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STUDENT DISCIPLINARY PROCEDURE

# Key Details

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Student Disciplinary Procedure

# Introduction

## Cardiff Metropolitan University is committed to providing high quality programmes and services for students, staff and the general public. It has in place a variety of mechanisms to ensure all stakeholders can enjoy the facilities it offers within a safe and harmonious environment and that all have the opportunity to participate fully in the development and improvement of the provision. The Student Disciplinary Procedure (SDP) is one of these mechanisms.

## Good working relationships between students and the University are an essential ingredient for success of the academic and residential community. The need for disciplinary action should be rare and the University will always consider the need for giving advice and guidance to improve discipline and behaviour. The SDP is not only designed to act as a disincentive to inappropriate behaviour, but also to provide an incentive for improvement by discussion and positive action where behaviour falls short of required standards.

## At all stages of the SDP the student has the right to present their case in either English or Welsh, as long as prior notice of the preferred language is given [See para 10 below].

# Purpose

## The SDP is designed to provide a clearly formulated, effective and impartial process for dealing with non-academic problems of student discipline and behaviour. Its purpose is to ensure that, in taking disciplinary action against a student, Cardiff Metropolitan University acts fairly and consistently.

## Disciplinary action may be taken if a student engages in activities or inappropriate behaviour on or off campus (including via social media), that are likely to disrupt, damage or otherwise adversely affect the normal functioning and/or reputation of Cardiff Metropolitan University and its academic or residential community, hereinafter referred to as ‘misconduct’.

## The following constitutes a non-exhaustive list of the types of misbehaviour or misconduct that this Code is intended to cover:

## Behaviour that constitutes a criminal offence;

## Sexual misconduct;

## Possession or misuse of prohibited substances or weapons;

## Antisocial behaviour;

## Violent, indecent, disorderly, threatening, inappropriate, offensive behaviour or language (including via social media);

## Fraud, deceit, deception or dishonesty in relation to Cardiff Metropolitan University or its staff or in connection with holding any office in the University or in relation to being a student of the University;

## Action likely to cause or impair the health, safety, and well-being of any student, member of staff or other employee of Cardiff Metropolitan University or any authorised visitor to the University;

## Verbal abuse, bullying or any form of harassment, intimidation, victimisation or discrimination of any student, member of staff or authorised visitor to the University;

## Causing a health or safety concern;

## Damage to, defacement of, or abuse of Cardiff Metropolitan University property or the property of other members of the University community caused intentionally or recklessly and misappropriation of such property;

## Misuse or unauthorised use of Cardiff Metropolitan University premises or items of property, including misuse of computers or other electronic devices to transmit, receive, view or display offensive, defamatory, discriminatory, obscene or otherwise illegal material or to introduce any virus, worm or other harmful or nuisance programme or file into any IT facility;

## Failure to disclose a name and other relevant details to an employee of Cardiff Metropolitan University in circumstances when it is reasonable to require that such information is given;

## Failure to comply with a legitimate instruction of an employee of Cardiff Metropolitan University in circumstances when it is reasonable to require that instruction to be given;

## Failure to comply with a previously imposed penalty (Sanction) under this Code

## Plagiarism is regulated under the Academic Handbook, Unfair Practice Procedure, and not the SDP.

## For Student Code of Conduct, see Appendix 1.

# Application

## The SDP applies to every enrolled student of Cardiff Metropolitan University.

## The SDP, however, does not cover:

## Academic misconduct;

## Matters where the Students’ Union Disciplinary Procedure specifically applies;

## Matters where the Halls of Residence Disciplinary Procedure specifically applies, unless referred on from that procedure;

## Students enrolled on franchised programmes with partner institutions;

## Staff disciplinary issues;

## Freedom of Information and Environmental Information Regulations, where separate procedures apply.

## The SDP also applies where a student has been arrested for a criminal offence prior to enrolling at Cardiff Metropolitan University, but the result of any criminal investigation and/or criminal trial is not handed down until after they enrol as a student.

## N.B. Where there may be doubt or areas of conflict with other disciplinary procedures, the SDP will take precedence.

# Policy Ownership

## Under the Articles of Government, the President and Vice-Chancellor is ultimately responsible for the maintenance of student discipline and for the suspension and permanent exclusion of students on disciplinary grounds or other causes. The President and Vice-Chancellor will normally delegate these powers to the Deputy Vice-Chancellor, either generally or in respect of a particular case, who will have responsibility for reviewing, monitoring and reporting on the implementation of the Procedure.

## Registry Services has day to day responsibility for the delivery and management of the SDP. The Complaints and Conduct Manager is the point of contact for advice on disciplinary procedural matters at all stages.

# Office of Independent Adjudicator (OIA) and the Good Practice Framework

## The framework for this SDP is based upon the OIA’s Good Practice Framework for handling complains and academic appeals that sets out the core principles and operational good practice for Higher Education Providers in England and Wales. The core principles are: accessibility; clarity; proportionality; timeliness; fairness; independence; confidentiality; and improving the student experience.

## The OIA has implemented a specific section of the good practice framework for “Disciplinary procedures (October 2018)”.

## In following the OIA’s Good Practice Framework this SDP ensures the common law principles of ‘natural justice’ are applied. In disciplinary procedures, this means that:

## Students understand any allegation made against them;

## The student and the person bringing the allegation have a fair opportunity to present their case and to hear and respond to what the other has said;

## Students are given reasonable notice of any hearing and are given in advance copies of all information to be considered by the decision maker;

## The burden and standard of proof are clearly explained;

## Decision makers are free from bias or any reasonable perception of bias;

## Reasons are given for decisions reached and any penalty (Sanction) imposed;

## A right of appeal is included at each stage;

## The investigation and any appeal is carried out as quickly as possible. Consistent with fairness.

# Student Support

## A student against whom an allegation of misconduct has been made or who is involved in a disciplinary investigation will be encouraged to seek advice from the Students’ Union and where relevant, Student Services

## If a student appears unable to engage effectively the student disciplinary process, the Investigating Officer and/or the Complaints and Conduct Manager may suggest that the SDP be held in abeyance until the student has had opportunity to access appropriate support.

