning shall remain on the student's file for a period of 12 months from the date of issue, or for a lesser period as specified by the Disciplinary Panel.
  - d) A final written warning. This shall be issued after there is still a failure a first written to improve and conduct remains unsatisfactory, or if the misconduct is sufficiently serious to warrant only one written warning but not to justify recommendation for expulsion/withdrawal from the programme. The warning shall detail the allegation(s), state the outcome of the Hearing and outline any recommendations or conditions attached to the warning. This warning shall remain on the students file 'until completion of their studies' or for a lesser period as specified by the Disciplinary Panel.
  - e) a fine up to a maximum of £500 (amount subject to periodic review)
  - f) compensation of a reasonable sum in respect of identified and quantified loss;
  - g) the performance of unpaid services for the University community to a maximum of 40 hours;
  - h) Interruption from the University for a fixed period of time, up to a maximum of twelve months. A student who is interrupted is prohibited from entering University premises, and from participating in University activities. Interruption may be subject to qualification, such as permission to take an examination or to seek support from SUBU Advice or university support services. The terms of the interruption shall be notified to the student in writing. An order of interruption may include a requirement that the student shall have no contact with a named person or persons;
  - i) exclusion from the award of degree or other academic award. This may be either permanent or for a stated period, and may be absolute or subject to compliance with stipulated requirements
  - j) expulsion from the University, which means that the student ceases to be a member of the University, and loses all rights and privileges of membership. A student may not be expelled following an allegation heard under the Summary Procedures.

## 19. WRITTEN WARNINGS

- 19.1 If a written warning has been given, this will be placed on the student's file for the specified period. Providing the student complies fully with the recommendation of the Disciplinary Panel and demonstrates satisfactory conduct and performance during the specified period, the warning will cease to apply on expiry. If the student is subject to further disciplinary procedures during the period of the warning, the original allegations/concerns may also be taken into account when the further allegations are considered. Current written warnings may be referred to in any references that the University is required to give.

## 20. APPEALS STAGE

- 20.1 A student may appeal against the decision of the Disciplinary Panel on the following grounds
- The procedures outlined in this document for consideration of Disciplinary allegations concerns were not adhered to
  - New evidence becomes available that was not available at the time of the Disciplinary Hearing. Appeals based on evidence that was available but wasn't presented at the time would not normally be an admissible ground for appeal
  - The penalty is disproportionate in the circumstances of the case
- 20.2 Disagreement with the decision of the Disciplinary Panel is not in itself grounds for appeal and appeals based solely on this will not be accepted.
- 20.3 Appeals must be submitted in writing to [appeals@bournemouth.ac.uk](mailto:appeals@bournemouth.ac.uk) within **10 working days** of the date of written confirmation of the Disciplinary Panel's decision and must clearly specify on which ground(s) on which it is based. Appeals will be considered by a member of Academic Services staff. No one involved previously in the case will consider whether there are grounds for appeal
- 20.4 Where an appeal is pending against a decision of the Disciplinary Panel to interrupt, exclude or expel a student, the operation of the interruption, exclusion or expulsion will be deferred pending the appeal.
- 20.5 An Appeals Hearing shall be arranged as soon as is practicable after an eligible appeal has been received, and normally within **20 working days**. The student shall be entitled to a minimum of **10 working days'** notice for the Hearing, but this may be held earlier if the student agrees in writing. Any delays will be communicated to the students along with the reason.
- 20.6 All parties shall be invited to provide a written submission **7 working days** in advance of the Appeals Panel. Documentation will be circulated to all parties **5 working days** in advance of the Appeals Panel.
- 20.7 The Appeals Panel shall comprise a member of the University Leadership Team as Chair, one member of academic staff from outside the student's Faculty and a representative of the Students' Union. All members of the Appeals Panel must be previously unconnected with the case.
- 20.8 The Complaints and Conduct Team Leader shall normally act as Hearing Secretary and may be supported by a Committee Clerk. The role of the Secretary and Clerk is to convene the Hearing, prepare and circulate papers in advance of the meeting, advise on policy and procedure and precedents, and complete all documentation post Hearing. The Hearing Secretary and Clerk are not members of the Appeals Panel and do not participate in the discussions regarding the case in question.
- 20.9 The student and the Chair of the Disciplinary Panel shall be invited to attend the Appeals Panel. Students may be accompanied by a friend or representative for support or representation as appropriate (see Section 4)
- 20.10 Where, despite being given appropriate notice of the Hearing, a student fails to attend, the Hearing will proceed regardless. The Panel will base their decision on the evidence available to them at that time.
- 20.11 If the Chair of the Appeals Panel agrees, the Appeal may be considered without attendance from either party. Either side may be required to be available to provide further information or clarification of matters to the Board
- 20.12 The proceedings of the Appeals Panel shall take such form as the Panel considers appropriate to an investigation of the grounds for the appeal as stated in the appellant's notice. As a guide, the order of proceedings below may be followed:
- a) Introduction of those present
  - b) Outline of the appeal
  - c) Student and / or representative presentation (normally no more than 10 minutes)
  - d) Opportunity for the Appeals Panel to question the appellant
  - e) Opportunity for the Chair of the Disciplinary Panel to question, through the Chair, the student

