



University of  
Chester

# Student Disciplinary Procedure

Approved June 2007  
Amended September 2021



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University of Chester

## **Student Disciplinary Procedure**

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## Foreword

This document is separated into two parts:

- The Policy
- The Procedure

### **The Policy**

This part explains what is meant by misconduct, what authority the University has to deal with your behaviour and why the University needs to act when it receives a complaint or allegation that you have breached the student code of conduct.

The policy part also details who will act on behalf of the University and what they can do in situations; but it also limits the possible actions of some individuals.

The policy also explains what rights you have including your right to have a companion, how long the process may take and the right to see what has been written about you.

The Policy is written in formal language which is intended to give a factual dispassionate account to inform all members of the University (including you) about the University's policy.

### **The Procedure**

Part two (2) of this document is the Procedure. This goes in to detail as to what the University will do, how the University will act, who will do it and by when.

The procedure is a guide for both you and University staff as to what should be done to deal with your misconduct.

The procedure is written in a way that talks to you personally, but at times it may be that formal language is used. So when we say "the Student" we mean "you" or "your". Other terms such as the "Panel" or references to Job Titles eg "Director of Student Services" are explained in the procedure.

The procedure also explains the appeal process and your right to take your case to the OIAHE.

### **Other Important Documents**

There are also two other documents that we have written to help you and other understand these procedures, they are:

- The Student Code of Conduct
  - a copy of this is document attached at the end and can also be found at <https://www1.chester.ac.uk/sites/default/files/code-of-conduct-Aug2020.pdf>
- The Panel Guide
  - You can find a copy of this guide on Portal at <https://portal1.chester.ac.uk/proctor/Pages/discipline.aspx>

## **The Student Code of Conduct**

This sets the standards of expected behaviour that is how you should behave as a student of the University. You are expected to follow the code of conduct both at the University and also outside the University. This could include when you are with a University sports team or on a night out with house mates or a group of friends from the University.

If you are a student on a professional programme such as Nursing, Midwifery, Teacher Training or Social Work you are expected to follow the code of conduct at all times. Your conduct can have an effect on your course.

We have divided misconduct into two types 'Serious' and 'General'. Serious misconduct will always be dealt with under the formal part of the procedure where you will have to attend a Disciplinary Panel. Serious misconduct will usually attract the higher end penalties. General misconduct may result in a Panel Hearing, but not always, sometimes the University will deal with the matter at the informal stage.

Under no circumstances will the University tolerate any behaviour that amounts to misconduct against another person. Any sort of abuse, assault, sexual assault or sexual violence, domestic violence, discrimination or harassment of any kind, irrespective of whether it is verbal, online (including social media) or physical will be regarded as 'Serious' and be dealt with severely.

You need to remember that if you are found to have committed misconduct then you will have to face the consequences of your behaviour which could include you being told to leave the University.

## **The Panel Guide**

This is a set of useful information, similar to an Appendix, that will help either you or other people in the University to use the procedure. The Guide provides background, context and general guidance to the Professional Suitability and Student Disciplinary Procedures

The Panel Guide contains the Student Code of Conduct, a suggested format for a Disciplinary panel hearing and guidance for the Panel as to how they should determine the case.

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# Student Disciplinary Procedure

## PART 1 – POLICY FRAMEWORK

### SDP-I. Introduction

1. Under Article 3.2.7 of the University's Articles of Government, the Vice-Chancellor (VC) is responsible 'for the maintenance of student discipline and, within the rules and procedures provided for within these Articles, for suspension or expulsion of students on disciplinary grounds and for implementing decisions to expel students for academic reasons.' Article 10.2 of the Articles of Government states that 'the University Council, after consultation with the Senate and representatives of the students, shall make rules with respect to the students, including procedures for suspension and expulsion.' The Student Disciplinary and Professional Suitability Procedures fulfil these articles.
  - 1.1. The Pro Vice-Chancellor (Student Experience) is responsible for day to day matters relating to student discipline and wellbeing and as such is regarded as the primary delegate on behalf of the University Council and Strategic Executive Team for these matters.
2. The University may take disciplinary measures against any student studying or registered with the University, if they fail to abide by the Student Code of Conduct or are found guilty of misconduct, as defined below. The University may also take any appropriate action to seek to address complaints about student conduct, including advising complainants to contact their local environmental health officer regarding noise or the police regarding criminal offences, or advising students how to resolve matters amicably with neighbours.

### SDP-II. Guidance Notes

3. Guidance Notes to accompany these procedures have been published. The Guidance Notes are designed to provide background, context and general guidance to the Professional Suitability and Student Disciplinary Procedures.
4. Much of the guidance is based upon findings, guidance and other relevant documents from relevant external agencies, including the Office of the Independent Adjudicator for Higher Education (OIA), Universities UK (UUK) and the Nursing and Midwifery Council (NMC). The notes are for guidance only, intended to assist Panel Members in their duties and to provide further explanation of both the Student Disciplinary (SDP) and Professional Suitability Procedures (PSP).

### SDP-III. Student Code of Conduct and Definition of Misconduct

5. A student renders themselves subject to disciplinary action on the grounds of misconduct if they fail to abide by the Student Code of Conduct or improperly interferes, in the broadest sense, with the proper functioning or activities of the University, or with the lives of those who work or study at the University, or undertakes any action which may otherwise damage the University, including:
  - 5.1. If it took place on University property, premises, or any other location, or if the student was involved in an activity associated with being a student of the University or was representing the University. This may include being present at any place by virtue of their University student status.
  - 5.2. In the case of a student registered on a programme leading to Professional qualification, if the conduct contravenes the Code of Practice for the relevant professional body, e.g. NMC, etc. Misconduct of this type shall be dealt with under the University Professional Suitability Procedure.

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- 5.2.i Codes of Practice published by professional bodies are designed to promote and safeguard appropriate standards of professional behaviour.
6. Examples of misconduct are included in the Guidance Notes. The examples listed are illustrative only and are neither comprehensive nor exhaustive. These examples may be added to or modified as necessary.
7. The University shall take no account of misconduct prior to enrolling as a student, which has subsequently been revealed, or is still in the process of being dealt with by other authorities unless:
- 7.1. the conduct is of such a serious kind and character, that it calls into question the fitness of the student to remain a member of the University, e.g. having regard to the safety of other students and staff;
  - 7.2. the conduct calls into question the fitness of the student to remain on a programme leading directly to a professional qualification, or to be admitted to and practice that profession; in which case the matter will be investigated under the University Professional Suitability Procedure; or
  - 7.3. the individual is included on the relevant Disclosure and Barring Service barring list.