## The University has duties under the Equalities Act 2010 to make reasonable adjustments for disabled students. If a student maintains that the behaviour giving rise to the ‘alleged misconduct’ is related to their disability, then the university will consider whether to proceed with action under the SDP, or to refer the student for direct support from student services under the Fitness to Study Procedure.

# Links with other Procedures

## The Student Disciplinary Procedure should be read in conjunction with the relevant Human Resources (Health & Safety) policies, where staff are involved in any potential student disciplinary situation (see Dealing with Student Misconduct/Unacceptable Behaviour).

## In matters of allegations of Safeguarding (Child Protection or Protection of Vulnerable Adults), the Cardiff Metropolitan University policies on those subjects take precedence.

## Students on professional courses may also be subject to the University’s Fitness to Practise Procedure as well as the SDP.

## Allegations of bullying or harassment, or of discriminatory behaviour will generally be investigated under the SDP. The University’s Harassment and Bullying Procedure may however still be applied. Both parties in a case will be informed which procedure is to be applied and of the reason(s) why. The definitions included in the university’s [Harassment and Bullying procedure](https://www.cardiffmet.ac.uk/study/studentservices/Documents/Harassment%20and%20Bullying%20Policy%20and%20Procedure.pdf) will however be referred to in all cases of harassment and bullying. This includes definitions of harassment, discrimination, and bullying.

## The following principles will however apply to all allegations of harassment, discrimination and bullying:

## The recipient’s perception of the behaviour in question is of considerable importance;

## Behaviour does not have to be directed against a person or be intended for it to amount to harassment.

##  A student’s conduct may be both academic and non-academic misconduct. A student may therefore be subject to the Unfair Practice Procedure, and the SDP.

## Where the student behaviour is to be considered under numerous procedures. The student will be informed by the Complaints and Conduct Manager how the different processes will be followed and in what order.

# Confidentiality

## In all disciplinary proceedings privacy and confidentiality will be maintained within Cardiff Metropolitan University, subject to exceptions contained within the General Data Protection Regulation and Data Protection Act 2018, Freedom of Information Act 2000 or where a criminal offence is alleged to have been committed. Third parties will be kept informed of the outcomes of the proceedings, as long as this does not contravene the Data Protection Act 2018.

## Any person(s) against whom an allegation is made will be informed of the allegation and will be informed of the identity of the person making the allegation.

## If allegations are made about unidentified persons, for example as part of a group, and there is no evidence identifying the individuals, then it will not be possible to pursue the case further. However, where a defined group is identified as being involved (e.g. tenants of a house), but it is not possible to identify the individuals concerned, a letter may be issued to the members of the group, warning of potential disciplinary action, should individuals be identified.

## The person making the allegation must be prepared to be interviewed by an Investigating Officer, give a signed dated statement and to give evidence at a disciplinary hearing, if required (provision of evidence by video link from a separate room will be considered in appropriate cases). The statement will be made available to the subject of the allegation. In appropriate cases, an Investigating Officer of the same gender or ethnicity will be appointed, where possible.

## All witnesses must be prepared to be interviewed by an Investigating Officer, give a signed dated statement and give evidence at a disciplinary hearing, if required. The statement will be made available to the subject of the allegation

## If a witness is not prepared to give a signed statement or is not prepared for the statement to be shared with the subject of the allegation, they cannot be forced to do so. However, in those circumstances, that witness testimony cannot subsequently be used in the investigation.

## No student will be penalised by reason of having been the subject of a disciplinary investigation, unless and until the allegations are proven. Only staff who need to know the details of the allegations and sanctions will be informed of the investigation and outcome.

## At all stages of the SDP, any decisions that are reached will be communicated to the subject(s) of the allegation.

## Where allegations are proved, the sanction will be both proportionate to the behaviour and will be one of the sanctions available under the SDP. The sanction will be communicated in writing to the student and relevant members of staff.

## Cardiff Metropolitan University reserves the right not to investigate or take action on anonymous disciplinary complaints or those raised on behalf of an anonymous third party. Any complaints that are also perceived by the university to be vexatious in nature will not be taken forward.

## If any party is under the age of 18, subject to legal restrictions in force at the time, Cardiff Metropolitan University will notify the parent(s)/guardian(s) in writing and keep them informed of the progress of the complaint. The University will allow them to act on behalf of that student, provided the student agrees to this in writing.

# Non-Engagement

## If a student accused of a disciplinary issue declines to participate in the process or fails to respond to the first attempt to make contact, two further attempts will be made (including): by letter (sent by recorded delivery to the registered term-time address last supplied by the student, and separately to their home address if different), by email sent to the University email address, and by telephone. It is the student’s responsibility alone to ensure that their current addresses have been made known to Cardiff Metropolitan University.

## In each case, the student will be advised that failure to respond will lead to the investigation continuing on the basis of the evidence available and may lead to disciplinary sanction being imposed, without their input.

# Welsh Language Standards

## The University supports the principles of the Welsh Language (Wales) Measure 2011 and has adopted the principle of treating the English and Welsh language equally.

## The University is fully committed to meeting the Welsh language standards set under the powers provided in the Welsh Language (Wales) Measure 2011 and to ensuring that the Welsh language has equal status.

## In line with those standards, and taking account most allegations of ‘misconduct’ are received by the university through the University’s Complaints Policy and procedure the following principles apply:

### This policy and procedure is available in Welsh.

### Individuals can submit allegations of misconduct and correspondence in Welsh.

### Where any allegation is made in Welsh any written response to that allegation will be provided in Welsh.

### Where any formal meetings are required under the SDP the student will be offered the opportunity to use the Welsh language at the meeting.