- f) Chair of the Disciplinary Panel's presentation (normally no more than 10 minutes)
  - g) Opportunity for the Appeals Panel to question the Chair of the Disciplinary Panel
  - h) Opportunity for the student to question, through the Chair, the Chair of the Disciplinary Panel.
  - i) Student and / or representative summing up (5 minutes). New evidence is not admissible at this time
  - j) Chair of the Disciplinary Panel summing up (5 minutes). New evidence is not admissible at this time
  - k) Adjournment – The student, any representative and the Chair of the Disciplinary Panel shall withdraw while the Appeals Panel consider the evidence *in private*.
  - l) The student, any representative and the Chair of the Disciplinary Panel may return to hear the decision.
- 20.13 The Appeals Panel shall in its discretion have power to call witnesses and examine any evidence relevant to the subject of the appeal and may adjourn its proceedings or defer its decision for that or any other purpose.
- 20.14 There shall be no entitlement to a rehearing of a case. The Appeals Panel may overturn the Disciplinary Panel's decision where they consider it just to do so. In particular a finding may be overturned in the light of new evidence; where it was considered that the original hearing was not conducted fairly; or where the finding of guilt was unreasonable in the light of the findings of fact.
- 20.15 The Appeals Panel will consider whether the original penalty imposed was fair and reasonable in the light of all the circumstances of the case, and the student's means and general personal circumstances. The panel may impose a lesser or greater penalty than the Disciplinary Panel, may determine there is no case to answer or that there is a case to answer but that the student should be given advice and guidance instead of a penalty.
- 20.16 The Appeals Panel shall consider its decision *in private*, and shall notify the appellant of it in writing, normally within **5 working days**, outlining the reason for their decision. The decision of the Appeals Panel shall be final and no further appeal may be permitted within the University.

## 21. FURTHER ACTION

- 21.1 If, after exhausting the Appeals Stage, the student feels there to have been an error of judgement, or that due process has not been followed, they may complain to the Office of the Independent Adjudicator for Higher Education. Contact details for the Independent Adjudicator are:

Office of the Independent Adjudicator  
 Second Floor  
 Abbey Gate  
 57-75 Kings Road  
 Reading  
 RG1 3AB

Tel: 0118 959 9813

Email: [enquiries@oiahe.org.uk](mailto:enquiries@oiahe.org.uk)

## 22. REPORTING

- 22.1 Anonymised data on disciplinary cases will reported annually to the University Board.

## 23. REFERENCES AND FURTHER INFORMATION

- 23.1 Further information or guidance on any aspect of this procedure is available from [conduct@bournemouth.ac.uk](mailto:conduct@bournemouth.ac.uk).
- 23.2 This procedure was reviewed according to the University's Equality Analysis Procedure

## APPENDIX 1 - DEFINITIONS

### 1. HARRASSMENT

1.1. Under the Equality Act 2010, harassment is defined, as unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. The relevant protected characteristics are listed below:

- Age
- Disability
- Gender Reassignment
- Marriage/Civil Partnership
- Pregnancy/Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation
- Or because the person has made a disclosure in the public interest ("whistleblowing")

1.2. The Equality Act 2010 outlines three definitions of harassment:

- Unwanted conduct that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading and humiliating or offensive environment for a person that is related to age, disability, gender re-assignment, race, religion or belief, sex or sexual orientation
- Unwanted conduct of a sexual nature (sexual harassment).
- Treating a person less favourably than another person because they have been the subject of, or have reacted to, sexual harassment or harassment related to sex or gender re-assignment