### **SDP-IV. Misconduct involving the (Mis)use of Alcohol and/or any other Substances**

8. The University is committed to providing a safe and supportive learning environment, including seeking to address the risks posed by alcohol or substance (mis)use. Students who are under the influence of alcohol or any other substances including New Psychoactive Substances (NPS) are more likely to be involved in an offence either as a victim or perpetrator. The University maintains a policy on alcohol and drug (mis)use which is available on the University intranet.
9. Whilst the University regards a person's dependency on alcohol or other substances as a health matter, this is distinct from the presence or influence of alcohol or other substances in misconduct, which will be regarded as an aggravating factor in the determination of the allegation and subsequent sanction, and no allowance will be made for it.
10. Engaging in any form of misconduct whilst under the influence of, or involving, alcohol and/or substance (mis)use may be treated as serious misconduct.

### **SDP-V. Misconduct against another Person**

11. As stated above the University seeks to provide a safe environment based on mutual respect for the rights and dignity of all individuals. Accordingly, misconduct against another person (including that made electronically or online etc.), whether verbal or physical, including acts of violence, will not be tolerated.
12. Recognising particularly the impact that any form of sexual misconduct, violence or assault (including that made electronically or online etc.) may have upon those directly involved and on the University community, the University is committed to elimination and prevention of such behaviour.
13. Engaging in any form of sexual misconduct, violence or assault (including that made electronically or online etc.), should not normally receive a sanction at the Informal Phase other than to be referred to a Formal Panel.
14. Moreover, any person who engages in any form of sexual misconduct, violence or assault (including that made electronically or online etc.) will be liable to precautionary suspension

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and to the most severe sanction as detailed in the Formal Panel Phase if the allegations are upheld after consideration under the Formal Panel Phase.

### SDP-VI. Diversity and Equality

15. The University will comply with its obligations under the Equality Act 2010 to avoid discrimination because of any of the following:

- age
- marriage & civil partnership
- gender reassignment
- disability
- pregnancy & maternity
- sex
- race
- religion or belief
- sexual orientation

16. Under the Equality Act 2010, less favourable treatment of a disabled person may be justified if it is necessary in order to maintain one or more competence standards, i.e. an academic, medical or other standard applied by or on behalf of the University for the purpose of determining whether or not a person has a particular level of competence or ability. The University will keep its competence standards under review with a view to ensuring that they remain justifiable as competence standards and are both material to the circumstances of the case and substantial.

### SDP-VII. Delegation by and Definition of Named Post Holders and Nominated Staff

#### ***Post-Holders***

17. The Vice-Chancellor (VC), Deputy-Vice-Chancellor (DVC), Pro Vice-Chancellor (PVC) or other named post holders, including the Director of Student Services, may delegate powers and responsibilities, as identified under these Rules and Procedures, to a designated alternate (Nominee) either generally or in respect of a particular case or in relation to any area of their responsibility under this Procedure unless otherwise stated.

17.1. Throughout these Rules and Procedures the expression “Vice-Chancellor” or “VC” may be interpreted as meaning the Vice-Chancellor of the University, Deputy-Vice-Chancellor of the University, a Pro Vice-Chancellor of the University or their nominee;

17.2. Notwithstanding the above the Pro Vice-Chancellor (Student Experience) shall be the primary delegate and nominee in all matters relating to student discipline and wellbeing.

#### ***Nominated Staff***

18. For the purposes of the Formal Panel Phase and Review Phase the term *nominated staff* shall be regarded as including any of the following University staff:

- A Member of the Strategic Executive Team (SET)
- A Member of the Senior Leadership Team (SLT)
- An Executive Dean/Director or Associate, Deputy or Vice-Dean
- A Head of Department
- A Programme Leader
- A member of staff equivalent or senior to any of the above
- A member of staff who has received appropriate training in the use of these procedures

19. The Director of Student Services and senior staff from the same Faculty/Department as an individual student against whom an allegation has been made are excluded from Chairing the relevant Panel.



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### SDP-VIII. Conduct of Interviews and Hearings

20. All interviews and hearings under this Policy will be conducted fairly and impartially by the Interviewer and/or Chair of the hearing.
21. The Interviewer or Chair of the hearing will normally conduct the hearing according to the suggested format specified in the Guidance Notes.
22. The Interviewer or the Chair of the hearing may exclude from the proceedings any person (including the student or the student's Companion) who behaves unreasonably or who disregards any reasonable instructions given with regard to the interview or hearing.
23. Any interviews, meetings or hearings may be held either in person or by using appropriate remote video conferencing software and may be recorded.

### SDP-IX. Student Companions/Staff Colleagues at Interviews, Meetings and Hearings

#### *Student Companions*

24. Any student who has been requested to attend for either an interview and/or at a hearing, may be accompanied by one 'Companion' who shall be a fellow student, Students' Union representative or member of staff at the University but may not be a fellow student who has had prior involvement in the case or is likely to be or has been interviewed as part of either the Director of Student Services' preliminary investigation or any hearings held under the Formal or Review phase.
  - 24.1. Except in cases where a reasonable adjustment under the Equality Act is required, family members, partners or representatives from any other body will not be permitted to act as a Companion.
  - 24.2. An individual student's Companion will not be permitted to answer questions on behalf of the student.
25. The name and status of the Companion should be notified to the Director of Student Services in advance of any interview and no later than two days before the date of any hearing held under the formal or review phase.

#### *Staff Colleagues*

26. Except in the case of a student, any other person, including university staff or external persons, who have been requested to attend for an interview, meeting and/or a hearing by the Director of Student Services, may be accompanied by one 'Colleague' as they believe necessary.
  - 26.1. A Colleague would normally be a workplace colleague or similar but may not be an individual who has had any prior involvement in the case or is likely to be or has been interviewed as part of either the Director of Student Services' preliminary investigation or any hearings held under the Formal or Review phase.
  - 26.2. A Colleague is support for a witness and may not answer any questions on behalf of the witness or provide any input into the relevant meeting or hearing.
27. The name and status of the Colleague should be notified to the Director of Student Services in advance of any interview and no later than two days before the date of any hearing held under the formal or review phase.