### A translation service from Welsh to English will be provided for any formal meetings that are requested through the medium of Welsh, with a simultaneous translation service from Welsh to English where meetings are conducted in the medium of Welsh.

### When the University informs an individual of a decision and/or an outcome that has been reached, this will be made available in Welsh where that complainant:

### brought the allegation in Welsh;

### asked for a formal meeting to be conducted in Welsh;

### asked to use the Welsh language at a meeting about the allegation.

## Any individual who is involved in translation services, will treat any completed complaint form, correspondence, discussions and meetings that they are involved in, in strict confidence.

# Timescales

## Allegations of misconduct should be reported promptly, confirmed in writing, and should include the identity of the person(s) against whom the allegations is/are made and potential witnesses, where possible, the nature of the misconduct, the time and location of the alleged offence and the details of any action already taken.

## A student will be notified that they are subject to the SDP as soon as possible after the event giving rise to the allegation.

## The timescales laid down in the SDP may need to be extended in certain circumstances, for example where witnesses or the Investigating Officer are unavailable. Where this need arises, the University will inform all parties in writing.

## Cardiff Metropolitan University reserves the right not to consider any misconduct allegation that is submitted more than three months after the event, unless there are exceptional circumstances, and to set a final deadline at any stage.

## All persons involved in the formal stages should have access to any relevant written materials at least 5 working days before any interview or hearing. This right can be waived by any party, by giving notice in writing.

## A student who is made subject to the SDP will normally be notified of an outcome within 60 days of the allegation being made known to the student. The university will hear any appeal within 30 days of the student making the appeal.

# Health Considerations

## If at any stage it is considered by the Investigating Officer, or the Complaints and Conduct Manager that a student involved in disciplinary procedures might be suffering from mental illness or instability, then adjournment of the investigation in order to obtain a medical report or other medical evidence is permitted as long as adequate arrangements for the health and safety of all concerned have been taken into account. Further consultation will be had with Student Services as to whether the Fitness to Study Policy and Procedure is more appropriate for the student than investigation under SDP.

# Suspension Pending Disciplinary Investigation

## The President & Vice-Chancellor or their nominee may suspend a student from attendance at Cardiff Metropolitan University for a specified period of time pending investigation in the following circumstances:

## Where allegations of serious breaches of discipline have been made; or

## Where there is a risk that the student may interfere with witnesses; or

## Where the student is deemed to pose a risk to the health, safety or welfare of themselves or others.

## Such a suspension should only be instituted in exceptional circumstances and should be reviewed on a fortnightly basis. This period may be extended with the agreement of the student

## A student who is suspended may be prohibited from entering Cardiff Metropolitan University’s premises and from participating in the University’s activities, although exceptions can be allowed, such as taking examinations and arrangements for continued learning should be made. A student may also be asked to leave their Halls Accommodation. This will however be subject to the student’s legal rights as a tenant.

## The Student Wellbeing Team (Student Services) should be consulted prior to the suspension of any student to ensure any reasonable adjustments that may be required are in place.

## The terms of the suspension should be notified to the student in writing and may include a requirement that no contact is made with a named person(s). If the allegation is subsequently dismissed so that no disciplinary action is taken, then Cardiff Metropolitan University will ensure, as far as possible, that the student has not been disadvantaged in any way by the suspension.

## Where a student under suspension pending disciplinary investigation is deemed to be in a state of health that is perceived to pose a threat to themselves or others, may affect the welfare of students or staff or disrupt the learning and teaching process, Cardiff Metropolitan University reserves the right to refer the student for medical or occupational health assessment before any recommencement of studies can be considered.

# Action Plan

## Where a student is not suspended they may be asked by the Dean of School/ Head of Unit to agree an Action Plan containing a list of precautionary actions that would need to be complied with by the student to allow them to continue to remain as part of the university community.

## The following constitutes a non-exhaustive list of examples of precautionary actions that could be included in an Action Plan:

## ensuring adherence to conditions to stay away from, and/or not to contact a particular student or group of students (including via social media);

## imposing conditions/restrictions requiring a student to move accommodation;

## restriction from IT or other university services;

## requiring a student attend a meeting or meetings with an appointed member of staff (including Student Services) or external agency.

## If a student fails to adhere to an agreed action plan, this may lead to further action being taken under the SDP.

# Possible Outcomes and Sanctions

## The outcome of the investigation will be one of the following:

## Case dismissed, as there is insufficient evidence to substantiate the allegation.

## The matter to be resolved in another way, for example through counselling, advice, apology or a compromise agreement (informal resolution).

## Where the allegation is upheld, an appropriate type of sanction [see Para 15.2 below] will apply including, in serious cases of misconduct, utilisation of a higher stage of the SDP.

## If the allegation is upheld, the person investigating the alleged offence can recommend one or more of the following sanctions (in increasing order of severity) as deemed appropriate to the gravity of the offence, the context of the misconduct, the means and personal circumstances of the student and whether the allegation is a first or repeated offence:

## • First written warning

## • Final written warning

## • Reparation payment for quantifiable costs incurred

## • Financial Penalty

## • Action Plan

## • Temporary Exclusion

## • Permanent Exclusion

## The outcome of any disciplinary (or appeal) hearing will be determined on the balance of probability after considering all the evidence. Any appeal will review whether the decision reached at the previous stage was a reasonable outcome in the circumstances.