1.3. The Equality Act protects a person from harassment in relation to:

- i) Perception of their personal identity – for example Sam is 40 but looks younger, he is not allowed to represent the University at a conference because the Dean perceives him to be too young.
- ii) Association with someone who has a protected characteristic – for example, harassment because a relative has a disability.
- iii) The right to complain of behaviour they find personally offensive even when they are not the target of that conduct – for example a female worker can complain about sexist jokes that are made about a male colleague (whether or not they are present when the remarks are made).
- iv) Conduct related to a relevant protected characteristic not necessarily because of a person's identity. For example, Jo is continually being called gay by fellow students. Although Jo is heterosexual and this is widely known, he would still be able to claim harassment relating to sexual orientation.

1.4. Harassment is defined under the Protection from Harassment Act as conduct which occurs on at least two occasions; and is targeted at the claimant; and is calculated in an objective sense to cause alarm or distress; and is objectively judged to be oppressive and unreasonable.

1.5. Harassment can take many forms; it can be physical, verbal or non-verbal. It can occur in face-to-face settings, by telephone, or in written or electronic communications. Some examples may include the following, but the list is not exhaustive:

- Unwelcome physical contact ranging from someone's "personal space" where this is unnecessary, touching or brushing against another person, intimidating behaviour, physical coercion to physical assault.
- Unwanted verbal conduct. It includes making remarks and comments about another person's appearance, unfounded criticism, offensive comments or jokes, crude language, open hostility, suggestive remarks, malicious gossip, shouting at staff, persistently picking on staff in front of others or in private.

- Intrusive questioning. This may include gossip, as well as questions, about their religious beliefs for example. This could be directly with the person or in discussions with others.
  - Unwelcome written or visual communications, including unwelcome emails, notes or pictures, displaying or sending inappropriate materials.
  - Use of cyber or social media sites such as twitter, Facebook etc to ridicule, harass or bully.
  - Non-verbal conduct, such as making abusive or offensive gestures. This includes wolf-whistles, explicit posters/calendars, pornographic material (both paper-based and generated on a computer).
  - The deliberate exclusion of an individual from work-related activities or conversations in which they have a legitimate right or expectation to participate.
  - Excessive monitoring and repeatedly setting unrealistic objectives.
- 1.6. Harassment can occur regardless of intent. What is perceived by one individual as harassment may not similarly be perceived by another where differences of attitude or culture apply. When seeking to define harassment, the intentions of the respondent are irrelevant and if actions or comments are perceived to be demeaning and unacceptable to the complainant then they could be deemed as harassment.
- 1.7. Any difficulty in defining what constitutes harassment should not deter members of the BU community from complaining of behaviour that causes them distress. Nor should anyone be deterred from making a complaint because of embarrassment or fear of intimidation.

## 2. RACIAL HARASSMENT

- 2.1. Racial harassment is unwanted conduct on grounds of race or ethnic or national origins, which violates one's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for any member of the community. (Equality Act, 2010)
- 2.2. BU is committed to supporting inclusivity and increasing the diversity of its community and will not tolerate any racial harassment
- 2.3. Racial harassment can include:
- Racial name calling, insults and jokes
  - Physical attacks
  - Microaggressions (everyday, subtle and insidious forms and acts of racism that send a denigrating message to those who belong to racially minoritized groups)
  - Demeaning behaviour
- 2.4. Racial harassment can be aimed at any race or ethnicity and the university is committed to addressing all racial harassment including, but not limited to:
- Anti-semitism – defined as offensive actions or statements fuelled by prejudice or stereotyping of Jewish people. The IHRA definition is “*a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.*”
  - Islamophobia – defined as the fear, hatred of, or prejudice towards Muslims or Islam.
- 2.4. The university and SUBU are both Third Party reporting centres and further information can be found [on our website](#)

## 3. BULLYING

- 3.1. Bullying is not defined by law; however it is a form of harassment and shares many of the characteristics with harassment although it does not need to be equality related. Bullying can be defined as offensive unwanted behaviour which violates a person's dignity or creates an intimidating, hostile, degrading, threatening or offensive environment. Bullying can be carried out by an individual or group of people and can involve the abuse of authority. Bullying can occur regardless of intent. What is perceived by one individual as bullying may not similarly be perceived by another.
- 3.2. Some examples of bullying are included below but the list is not exhaustive:, the occasional outburst of anger should not normally be interpreted as bullying
- Personal insults and name calling.