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### SDP-X. Timeliness

28. The University will endeavour to conclude the Formal Panel Phase, following the preliminary investigation and decision to refer the matter to a formal panel, within ninety (90) calendar days.
  - 28.1. Notwithstanding the above, it may be necessary for the University to alter or extend any timescale or deadline detailed in the procedure. Where this is the case either the Director of Student Services, the Invoking Officer or Chair of the relevant panel will, on behalf of the University, inform and explain the circumstances requiring the alteration to the student concerned.
  - 28.2. Where cases may involve third parties and it is necessary for the University to either obtain information from or to await an action by the third party, the University may need to await the completion of such action before either proceeding or continuing with the procedure. Delay in conclusion of the procedure may follow as a result.
29. The University will consider any reasonable request to alter the relevant timescale or extend a relevant deadline as necessary made, in good faith, by an individual student against whom an allegation has been made which is needed due to factors beyond their control.
  - 29.1. The University reserves the right not to comply with any request made by an individual student (or their Companion) to alter or amend any aspect of the procedure (including timescales or deadlines) unless the Director of Student Services, the Invoking Officer or Chair of the relevant panel reasonably considers it necessary to do so.
30. The University may suspend any stage of the operation of this procedure where the Director of Student Services, the Invoking Officer or the Chair of the relevant panel reasonably believes that matters raised by an individual may have an impact upon or affect the hearing or have a significant bearing on the outcome of the hearing until the matters raised have been satisfactorily investigated under the relevant University procedure and the relevant procedure exhausted as necessary.
31. Where the Director of Student Services, the Invoking Officer or Chair of the relevant panel reasonably considers that any request made by a student (or their Companion) to alter or amend any aspect of the procedure (including timescales or deadlines) or to seek a suspension of the operation of the procedure is vexatious, frivolous or intended to frustrate any aspect of the procedure including the investigation, panel hearing or any other function of the University, the request shall be refused and noted for consideration as an aggravating factor by the relevant panel at the hearing.

### SDP-XI. Interaction with Other Policies and Procedure

32. Action which has been or may be taken under any other relevant university procedure and which has resulted or may result in a student being referred, investigated, precautionarily suspended or excluded, will not preclude further action under this procedure but may form part of the Referral and Investigation Phase of this procedure.
  - 32.1. For example, necessary and expedient action may be taken under the Student Mental Health Policy or Fitness to Study procedures to precautionarily suspend a student until such time as a Formal Student Disciplinary panel may be arranged and held.

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## SDP-XII. Annual Monitoring

33. An annual report detailing case load will be submitted by the Director of Student Services to the University Secretary, for submission to the Strategic Executive Team (SET), no later than 31<sup>st</sup> December following the academic year ended on the preceding 31<sup>st</sup> July. The report will also be circulated to other key committees including the Student Voice and Experience Committee (a sub-committee of Senate) and the Academic Governance and Student Outcomes Committee (a sub-committee of Council).

33.1. The anonymised report shall detail data relating to Equality monitoring linked to such other matters including, but not limited to, the number of cases according to the following:

- the type of misconduct
- the location/campus on which the misconduct took place
- the number of each sanction or measure imposed
- the phase at which the case was concluded
- any other material matters.

## SDP-XIII. Confidentiality

34. Individuals' confidentiality will be maintained as far as is reasonably practicable. Any records should be confidential and be kept in accordance with the requirements of this procedure and relevant Data Protection legislation.

35. Any student(s) who is subject to an allegation/referral may receive copies of any meeting records upon request, although, in certain circumstances information may be withheld, for example to protect a witness, or where otherwise personal data relating to a third party would be disclosed.

36. All letters and correspondence in relation to any student procedure will be handled and stored in accordance with the relevant Data Protection legislation by those involved in the procedure.

37. Subject to the requirements of confidentiality, the University will maintain and report appropriate statistics on the use of this procedure in order to ensure its effectiveness and incidence in relation to particular equality groups.

## SDP-XIV. Conduct which may also be a Criminal Offence

38. There are occasions when behaviour on the part of a student is not only misconduct under the University's Disciplinary Rules, but may also constitute a criminal offence. Particular care will be taken to ensure that no comments are made to the media on any case that may be the subject of criminal prosecution.

39. The following procedures apply where the alleged misconduct may also constitute a criminal offence:

39.1. If an allegation of misconduct has been reported to the police, the Pro Vice-Chancellor (Student Experience) may decide that no action (other than Precautionary Suspension and Precautionary Exclusion Pending a Hearing.) should be taken under these procedures until a prosecution has been completed or a decision not to prosecute has been taken.

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- 39.2. If a decision not to prosecute is subsequently taken, the Pro Vice-Chancellor (Student Experience) shall decide whether disciplinary action should continue or be initiated under the University Disciplinary Rules and Procedures.
- 39.3. If a decision to prosecute is taken and a conviction results, the court's penalty may be taken into consideration in determining any penalty under these Rules and Procedures.
- 39.4. If a decision to prosecute is taken and an acquittal results, the Pro Vice-Chancellor (Student Experience) may decide whether disciplinary action should continue or be taken under the University disciplinary rules and procedures.