## At the end of each stage the student will be informed of the outcome by a Decision letter. Any sanction to be applied must be agreed by a Dean of School, and agreed by a Level 2 member of the Vice Chancellor's Executive Group, (with the exception of the University Secretary). The decision letter will include brief details of the alleged misconduct, a brief summary of the evidence received, the grounds for the finding of innocence or culpability, the penalty or sanction imposed if relevant, and any factors taken into account in determining the sanction. The terms and timeframe of any penalty or sanction will also be notified to the student. Information on an appeal and further support will also be included. Third Parties will also be advised of the conclusion of the investigation.

## Written warnings remain on the student’s file for a specified period of time, normally 12 months and usually state the consequences if the offence is repeated.

## Reparation payments and/or Financial penalties must be quantifiable, supported by receipts, must pay due regard to the means of the student and may allow time for the payment to be made or to be discharged in instalments.

## An Action Plan may include a number of preventative measures, and /or precautionary actions to address any identified risks of keeping the student as part of the learning community.

## If the recommendation involves temporary or permanent exclusion, then verification must be sought from the Deputy Vice-Chancellor, or other person appointed for this purpose.

## At any stage in the SDP Cardiff Metropolitan University reserves the right to take appropriate action to recover from the student any losses that it has incurred as a result of the student’s actions.

## A student has the right of appeal at the conclusion of any stage of the SDP and against any form of recommended sanction.

## If any allegations are found to be frivolous, vexatious or motivated by malice, Cardiff Metropolitan University reserves the right not to proceed with the disciplinary process and, if appropriate, take action against the person who made the allegations, where appropriate.

# Procedure

## An allegation of student misconduct may be received from: a complaint under the University Complaints Policy and Procedure; by a recommendation of a Risk Action Panel (Appendix 6); or by a formalised report (in writing) from any member of staff, student, or member of the public.

## In all cases a student accused of misconduct will be informed of the allegation(s) against them in writing. This will be the case even if a decision is made not to progress an allegation under a university policy or procedure.

## If the SDP was initiated following a complaint from another student under the university Complaints Policy and Procedure, the complainant will be informed when the investigation has been completed and an outcome sent. The complainant will also be notified of any subsequent appeal, and final outcome. 1

## Help and support will be made available to students who bring forward a complaint or report of alleged ‘misconduct’ by another student. Advice will be provided to a complainant on the options available to them when the allegation involves a potential criminal offence.

## All investigations under the SDP will be conducted in accordance with the guidance provided at Appendix 2.

## The Investigating Officer will be a senior member of staff from the School in which the student studies, but who is independent from the matter complained of.

## Training is provided to Investigating Officers through the Complaints and Conduct Manager and individual support is available to Investigating Officers in relation to the SDP throughout any investigation.

## All potential witnesses will be contacted to determine whether they are prepared to be interviewed and provide a signed statement, unless the subject of the allegation admits the allegation in full, in which case the Investigating Officer may move directly to consider appropriate sanctions.

## All parties, including witnesses, have the right to be accompanied at any time by a friend, representative or colleague, but not by a legally qualified representative acting in a professional capacity, unless this is agreed by both parties. If any party is considering legal action, Cardiff Metropolitan University reserves the right to take necessary steps to ensure that its legal position is fully protected.

## The nature and gravity of the alleged misconduct will be used to determine whether an informal resolution can be used for the matter. However, alleged criminal offences must also be reported to the police.

# Stages

## Formal Investigation

### Where a student’s misconduct is repeated or is considered to breach the SDP or Student Code of Conduct, the relevant Dean of School/Unit should be informed. The nominee of the Dean of School/Unit will be responsible for arranging the investigation of the allegation(s) of misconduct, drawing on advice from the Dean of Students, and for making a written record of the investigation and its outcomes normally within 30 working days of the alleged misconduct being reported to them. (See Appendix 2 below).

### A meeting will be arranged with an Investigating Officer to provide an opportunity for the student to answer the allegation and to make representations on their behalf. This will be on the allegation and/or the possible sanctions that may be imposed. They will also be informed of the SDP.

### If the student admits the misconduct or there is sufficient evidence to conclude that the student acted in the manner alleged, then the Investigating Officer will recommend the sanction to be imposed, if any.

### Where a sanction is recommended, the Investigating Officer will lodge the report with the Complaints and Conduct Manager. The Complaints and Conduct Manager will then discuss the recommendations and seek the agreement of the Dean of School / Head of Unit. Any sanction imposed must also be agreed by a Level 2 member of the Vice Chancellor's Executive Group, (with the exception of the University Secretary). Once agreement has been reached on an appropriate sanction, this will be confirmed to the student in writing.

### The decision letter sent to the student will give a clear explanation of, and setting out the reasons for, each decision and any sanction. Further information will be provided on the student’s right to appeal, and where/how to access further support from the Students’ Union and/or Student Services.

### The student has a right of appeal against any sanction imposed. The appeal must be lodged in writing with the Complaints and Conduct Manager within 30 working days of the notification of the outcome of the investigation being sent.

### The appeal letter must provide grounds for appeal and appeals will only be accepted on the following grounds: • that there has been a procedural error in the constitution and/or conduct of the Procedure; • that new evidence is available, which the student could not reasonably have been expected to produce at the original hearing; • that the penalty imposed could reasonably be seen as excessive.

### Where these criteria are not met, the case will be closed and the student will be informed of the reasons in writing. Once the case is closed, the Student will be issued with a Completion of Procedures letter, which will allow the University’s decision to be reviewed by the OIAHE. The time limit for taking a complaint to the OIA is 12 months from the date of the Completion of Procedures (COP) Letter.

### Where an appeal on the stated grounds is received within the time limit, the Complaints and Conduct Manager will arrange a hearing under the Appeal Stage of procedure.

## Informal Resolution

### If the Investigating Officer does not consider it necessary to invoke any sanctions, they must discuss the matter with the student and, if appropriate, provide advice about standards required in the future. The student will be informed that at this stage no further disciplinary action will be taken. A note of the discussion and any agreements made must be placed on the student’s case file for future reference, but does not represent a disciplinary sanction. The student will however be notified as part of the discussion that if a further disciplinary matter is upheld against the student, for similar misconduct then the student can expect to receive a more severe sanction having previously been afforded an informal resolution.