- Public humiliations, put downs or ridiculing.
- Covert features of bullying can also occur and can include;
- Unreasonable and persistent blocking of leave, training or promotion.
- Constant unfounded criticism of the performance or work tasks.
- Spreading of malicious rumours.

#### 4. VICTIMISATION

4.1. Victimisation is treating someone unfavourably (to their disadvantage or detriment) because they have done a 'protected act' (or because you believe that a person has done or is going to do a protected act), for example:

- Bringing proceedings under the Equality Act, 2010.
- Giving evidence or information in connection with proceedings brought under the Equality Act.
- Doing anything which is related to the provisions of the Equality Act.
- Making an allegation (whether or not express) that another person has done something in breach of the Equality Act.
- Making or seeking a relevant pay disclosure to or from a colleague (including a former colleague).
- Participated in the investigation of a complaint or a disciplinary hearing arising from the investigation.
- Made an allegation against another person that they have harassed them.

4.2. The Equality Act states that it is unlawful to instruct someone to discriminate against, harass or victimise another person because of a protected characteristic or to instruct a person to help another person to do an unlawful act which would be unlawful even if it were not acted upon. It is also unlawful to cause or induce, or attempt to cause or induce, someone to discriminate against or harass another individual because of a protected characteristic or to victimise a third person because they have committed a protected act.

#### 5. SEXUAL MISCONDUCT

5.1. Sexual misconduct relates to all unwanted conduct of a sexual nature. This includes, but is not limited to:

- Sexual harassment (as defined by Section 26 (2) of the Equality Act 2010)
- Unwanted conduct which creates an intimidating, hostile, degrading, humiliating or offensive environment (as defined by the Equality Act 2010)
- Assault (as defined by the Sexual Offences Act 2003)
- Rape (as defined by the Sexual Offences Act 2003)
- Physical unwanted sexual advances)
- Intimidation, or promising resources or benefits in return for sexual favours [External link \(Opens in a new tab or window\)](#) (as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017)
- Distributing private and personal explicit images or video footage of an individual without their consent (as defined by the Criminal Justice and Courts Act 2015).

5.2. Any incident can be reported, anonymously if preferred, via [the university's website](#). For the avoidance of doubt, engagement in sex work is not in itself considered misconduct

5.3. If the allegations relate to sexual misconduct, and the alleged survivor does not wish the matter reported to the police, then normally no report will be made. On occasion it may be felt that the threat to the others is so great that a report must be made. In this case the alleged survivor's identity will be protected as far as possible.

## Appendix 2

1. Support and Guidance for those raising allegations of misconduct and for those alleged of misconduct
  - 1.1 The University takes all allegations of misconduct seriously and will fully investigate all issues reported to them.
  - 1.2 All students, regardless of whether they are reporting an allegation of misconduct or whether they are alleged to be the victim of misconduct, are entitled to support whilst the issue is being investigated. University sources of support include SUBU Advice, the Student Support and Engagement Officer and the Equality and Diversity Advisor. On occasion we may refer you to an external specialist service such as the Police, the Shores (Sexual Assault) or Dorset Race Equality, depending on the nature of the allegations
  - 1.3 If you are approached informally by a member of staff or student about your behaviour, you should not dismiss the complaint but take the matter seriously. Everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others. You may have offended them without intending to and a simple apology may resolve the matter
  - 1.4 All those involved in matters of misconduct will be treated with respect. Confidentiality will be maintained but there are limits to confidentiality in that the complainant any witness statements and the investigator's report will be seen by those who have to be involved
  - 1.5 Any person subject to allegations that they believe to be unfounded should specify this from the outset. However, even where the allegations are believed to be unfounded you should participate willingly in any investigation, so that the situation can be resolved informally or formally.
  - 1.6 If the allegations relate to issues such as bullying, harassment or victimisation, sexual misconduct or other personal issues, wherever possible, the University will try to limit contact between any relevant parties. Students may be suspended as a precautionary measure and will not be prejudicial to the outcome of the investigation. Suspension is a neutral act; it does not constitute a disciplinary measure and does not imply guilt or misconduct.
  - 1.7 If, following investigation, an allegation is not upheld, the University may take action to restore reasonable working/study relationships between all parties. Any person who was subject to allegations made in good faith should not take any action against those raising the allegation. If, the evidence suggests that an allegation was malicious or vexatious, disciplinary action may be taken against the complainant (up to and including dismissal/expulsion from the University).