### **SDP-XV. Referral to the Disclosure and Barring Service**

40. The University has a statutory duty to refer any person who has engaged in relevant conduct and a duty to provide information to the Disclosure and Barring Service upon request. The University must refer information to the Disclosure and Barring Service when they have dismissed an individual, or an individual resigns, because they harmed, or may harm, a child or vulnerable adult; including the possession of pornographic images of children and vulnerable adults, or in the opinion of the University the misconduct may lead the DBS to consider it appropriate to bar the individual. Moreover, any form of misconduct that may be regarded as specified behaviour under the Safeguarding Vulnerable Groups Act that leads to consideration for inclusion on one or both of the barred lists will lead to the individual being referred to the Disclosure and Barring Service for consideration.
41. Where upon conclusion of the Panel, the sanctions of Expulsion, Termination or Formal suspension are implemented and the Panel believe that grounds exist to refer the case to the Disclosure and Barring Service for consideration as to whether the individual should be included on the relevant Barring List the Panel's decision, case notes and evidence, including witness statements and minutes of the Panel, shall be passed to the DBS Lead Countersignatory for consideration.
42. Upon receipt of the Panel's decision and associated evidence the DBS Lead Countersignatory, in consultation with any persons deemed necessary including the Pro Vice-Chancellor (Student Experience), shall determine if the statutory duty to refer under the Safeguarding Vulnerable Groups Act 2006, and associated legislation, exists.
43. If in the opinion of the DBS Lead Countersignatory the statutory duty exists they will refer the individual and case to the Disclosure and Barring Service.
44. If in the opinion of the DBS Lead Countersignatory the statutory duty does not exist but the case may be of interest to the Disclosure and Barring Service they may refer the individual and case to the Disclosure and Barring Service.
45. If in the opinion of the DBS Lead Countersignatory the statutory duty does not exist and there is no reason to refer the case to the Disclosure and Barring Service then they may not refer the individual and case to the Disclosure and Barring Service, but will reserve the right to do so in the future if the need arises.

### **SDP-XVI. Precautionary Suspension and Precautionary Exclusion Pending a Hearing**

46. Suspension, or exclusion pending a hearing must not be used or regarded as a penalty.
  - 46.1. The use of the power to suspend, or exclude, under this provision is to protect the members of the University community in general, or a particular member, or members,

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and the power shall be used only where the Pro Vice-Chancellor (Student Experience), or nominee, is of the opinion that it is urgent and necessary to take such action.

46.2. The provision may also be used to protect the individual student (s) who is the subject of a complaint or allegation of misconduct.

47. A student who is the subject of a complaint or allegation of misconduct, or against whom a criminal charge is pending, or who is the subject of police investigation may be suspended, or excluded by the Pro Vice-Chancellor (Student Experience) pending the disciplinary hearing or the outcome of police investigation.
48. Suspension may be a total prohibition of attendance at, and access to, University premises, and of participation in University activities or subject to such conditions as may be imposed.
49. Exclusion involves selective restriction on attendance at, or access to, the University premises or prohibition of exercising the functions, or duties, of any office or committee membership in the University, or the Students' Union, the exact details to be specified in writing.
50. Suspension should be used only where there are good grounds for deeming exclusion to be inadequate.
51. An order of suspension, or exclusion, may include a requirement that the student should have no contact of any kind with a named person, or persons.
52. Students subject to a suspension or exclusion will be informed of the decision and the reasons for the decision in writing within five (5) working days of the suspension or exclusion taking place.

### ***Exclusion or Suspension during Field Visits***

53. The power of exclusion shall extend to fieldwork or field course or other organised activity away from University premises and the leader of such organised activity shall have the delegated authority to exclude any student or students. Such an exclusion decision may be in respect of a particular activity or associated residential accommodation, notwithstanding the exclusion necessitates the student leaving the course.

### ***Representation to the PVC or Nominee***

54. Save in respect of a suspension or exclusion from or during an organised activity away from the University no student would normally be suspended or excluded unless they have been offered an opportunity to make representations to the Pro Vice-Chancellor (Student Experience) or their nominee.
  - 54.1. In cases of great urgency, a student may be suspended with immediate effect.
  - 54.2. In respect of organised activities away from University premises, representations to the Pro Vice-Chancellor (Student Experience) or nominee shall be made as soon as practicable following return to the University.

### ***Consideration of Suspension and Exclusion***

55. A decision to suspend, or exclude, from academic activities associated with the student's course of study (other than access to the Library), shall be subject to consideration, where new information becomes available or at the request of the student and normally every four weeks. The Director of Student Services on behalf of the Pro Vice-Chancellor (Student Experience) shall consider whether there are any pertinent or new factors that may have a bearing on the initial decision to suspend or exclude the student.

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55.1. Any such consideration may be based solely upon paperwork and/or any findings or evidence received to date including any written representations made by the student involved; but may not involve a hearing or submissions made in person either by or on behalf of the student.

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## PART 2 – PROCEDURE FOR DEALING WITH DISCIPLINARY MATTERS

### SDP-XVII. Allegation and Investigation Phase

56. The University may receive an allegation about your misconduct from any staff or other students of the University; allegations may also come from other people not connected to the University. The Director of Student Services will be informed about any allegations received.
57. When the Director of Student Services is told about an allegation they will do a preliminary investigation.
  - 57.1. In most cases the Director of Student Services will ask another member of staff, usually the Proctor, to undertake the investigation on their behalf.
58. If the Director of Student Services has received an allegation about your misconduct then you may be placed on a Precautionary Suspension and Precautionary Exclusion Pending a Hearing. This is not intended as a punishment but rather to protect you or others in the University as necessary.
59. The preliminary investigation will normally involve interviews or discussions with the person who made the allegation, you and anyone else who may be able to help or provide more information. These interviews are held so that a decision can be made as to what should happen next.
  - 59.1. If you are or anyone else is invited to an interview you will be entitled to bring a relevant Companion or Colleague with you. The type of person you may bring is explained in the policy above (see Student Companions/Staff Colleagues at Interviews, Meetings and Hearings).
60. The interviews should provide enough information for the Director of Student Services to make a decision as to whether you have committed General or Serious Misconduct. You will be told either at your interview or shortly after what the decision is.
  - 60.1. If you have committed 'general' misconduct then you will receive a sanction at the informal stage.
  - 60.2. If you have committed 'serious' misconduct then you will have to attend a disciplinary panel under the formal stage.
  - 60.3. You will also be required to attend a formal disciplinary panel if your misconduct involves Misconduct against another Person or Misconduct involving the (Mis)use of Alcohol and/or any other Substances.
61. It may be that the Director of Student Services decides that you have not committed misconduct as defined in the policy above (see Student Code of Conduct and Definition of Misconduct) and that will be the end of this procedure. But, it may be that you could be dealt with under a different procedure if necessary or appropriate.