### Prior to the Investigation being undertaken, a Dean of School/Head of Unit may also call a student to a meeting to discuss ongoing poor behaviour, or an allegation of misconduct and, if appropriate, provide advice about standards required in the future. As in Para 17.2.1 above, the student will be informed that at this stage no further disciplinary action will be taken. The Dean/Head may also use the meeting to check on the student’s welfare, and/or to sign post the support services that are available to them. A note of the discussion and any agreements made must be placed on the student’s case file for future reference, but does not represent a disciplinary sanction. The student will however be notified that if a further disciplinary matter is upheld against the student, for a similar misconduct then the student can expect to receive a more severe sanction having previously been afforded an informal resolution.

### The SDP is intended to address misconduct by students rather than to resolve disputes between individuals. Mediation is open as a tool to attempt to fix relationships, but all parties must agree to the mediation process being attempted. An Action Plan may be used to control the behaviour(s) of a group of students towards each other e.g. students will agree not to make contact with each other, directly or indirectly (including social media). A breach by either party to the Action Plan may result in further formal action being taken under the SDP.

## Appeal Stage - Student Disciplinary Panel

### This involves establishing a Student Disciplinary Panel, which will normally have three members and be constituted as follows:

### One member of the President & Vice-Chancellor’s Executive Group (VCEG), who will chair the Committee;

### One student member nominated by the Students’ Union, who does not have any prior knowledge of the case or any association with the student(s) concerned;

### One member of Academic Board experienced in disciplinary matters.

### The Terms of Reference of the Panel are as follows:

### to establish, as far as possible, the facts of the case;

### to consider the report(s) of the Investigating Officer(s) at earlier Stages of the SDP where available;

### to receive any new evidence;

### to determine, on the balance of probabilities, whether or not the allegations have been substantiated;

### to decide what action should be taken and what sanctions should be applied, if necessary.

### The Panel will normally meet no more than 30 days after receiving notification from the student that they wish to appeal.

### If the student or the student’s chosen representative is not available, then the student must notify Registry Services as soon as possible in order that a suitable alternative date can be arranged.

### If a student fails to attend without good reason on the first occasion, provided all reasonable steps have been taken to contact the student (recorded delivery post and email), the hearing may not proceed on that day if the Chair is satisfied that it is fair and reasonable to do so. The hearing will be adjourned and a new date set if it is not considered fair and reasonable to proceed on that day.

### If a student fails to attend on a second occasion, and all reasonable steps have been take to contact the student (recorded delivery post, email and telephone), then the Panel may, at its discretion:

### conduct the hearing in the absence of the student and/or their representative;

### adjourn the hearing to a later date.

### **N.B. It is the student’s responsibility alone to ensure that their current addresses have been made known to Cardiff Metropolitan University.**

### Not less than 10 working days before the hearing the Complaints and Conduct Manager will inform the student and their official representative, in writing, of the following:

### the date, time and place of the hearing;

### the membership of the Panel and the procedure to be adopted;

### who will be presenting the case on behalf of Cardiff Metropolitan University;

### the evidence that is to be submitted, including full details of the allegation(s) and written statements in support of the allegation(s);

### the right of the student(s) to submit details of any challenge to the allegations and/or details of any mitigating circumstances;

### the right of the student(s) to be accompanied and/or represented by a friend or adviser at the hearing. If the representative is to be a Solicitor or other legally qualified person, then the student must notify the Complaints and Conduct Manager not less than 3 working days before the hearing. In the event of such notification, Cardiff Metropolitan University reserves the right to postpone the scheduled hearing in order to obtain appropriate legal advice.

### When all available evidence has been considered, the panel will retire to consider its decision. The student will be informed of the outcome of the hearing in writing within 5 working days of the date of the hearing.

### Where a sanction other than permanent or temporary exclusion is imposed, this will conclude the internal disciplinary procedure and a Completion of Procedures letter will be issued to the student by the Complaints and Conduct Manager, advising of the right to take the matter to the Office of the Independent Adjudicator. The time limit for taking a complaint to the OIA is 12 months from the date of the Completion of Procedures (COP) Letter.

### A further appeal will be available to the student where a sanction of permanent / temporary exclusion is imposed.

## Appeal to Vice Chancellor (Permanent Exclusions Only)

### Where a sanction of permanent / temporary exclusion is imposed at any of the previous stages, the student may appeal to the President and Vice Chancellor. The appeal must be lodged in writing with the Vice Chancellor’s Office within 30 days of the notification of the outcome of the Investigation / Appeal hearing being sent. The appeal letter must provide grounds for appeal and appeals will only be accepted on the following grounds:

### that there has been a procedural error in the conduct of the SDP;

### that new evidence is available, which the student could not reasonably have been expected to produce at the original hearing;

### that the penalty imposed could reasonably be seen as excessive.

### The appeal shall be considered by the President and Vice Chancellor. The President and Vice Chancellor will conduct a review of the reasonableness of the original outcome and/or sanction as appropriate.

### The Vice Chancellor may seek further information from the student, the Investigating Officer, and /or Appeal Panel.

### The President and Vice Chancellor may confirm, vary or rescind the decision of the Investigating Officer and / Appeal Panel, substituting any alternative sanction available under the SDP or no sanction at all, as appropriate, or refer the matter back to the Appeal Panel for re-hearing. A note of the decision and reason(s) for it, will be passed by the President and Vice Chancellor to the Complaints and Conduct Manager, to send onto the student.

### The decision of the President and Vice Chancellor shall be final and shall be notified to the student within a period of 30 days of the student making the appeal. If the appeal is successful, Cardiff Metropolitan University will ensure, so far as is possible, that the student has not been disadvantaged by any disciplinary action. This will conclude the internal SDP and a Completion of Procedures letter will be issued to the student by the Complaints and Conduct Manager, advising of the right to take the matter to the Office of the Independent Adjudicator. The time limit for taking a complaint to the OIA is 12 months from the date of the Completion of Procedures (COP) Letter.

# Misconduct That Is Also A Criminal Offence

## Any incident that affects Cardiff Metropolitan University’s members, property or reputation or that may amount to the commission of a criminal offence will generally be reported to the police by Cardiff Metropolitan University.

## Conduct that might constitute a criminal offence may also be dealt with as misconduct under the SDP if that conduct took place on Cardiff Metropolitan University premises and/or affected other members of the University and/or damaged or was likely to damage the reputation of the University.

## The following clauses apply where the alleged misconduct would also constitute an offence under criminal law, if proved in a court of law:

## where the offence under the criminal law is considered by Cardiff Metropolitan University to be insufficiently serious, action under the SDP may continue, but such action may be deferred pending any police investigation or prosecution;

## in the case of all other offences under the criminal law, a letter instituting disciplinary proceedings will be sent, which will also explain that the internal proceedings will be deferred (other than investigatory suspension pursuant to Para 13 of the SDP) until the matter has been reported to the police and either prosecuted or a decision not to prosecute has been taken, at which time the President & Vice- Chancellor (or nominee) may decide whether disciplinary action under the SDP may be taken;

## where a finding of misconduct is made and the student has also been sentenced by a criminal court in respect of the same facts, the court’s penalty shall be taken into consideration in determining any penalty by Cardiff Metropolitan University under the SDP.

## Help and support will be provided to students who are subject to criminal investigation or court proceedings.

## If a student discloses to staff member that they are subject to criminal investigation or court proceedings, the staff member should take a note of that disclosure. They should record details of any initial allegation and what they told the student. Staff should be mindful that this note may be required as part of the criminal process, as well as any further investigation under the SDP. The staff member should seek further advice from the Complaints and Conduct Manager.

# Sexual Misconduct and Changing the Culture

## (Sexual Misconduct statement and guidance from UUK Taskforce, HEFCW etc.)

# Monitoring and Review

## The SDP will be reviewed at the end of each academic year. This is the responsibility of the Complaints and Conduct Manager (Registry Services).

## Monitoring of the process is undertaken by:

## maintaining a complete tracking system and record of each disciplinary case;

## feeding back details of actions and outcomes to relevant Schools and Units;

## ensuring all staff responsible for dealing with cases of student discipline are aware of the SDP and receive training;

## establishing a rigorous and effective system of dealing with any proven culpability or risks to prevent the same situation happening again.

## Appendix 1

Student Code of Conduct

## 1. All students are expected to observe Cardiff Metropolitan University regulations, policies and procedures including, but not restricted to, those relating to financial requirements, health and safety the use of IT and other facilities. Copies of the regulations, policies and procedures can be obtained from the Cardiff Metropolitan University web site.

## 2. The following constitutes a non-exhaustive list of the types of misbehaviour or misconduct that this Code is intended to cover, wherever this occurs (although, alleged criminal offences must be reported to the police immediately):

## Behaviour that constitutes a criminal offence.

## Possession or misuse of prohibited substances or weapons

## Violent, indecent, disorderly, threatening or offensive behaviour or language

## Fraud, deceit, deception or dishonesty in relation to Cardiff Metropolitan University or its staff or in connection with holding any office in the University or in relation to being a student of the University.

## Action likely to cause or impair the health, safety, and well-being of any student, member of staff or other employee of Cardiff Metropolitan University or any authorised visitor to the University.

## Verbal abuse, bullying or any form of harassment, intimidation, victimisation or discrimination of any student, member of staff or authorised visitor to the University

## Damage to, or defacement of, Cardiff Metropolitan University property or the property of other members of the University community caused intentionally or recklessly and misappropriation of such property. Misuse or unauthorised use of Cardiff Metropolitan University premises or items of property, including misuse of computers or other electronic devices to transmit, receive, view or display offensive, defamatory, discriminatory, obscene or otherwise illegal material or to introduce any virus, worm or other harmful or nuisance programme or file into any IT facility.

## Failure to disclose a name and other relevant details to an employee of Cardiff Metropolitan University in circumstances when it is reasonable to require that such information is given.

## Failure to comply with a previously imposed penalty under this Code.

## Plagiarism is regulated under the Academic Handbook, Unfair Practice Procedure, and not the Student Disciplinary Procedure.

Appendix 2

Procedures for Undertaking Investigations

1. The Investigating Officer shall seek to establish the facts associated with the allegations of misconduct promptly. Wherever relevant, witness statements should be obtained and taken into account and, reasonable steps must be taken to interview all witnesses using the Interview form (Appendix 3)

2. The Investigating Officer should arrange a meeting with the student(s) to provide opportunity to answer the allegations and to make representation in their defence. The student(s) should have not less than 3 working days notice of the meeting and should be informed of the right to be accompanied by a friend or representative. If paperwork is to be reviewed as part of the interview, this needs to be provided at least 5 working days prior to interview.

3. The Investigating Officer should aim to complete the investigation within 30 working days.

4. Where possible interviews undertaken by the Investigating Officer should be conducted in the presence of another person. In any event, a contemporaneous written note of the points made by the interviewee must be made during the interview. All those interviewed will have the opportunity to review the note, and /or statement before signing and dating it as an assurance that the document is a true and accurate record of their answers. This does not need to be done in the interview. Notes can be typed and sent to the student afterwards for their agreement.