### SDP-XVIII. Informal Phase

62. If it is decided that you have committed general misconduct or you admit the misconduct during your interview or a formal disciplinary panel is deemed not to be required you may receive one or more of the following sanctions:

- a. A warning and/or advice about your future conduct which may include you agreeing to a behavioural contract and/ or taking part in 'restorative justice' and/or an undertaking as to their future behaviour; and/or
  - b. You must pay a fine of up to £750; and/or
  - c. You are required to pay for any damage that you have caused, or pay for any cost to replace any loss that the University, or other people have experienced due to your misconduct.
  - d. You must attend a Formal Discipline Panel.
63. The measures detailed in this Informal Phase may be used for less serious or 'general' breaches of the disciplinary rules and code of conduct or 'general' suitability issues where referral to the Formal Panel Phase is deemed unnecessary.
64. However, where a breach may reasonably be regarded as a 'serious' breach or is any form of 'Misconduct against another Person' including misconduct where the health, safety, vital interests or wellbeing of children, service users or patients has been compromised or placed at risk, or which involve Misconduct involving the (Mis)use of Alcohol and/or any other Substances a referral to the Formal Panel Phase should normally be made.
65. You will receive an email in your student email account (@chester.ac.uk) which will tell you the outcome of the informal stage, including the sanction and the reasons why you received the sanction.
66. If you do not undertake any of sanctions that were given to you or if you want to request a Review (appeal) against the sanctions you will need to attend a Formal Disciplinary Hearing. The decision made by the Disciplinary Panel may include a more serious sanction than the one you received at the informal Panel Phase. The decision of the Formal Panel will be final.
- 66.1. If you do wish to request a Review against the decision taken at the informal stage then you must request the review in writing within five (5) working days of being sent the email telling you the decision. You should address your request to the Director of Student Services.
- 66.2. You will be sent an email to confirm that your request has been received. The process for setting up the Disciplinary Panel will then begin.

#### **SDP-XIX. Formal Panel Phase**

67. If it is decided that you have committed 'serious' misconduct or the allegation or complaint against you cannot be sorted out at the informal stage then you will be expected to attend a formal disciplinary hearing. You will also be expected to attend a formal disciplinary hearing if the Director of Student Services feels that it is **not** appropriate to deal with the allegation at the informal stage.
68. Once the decision has been made to hold a formal disciplinary hearing the Director of Student Services may ask a member of staff to be the Invoking Officer.
- 68.1. The role of the Invoking Officer is to undertake any further investigations including any other interviews with you or other people as necessary, collect any further evidence of your misconduct and then to explain to the panel members at the hearing what they have discovered in support of the allegation against you.



### ***Membership of the Panel***

69. Three people will be members of your Formal Disciplinary Panel; their job is to decide whether you have committed misconduct or not and if you have what the University should do about it. The panel members are impartial and will not know you personally and will not have taught you or marked any of your work. The three members of the panel will be as follows:

- the Chair, selected from the list of Nominated Staff, which can be found in the policy above. The Director of Student Services and senior staff from your Faculty and your Department of study are not allowed to be the Chair of your panel;
- one member of the University staff, if the member of staff is a teacher at the University then they must not be from the same department(s) of study as you, but they may be a member of staff from your faculty; and
- one member or a designated officer of the student body.

69.1. A member of University staff will act as the Secretary to the Panel; their role is to keep a record of the Hearing, note down any decisions made and the reasons for those decisions, to advise on any procedural matters and take care of any administrative matters as necessary.

### ***Membership of the Panel – Victim of Misconduct***

69.2. If it is alleged that you have committed misconduct against another student as a victim, in order to ensure that the panel members remain impartial and will not know either you or the other student the following people may not be members of the panel:

69.2.i The Chair may not be from the same Faculty as the victim; and

69.2.ii The member of the University Staff may not be from the same programme or department(s) of study as the victim.

### ***Membership of the Panel – General Provisions***

69.3. Anybody who has been involved with any part of the investigation is also not allowed to be a member of the Disciplinary Panel.

69.4. The Invoking Officer is **not** a member of the Panel and is not allowed to contribute to any part of the proceedings where the Disciplinary Panel make decisions.

69.5. The Secretary to the Panel is also **not** a member of the Disciplinary Panel and is not allowed to contribute to any discussion where the Disciplinary Panel make decisions.

69.6. The name and status of each member of the Panel shall be written in the notes of the hearing.

### ***Conduct of Panel Hearing***

70. All the necessary administrative arrangements will be made by the Director of Student Services and/or Secretary to the Panel.

71. A suggested format for the Formal Disciplinary Panel is given in the Guidance Notes.

71.1. At the beginning of the Hearing the Panel may have a closed meeting to decide what questions they wish to ask and what further information they may need to decide your case. During this initial meeting you, the Invoking Officer and any witnesses are **not** allowed to enter the meeting room or speak to members of the Disciplinary Panel until you are invited to do so by the Chair of the Panel.

- 71.2. Only members of the Panel and the Secretary of the Panel may be in the meeting room during the initial closed meeting of the Panel and during any deliberations of the Panel.
- 71.3. If during their deliberations the members of the Panel need further information from either you or anybody else you will be invited back into the room so that you can hear or answer the questions. .

### ***Student Entitlements***

72. You are entitled to all of the following:
- 72.1.i you will be told about the allegation, this will happen in your initial meeting with the person during the investigation. They will also tell you about the procedures;
  - 72.1.ii you will be sent, at least five (5) working days before any hearing, a copy of all the written evidence which the Invoking Officer intends to present to the Disciplinary Panel at the Hearing;
  - 72.1.iii you can submit any written evidence to the Disciplinary Panel, you should do this at least two (2) working days before the hearing;
  - 72.1.iv you will be present throughout the hearing and you will see and hear all the evidence;
  - 72.1.v you can ask other people known as witnesses to give evidence on your behalf to the Panel at the Hearing
  - 72.1.vi you may also ask any other witnesses reasonable questions but you must do so by directing your questions to the Chair of the Panel; but there are some 'Special Arrangements' that may have to be made.
  - 72.1.vii you are entitled to be bring a relevant Companion or Colleague with you. The type of person you may bring is explained in the policy above (see Student Companions/Staff Colleagues at Interviews, Meetings and Hearings).

### ***Attendance at the Hearing***

73. You are expected to attend the Panel Hearing. The Director of Student Services will have informed you about the date of the Hearing in advance and you will have been given an opportunity to state whether you can attend or not.
74. If you do not make yourself available for the Panel Hearing or you do not attend as requested the Disciplinary Panel may consider whether any reasons you have given are reasonable or not and:
- 74.1.i if panel members agree they may hold the hearing at a later time or day; or
  - 74.1.ii if you do not provide a valid reason for not attending the Panel Members may decide to hold the Hearing in your absence. If this is the case the Panel Members will assume that you have not admitted any of the misconduct allegations unless you have told the University that you do.