Cardiff Metropolitan University may need to disclose any information gathered during the course of an investigation in response to a request made under the GDPR/Data Protection Act (2018) or the Freedom of Information Act (2000). This would include information held in any form, such as handwritten notes, tape recordings, word documents or e-mails. ‘Off the record’ comments should not be made.

5. The Investigating Officer will produce a report outlining the extent and findings of the investigation, together with recommendations as to appropriate sanctions, if any. The report will include copies of notes/witness statements and all other documentary evidence reviewed by the Investigating Officer, which may be relevant to a future investigation or hearing.

6. Interviewing Technique

* The Investigator must remain objective.
* Interview record / notes should be written contemporaneously (agreed by another where possible).
* The investigation should be based on evidenced facts rather than unsupported opinions.
* Names, dates, times, acts and witnesses are the key details.
* Only facts relating to the issue under investigation are relevant, not history, unless behaviour is a repetition of similar behaviour, which has led to disciplinary action previously.
* All witnesses must be interviewed.
* If it becomes apparent during an interview that a criminal offence may have been committed, the interview must be suspended and the matter referred to the police.
* Interviewee must be asked to agree sign and date statement (this can be done after the interview has been completed, by sending the notes to the student).

7. Guidance on Report Writing

Reports should include:

* an introduction & background;
* descriptions of allegations;
* chronology of events;
* findings including evidence to back up or contradict each allegation or conclusion;
* recommendations (which should include a sanction if applicable and the timescale this sanction is to last for (usually 12 months or until graduation).

The report should be submitted to the Complaints Manager within 30 working days from the date the student was notified of the investigation taking place. Any sanction to be applied must be agreed by a Level 2 member of the Vice Chancellor's Executive Group, (with the exception of the University Secretary) and the relevant Dean or Head of Unit.

The outcome of the investigation will be provided to the student.

8. Guidance on dealing with Students with Disabilities/ Mental Health conditions

Investigating Officers will need to recognise the stress that the Student Disciplinary Procedure may cause and its potential impact upon students with mental health issues. Reasonable adjustments in the form of breaks during interview or sending typed notes to be agreed following interview should be considered, and ensuring that the students preferred method of communication is used. As well as possibly suspending a meeting / case for further assistance to be sought.

Student Services should be consulted throughout the process and consideration given to including the mental health advisor or nominee in interviews where the student requests their presence. The student’s medical condition should also be taken into consideration where considered relevant to the incidents being investigated.

Appendix 3

Witness Statement Cardiff Metropolitan University Student Disciplinary Procedure

*Please note, fields may be expanded as necessary*

|  |  |
| --- | --- |
| Name of Person |  |
| Date of Interview |  |
| Location of Interview |  |
| Name of Investigating Officer |  |
| Name(s) and roles of other person(s) present |  |
| When did incident(s) occur? |  |
| Where did incident(s) occur? |  |
| What happened (including who did what to whom)? |  |
| Who else was there (names and other identifying information) |  |
| Any other information that may be relevant? |  |

Appendix 4

Guidelines on the Conduct of an Appeal Stage Disciplinary Panel

The Director of Registry Services or their nominee will act as Clerk to the Committee and arrange for a formal record to be made of the proceedings.

The Order of Panel Proceedings will be as follows:

* Chair to introduce all present
* Chair to explain the purpose of the hearing
* Chair to make reference to documentation received
* A4 synopsis summarising the main points of their case distributed by all parties involved
* Cardiff Metropolitan University’s case presenter makes oral presentation
* Opportunity for Panel and student and/or representative to ask questions of case presenter
* Student makes oral presentation
* Representative, if present, makes oral presentation
* Opportunity for panel members and case presenter to raise questions of student and/or representative
* Case presenter summarises (no new evidence can be presented at this time)
* Student and/or representative summarises (no new evidence can be presented at this time)
* Panel to consider their verdict in private (Either side may be required to be available to provide further information or clarification of matters. If recall is necessary, then all parties should be in attendance)

The Panel will decide the outcome. Where a unanimous decision cannot be reached, a majority vote will be permissible. In the event of a split decision the Chair will have a casting vote. In certain circumstances the Panel may adjourn to reconvene at a later date.

Witnesses are not permitted to appear at the hearing. However, the student and the School/Unit are permitted to provide written witness statements in advance of the Panel hearing, which will be considered with the previous documentation.

The decisions/recommendations of the Panel will be communicated to the student in writing, as well as to the President & Vice-Chancellor, as soon as possible and certainly within 5 working days.

Appendix 5

“What happens following a breach of Covid19 Measures?”

Appendix 6

Risk Action Panels

**1. Purpose**

1.1 The Student Disciplinary Procedure is designed to provide a clearly formulated, effective and impartial process for dealing with non -academic problems of student discipline and behaviour. Its purpose is to ensure that, in taking disciplinary action against a student, Cardiff Metropolitan University acts fairly and consistently.

1.2 The purpose of this Appendix is to outline to all members of the University community how Risk Action Panels (RAP’s) will operate as a way of linking in to the Student Disciplinary Procedure.

1.3 Only the most relevant sections of the Student Disciplinary Procedure are cited in this Appendix. Further sections may however still be relevant and can be found within the Academic Handbook.

**2. Application**

2.1 The Student Disciplinary Procedure and this procedure applies to every

enrolled student of Cardiff Metropolitan University.

**3. Risk Action Panels**

3.1 A Risk Action Panel may be convened when the University is informed, or becomes aware that:

3.1.1 a student has disclosed that during the course of their studies, they have been arrested for a criminal offence, received a criminal caution, charge or conviction;

3.1.2 a student has disclosed that during the course of their studies that they have been the victim of a serious criminal offence, and the alleged perpetrator is a student of the university;

3.1.3 a student has been arrested and /or is being investigated by the police or statutory authorities on suspicion of having committed a criminal offence;

3.1.4 an investigation is about to commence;

3.1.5 a concern has been raised during an investigation into alleged misconduct under the Student Disciplinary Procedure that the student poses a risk to themselves or others;

3.1.6 any other circumstance where the actions of a student could cause a risk to the wellbeing of the University community or reputational damage to the institution.