### ***Previous Misconduct***

75. If you have previously been found to have committed misconduct at either Informal or Formal Phases the Panel will be advised about this. A sealed envelope containing a copy of the outcome letter sent to you following your previous hearing will be given to the Chair of your

Panel. This envelope will **not** be opened until the Panel members have made a decision and decided that the allegation has been upheld.

75.1. Your previous outcome letter will be taken into account in determining what appropriate outcome and which sanction should be implemented.

75.2. You previous misconduct should not be referred to during the giving of statements and answering of questions in the hearing.

75.3. The Invoking Officer will ensure that any references to previous allegations or outcomes should be removed, so far as practicable, from evidence including transcripts of interviews.

75.3.i If it is not possible to do so you will be told about this by the Director of Student Services.

### ***Special Arrangements***

76. The Director of Student Services and/or the nominated Chair have a duty to ensure that the Hearing does not cause any undue or unreasonable distress to either you or any of the other people involved, including witnesses.

76.1. In order to avoid any distress the reasonable steps may be taken including, the use of dividing screens, questions being submitted in writing either prior to or at the hearing, or the use of video link or Teams.

76.2. You should also ensure that your behaviour in the Hearing does not cause any other person any upset or distress.

### ***Determination of the Panel***

77. The Panel will make one of the following three decisions, that:

77.1. you have not engaged in misconduct and that the allegation should be dismissed;

77.2. you have engaged in misconduct and that the allegation should be upheld but no further action is necessary;

77.3. you have engaged in misconduct and that the allegation should be upheld and that that one or more of the Formal Phase Sanctions listed below be imposed.

77.3.i The Panel will consider the most appropriate of the Formal Phase Sanctions based upon the Guidance Notes,

### ***Formal Phase Sanctions***

78. The following list of Sanctions is not exhaustive:

a. You should be expelled from the University and you are not entitled to apply or to enrol for any other University of Chester Programme.

b. You will be suspended from the University, your studies will be stopped and you are not allowed to attend the University for up to two (2) academic years. You may also be required to undertake a recommended programme of action designed to improve your future conduct and/or;

b.i. Your return to either study or attendance at the University will be subject to completion of the programme of action placed upon you as part of the suspension. If you do not complete or you are unable to evidence that

you have completed the programme of action during your suspension of studies may mean that you will then receive the more severe sanction.

b.ii. Once your period of suspension has finished and you have evidence that you completed the programme of action you will be asked to attend a return to study meeting with a member of the Directorate of Student Services.

c. You will be excluded from certain sites or parts of the University for a specified period of time and/or;

d. You may not hold any office, be a member of any university committee in the University or represent the University at any event, the exact details to be specified and/or;

e. A recommendation to the Vice-Chancellor or Domestic Bursar to terminate your accommodation contract.

f. A warning and/or advice about your future conduct which may include you agreeing to a behavioural contract and/ or taking part in 'restorative justice' and/or a recommended programme of action designed to improve future conduct undertaking as to your future conduct and/or;

g. You are required to pay a fine up to a maximum of £1500, the figure should reflect the seriousness of your misconduct, and/or;

h. Any other penalty deemed appropriate by the Panel.

78.2. If you have engaged in any form of violence, assault, abuse, misconduct or sexual misconduct against somebody else or you are found guilty of a criminal offence you will be liable to the most severe sanction of expulsion if the allegations are upheld by the Panel.

78.3. The sanction of expulsion may also be appropriate if you have committed any form of misconduct.

79. You will be informed of the outcome of the Hearing in writing and the decision of the Panel within ten (10) working days of the Hearing. The outcome letter will also include the reasons for the Panel's decision and for the sanction imposed.

#### ***Issuing a Completion of Procedures Letter – Formal Phase***

79.1. You do have the right to request a review, this right is detailed in the section Review Phase.

80. But if you decide not to request a review within the timescales the University will consider the disciplinary matter completed and you will not be able to request any further consideration within this procedure.

80.1. Where you 'time-out' the procedure a Completion of Procedures Letter will not normally be sent to you unless you make a specific request.

80.2. Any Completion of Procedure Letter requested by you in this way will be issued by the Director of Student Services, but it will clearly state that your request was out of time and that you did not exhaust the procedure.

## **SDP-XX. Review Phase**

81. You are entitled to request a review against any decision of the Panel so long as you can demonstrate one or more of the following grounds for review. You need to be aware that you cannot request a review just because you disagree with the decision of the panel and your request for a review does not mean that there will be re-hearing of the case.
82. A Chair of the Review Committee shall be nominated by the Director of Student Services from the list of 'Nominated Staff'.

### ***Grounds for Requesting a Review***

83. The grounds for requesting a review are:
  - 83.1. The emergence of significant additional evidence not available at the time of the panel hearing which could reasonably have affected the Panel's decision if disclosed at the panel hearing, including
    - 83.1.i That you have new material evidence that you were unable, for valid reasons, to provide earlier in the process.
  - 83.2. The emergence of evidence to show that there has been maladministration in the conduct of the proceedings, including
    - 83.2.i That the procedures were not followed properly;
    - 83.2.ii That there is bias or a reasonable perception of bias during the procedure;
    - 83.2.iii That the decision maker(s) reached an unreasonable decision.
  - 83.3. The emergence of evidence which demonstrates that the measures implemented are too severe, or disproportionate or not permitted under the procedures.

### ***How to Request a Review***

84. You must write to the Director of Student Services within ten (10) working days of the date of your outcome letter stating that you wish to request a review and which of the above ground you wish to use in your request.
85. You now have a further five (5) working days to provide a written statement which details your full response to the panel decision including the reasons why you believe that the Ground(s) for Review are valid. You should also include any evidence which supports your request.
  - 85.1. You should address your request to the Director of Student Services and entitled 'Request for a Review'.
  - 85.2. If you do not send in your request or your written statement within the time limit then your request will normally be rejected. The Chair of the Disciplinary Review Committee may, in exceptional circumstances, allow a late submission of your full written statement if you can provide a valid reason as to why you did not provide the statement within the time limit.
86. If you did not attend your Formal Discipline Panel hearing and did not provide a valid reason for your non-attendance your request for a review will normally be rejected. The Chair of the Disciplinary Review Committee may, in exceptional circumstances, allow a request for a review if you can provide a valid reason as to why you did not attend the hearing and why you did not provide a valid reason at the time.

### ***Initial Consideration of Grounds***

87. Once you have submitted your full request a copy of your request for a review a copy of the following will be sent to the person nominated as the Chair of the Review Committee:
- Your request for a review
  - Your statement in support of your request
  - Any accompanying evidence provided by you in support of your request
  - A copy of all the documents sent to and considered by the Disciplinary Panel
  - Any notes or recordings arising from the Disciplinary Panel
  - The outcome letter detailing the decision of the Disciplinary Panel.
88. When the Chair of the Review Committee has received all the documents they will:
- use the documents provided to consider whether or not you have identified possible grounds for a Review and,
  - if it is considered that you have identified possible grounds for a Review, that a Review Committee should further consider the case.
- 88.1. The nominated Chair of the Review Committee is the only person who may make the decision as to whether you have or have not identified possible grounds for a review they may not delegate this responsibility.
89. If the Chair of the Review Committee decides:
- 89.1. That you have identified grounds for review then they will ask the Director of Student Services to call a Review Committee
- 89.2. That you have not identified grounds for review then you will be sent a completion of procedures letter stating the reasons for the rejection of your request and informing you of your further entitlement to ask the OIAHE to adjudicate on your case.

### ***Review Committee Meeting***

90. The Review Committee shall be constructed as, but shall be no larger than a, Hearing Panel as detailed in 'Membership of the Panel'.
91. The Review Committee will meet as soon as practicably possible and normally within thirty (30) working days following receipt of your the full submission.
92. The Review Committee may invite to attend and question any person who in the reasonable opinion of the Chair of the Review Committee may be able to assist.
93. The Review Committee may decide that they can deal with your case on the basis of the documentary evidence that has been provided. Or, they may decide to call a meeting to which you will be invited to attend so that you can present your Review in person.
- 93.1. If you are invited to attend in person, you are entitled to be bring a relevant Companion or Colleague with you. The type of person you may bring is explained in the policy above (see Student Companions/Staff Colleagues at Interviews, Meetings and Hearings). You should notify the Chair of the Review Committee no later than two days before the date of the meeting who your companion is.
- 93.2. If you have been invited to attend the Review Committee and you do not attend the Review Committee will continue to meet and determine your request in your absence. This review will be undertaken based upon the documents received.

### ***Determination of the Review Committee***

94. The Review Committee may:
- 94.1. find that you have not demonstrated that the grounds for a Review have been established and that the original decision of the Disciplinary Panel should stand; or
  - 94.2. find that the you have demonstrated that the grounds for a Review have been established, in which case the Review Committee will proceed to review your case.
95. The outcomes of the Review may be to confirm, quash or vary the original findings of the Disciplinary Panel and/or any penalty imposed by the Disciplinary Panel. The Committee may also implement any sanction detailed in the Informal or Formal Phase should the Committee believe it to be necessary.
96. The outcome of the Review and the decision of the Review Committee is final and you will not have any further opportunity to make any representations to any member of the University. You have exhausted your options under this procedure.
- 96.1. You may be able to ask the Office of the Adjudicator in Higher Education to adjudicate on your case, further information is given below.

### ***Issuing a Completion of Procedures Letter – Review Phase***

97. Whatever the decision of the Review Committee you will receive a Completion of Procedures (COP) letter within ten (10) working days of the Committee Meeting. This letter will explain the outcome of your request for a review and the reasons for the Committee's decision.
- 97.1. The COP will also explain what you can do if you remain dissatisfied with the Decision of the University.

### **SDP-XXI. Office of the Independent Adjudicator for Higher Education**

98. At the point where you have exhausted the this procedure, a Completion of Procedures letter will be issued in line with guidance published by the Office of the Independent Adjudicator for Higher Education (OIA). This gives you the right to take the case to the OIA. If you wish to take your complaint to the OIA, you must complete an OIA Complaint Form and provide a copy of your Completion of Procedures letter within twelve months of the date of your Completion of Procedures letter. An OIA Complaint Form can be downloaded from the OIA website [www.oiahe.org.uk](http://www.oiahe.org.uk).
99. If at any point you failed to comply with the University's time limits for a request for a review, you will have, in effect, exhausted the internal procedure and no further recourse under this procedure will be available to you. The University will consider the disciplinary matter completed but the University will not issue a Completion of Procedures Letter automatically in this situation; you will need to make a specific request for the letter.
- 99.1. Any Completion of Procedure Letter requested by you in this way will be issued by the Director of Student Services, but it will clearly state that your request was out of time and that you did not exhaust the procedure.

END



## The Student Code of Conduct

### Responsible, Reasonable and Respectful Conduct

The University recognises that it is a community with a significant part to play in the wider communities in which it is located and that its obligations to its own staff and students extend to these wider communities. The University therefore believes that it should both promote a high level of responsibility within the student body and further the development of good relationships between the University and these wider communities and beyond. In doing so the University reminds students that in any situation, in any part of the University or when involved in any activities associated with the University including those undertaken away from University premises, students must:

- ❖ behave responsibly and with consideration, courtesy and respect towards others;
- ❖ not act in a way that could endanger, or cause harm or any form of distress to any other person;
- ❖ not engage in behaviour which causes offence or distress because of the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation;
- ❖ use the University's facilities or services with care;
- ❖ act within the law;
- ❖ behave in accordance with the University's rules and regulations including, but not limited to, those relating to:
  - Academic Regulations
  - Health and Safety
  - Equal Opportunities
  - Use of University facilities
  - Rules relating to residential living
  - Requirements of Professional, Regulatory or Statutory Bodies;
- ❖ not interfere with the normal working of the University or any of its facilities or services
- ❖ not bring the University into disrepute by any of their actions.

Students as members of the University and the wider community must also comply with UK government and/or University rules, requirements, protocols or guidance that are put in place with a view to ensuring public health and safety and/or the safeguarding of others including taking reasonable preventative measures designed to ensure the health and safety of others.

Under no circumstances will the University tolerate any behaviour that amounts to an offence against a person including, but not limited to, assault, sexual assault or sexual violence, domestic violence or discrimination or harassment of any kind, whether verbal or physical and in any form or medium, including in any online space or context; such misconduct will be dealt with severely.

Individual students are responsible for ensuring that they are aware of any such regulations or standards and that they comply with them. Copies of these regulations are available from the University's intranet.

Examples of behaviour that will be regarded as misconduct and the possible sanctions which are available are published in the Guidance Notes.



## Illustrative Examples of Misconduct

The defining and grading of the misconduct in the procedures is intended to give an indication as to the severity of the measure to be imposed. Misconduct graded solely as serious misconduct and/or any misconduct involving the (mis)use of alcohol and/or any other substances or against a person should normally be considered under the Formal Phase. Moreover, any person who engages in any form of violence, assault, misconduct or sexual misconduct against another person or who is found guilty of a criminal offence will be liable to the most severe measure.

Any misconduct graded as general misconduct may be considered at the Informal Phase and progressed to the Formal Phase if or as necessary.

The examples listed below are illustrative only and are neither comprehensive nor exhaustive. Examples may be added or amended as necessary by the Vice-Chancellor:

I. Misconduct against People	Serious	General
<b>Under this procedure 'Misconduct against People' should normally be regarded as Serious misconduct in all circumstances</b>		
i. Acts of disturbance that threaten the rights and privacy of any member of the University, whilst on University premises or engaged in University activity, or resident in University owned or managed accommodation.	✓	✓
ii. Serious abusive behaviour which may be regarded as aggravated which includes acts that may be regarded as sexual, violent, disorderly, threatening, intimidating or offensive; including the use of such language (whether expressed orally or in writing, including electronically).	✓	
iii. Abusive behaviour which includes acts that may be regarded as disorderly, threatening, intimidating or offensive; including the use of such language (whether expressed orally or in writing, including electronically).		✓
iv. Any act of discrimination, or any bullying, harassment, intolerance or victimisation.	✓	
v. The sending, posting or display by any means and in any form or medium of sexual, intimate, harmful, cruel or offensive text or images.	✓	
vi. Sexual misconduct including engaging or attempting to engage in an intimate or sexual act, touching or other offence without consent, the inappropriate showing of sexual organs to another person and the making of unwanted remarks of a sexual nature (whether expressed orally or in writing, including electronically).	✓	
vii. Failure to respect the rights of others including those relating to: freedom of speech and expression, freedom of belief, thought, conscience and religion, confidentiality and privacy.	✓	✓

viii. Jeopardising the health and safety of oneself or of any other person.	✓	
ix. Conduct that may incite, fund, promote or lead to acts of violent or non-violent extremism.	✓	
x. Possession of an offensive weapon (including replica weapons) and /or ammunition on University premises or whilst engaged in any activity associated with the University.	✓	
xi. Possession or use of illegal substances or New Psychotic Substances whilst on University premises or whilst engaged in any activity associated with the University.	✓	✓
xii. Inclusion on one or more of the barred lists maintained under the Safeguarding Vulnerable Groups Act 2006 or any act that would lead to investigation or deregistration by an appropriate professional body.	✓	
xiii. Conduct which constitutes a criminal offence.	✓	✓
<b>II. Misconduct against Property</b>	Serious	General
xiv. Failure to comply with any aspect of the Health and Safety Procedures, rules or duties of the University or of any other organisation to which a student may be subject.	✓	✓
xv. Misuse or unauthorised use of University premises or items of property, including computer misuse and the communications network.	✓	
xvi. Damage to, or defacement of, University property or the property of other members of the University community caused intentionally or recklessly, and misappropriation of such property.	✓	✓
xvii. Unauthorised taking or use of property belonging to either the University or another person without permission.	✓	✓
xviii. Unauthorised entry into, or unauthorised use of University premises and property or the premises and property of other members of the University community.	✓	✓
xix. Unauthorised publication or transmission to any third party of a University activity and/or the unauthorised use of any form of recording equipment during a University activity.	✓	✓
<b>III. Misconduct against the University</b>	Serious	General
xx. Conduct which brings the University into disrepute.	✓	✓

xxi. Conduct which disrupts, or improperly interferes with, the academic, administrative, sporting, social, or other activities of the University, whether on University premises or elsewhere.	✓	✓
xxii. Conduct which obstructs, or improperly interferes with, the functions, duties or activities of any student, member of staff or other employee of the University, or any authorised visitor to the University, whether on University premises or elsewhere.	✓	✓
xxiii. Failure to uphold or pursue the standards expected of any relevant professional or vocational bodies, which awards qualifications to students in relation to the care, welfare or education of the public.	✓	✓
xxiv. Conduct during assessment and examination which does not constitute Unacceptable Academic Practice or Academic Misconduct, for which separate rules and procedures apply, and may constitute failure to maintain professional suitability.	✓	✓
xxv. Dishonesty or the supply of false or misleading information in relation to the University or its staff or students in connection with the holding of any office in the University, or in relation to being a student at the University, or in circumstances which the University reasonably considers affect professional suitability.	✓	
xxvi. The submission to the University of false data, documents or documents containing false information/data and/or elements, such as signatures, including for the purposes of admission, recording attendance (whether manually or electronically or using Chester-App 'Check-in'), work, assignments, timesheets or other documents including evidence to explain absence, claims for mitigating circumstances or academic appeal etc.	✓	
xxvii. The fraudulent production of, and/or the submission to a third party of, any document purporting to be issued by the University containing false or fraudulent information and/or elements; including, but not limited to, grades, marks, confirmation of student status, confirmation of attendance, or signature or any associated matter.	✓	
xxviii. Breach of the provisions of any rules or regulations of the University or of any other organisation to which a student may be subject.	✓	✓
xxix. Failure to disclose your name and other relevant details to an officer or employee of the University of Chester, in circumstances when it is reasonable to require that such Information be given.	✓	✓
xxx. Failure to comply with a previously-imposed penalty or implemented action under these rules and procedures.	✓	

xxxi. Knowingly encouraging, permitting or assisting any individual to engage in any of the above.	✓	✓
xxxii. Any other behaviour which may reasonably regarded as constituting misconduct or unprofessional conduct.	✓	✓

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