**4. Role of the Risk Action Panel**

4.1 The role of the Risk Action Panel is to make recommendations and decisions in the context of exercising the university’s legal duty of care to each specific student, the Reporting Person [staff, student, or public] other members of the University community, and for protecting the University’s reputation.

4.2 In exercising its function, it is not the role of the Risk Action Panel to investigate or determine whether an alleged incident has occurred as reported. The role of the Risk Action Panel is to identify and assess risks arising from an alleged incident on the basis of the allegation reported to the University.

4.3 The Risk Action Panel will evaluate the circumstances as presented, identify particular risks, and agree a series of actions (if any) to mitigate or remove the risks.

4.4 Following assessment of the risks associated with an allegation the functions of the panel is to make initial determination on the following matters:

1. Ensuring the reporting and responding student has access to welfare support (finance or wellbeing) from Student Services and /or external support;
2. What contact should be made with the responding student about the allegation;
3. What university policy or procedure [if any] should be instigated against the student (and make a recommendation for the same);
4. What (if any) preventative measures should be put in place regarding the student [paragraph 9];
5. Whether a recommendation should be made for the student to be suspended under the Student Disciplinary Procedure [paragraph 8];
6. What considerations are there for accommodation of an alleged perpetrator or victim;
7. What members of the University Vice Chancellor’s Executive group should be informed about the matter;
8. Ensuring the Marketing and External Relations Team are informed of any matter that could potentially impact the reputation of the University.

**5. Membership**

5.1 The membership of a Risk Action Panel may comprise the following:

1. The Dean and /or Deputy Dean of School
2. Complaints and Conduct Manager [Chair]
3. Head of Student Wellbeing
4. Reporting Person [if a member of staff]
5. Accommodation Manager
6. Head of University Security
7. Representative from Marketing External Relations
8. Senior Registry Officer (Complaints and Appeals) [Secretary]

5.2 The Chair, in consultation with the Director of Registry Services, will confirm which staff are required to form a Risk Action Panel, depending on the nature of the case.

5.3 If it becomes apparent that a matter potentially involves either Prevent, or Safeguarding [Under 18 or Protection of Vulnerable Adults] considerations, then the Head of Compliance will also be invited to attend a Risk Action Panel.

5.4 The Chair may ask or any other member of staff with specific expertise or particular knowledge of a student to attend a meeting, if it is deemed necessary.

5.5 The Responding Student will not normally be required to meet the Risk Action Panel. However, there may be circumstances where the Risk Action Panel considers this necessary.

**6. Assessing Risks**

6.1 In assessing risk and determining what actions / it will give as to what actions

should be followed, the Risk Action Panel must consider the following factors:

1. The type of alleged misconduct;
2. The circumstances of the incident;
3. The circumstances of the individuals involved;
4. The views of the police, statutory services, probation service etc.

**7. Misconduct**

7.1 Paragraph 2.2 of the Student Disciplinary Procedure provides that disciplinary action may be taken if a student engages in activities or inappropriate behaviour on or off campus that are likely to disrupt, damage or otherwise adversely affect the normal functioning and /or reputation of Cardiff Metropolitan University and its academic or residential community, hereinafter referred to as ‘misconduct’.

7.2 Paragraph 2.3 provides a non-exhaustive list of the types of behaviour or misconduct that the Student code of conduct and Student Disciplinary Procedure is intended to cover.

7.3 It may be the case that as part of, or following a meeting of the Risk Action Panel that a recommendation is made to the Dean of School [if not a member of the panel] to instigate action under the Student Disciplinary Procedure. Alternatively, a recommendation to pursue another policy or procedure may be made.

7.4 The failure of a responding student to adhere to the decision of a Risk Action Panel, including any imposed measure of precautionary action will result in more severe precautionary action, and /or the matter being taken forward under Student Disciplinary Procedure.

**8. Meeting**

8.1 A meeting of the Risk Action Panel should be held within two working days of the university being informed of a matter under paragraph 3.1 (above).

8.2 Any report should be made immediately by a member of staff to the Complaints and Conduct Manager, who will as Chair then convene a meeting of the Risk Action Panel.

8.3 If considered appropriate under paragraph 4 [above] the Chair will write to the Responding Student with an outcome of the meeting, including any precautionary action within two working days.

8.4 If the actions of the Responding Student have affected another student or staff member, the Chair will also inform them of any precautionary action taken, should that be deemed necessary.

8.5 Any considerations and final decisions of the Risk Action Panel shall be recorded by the Secretary to the Panel using the Model Form in Appendix 1 (attached).

**9. Precautionary Action**

9.1 Any precautionary action imposed on a student by a Risk Action Panel must be both reasonable and proportionate. Such action is not a sanction but a neutral act to allow the university to apply its policy and procedures.

9.2 The following constitutes a non-exhaustive list of examples of precautionary actions in respect of a Responding Student.

1. Enquiring adherence to conditions to stay away from, and /or not to contact a particular student or group of students (including via social media);
2. Imposing conditions / restrictions / Action Plan requiring a student to move accommodation;
3. Restriction from IT or other university services;
4. Recommending temporary suspension from studies; this may be
5. interpreted as temporary suspension from all university campus and its services, including residential accommodation;
6. Recommending temporary suspension from a placement;
7. Requiring a student attend a meeting or meetings with an appointed member of staff or external agency.

9.3 Any precautionary action (above) approved by a Risk Action Panel will be detailed in an Action Plan that will be sent to the Responding Student as an outcome of the Risk Action Panel Meeting.

9.4 A time period for review of any decision / precautionary action may be agreed by the Review Action Panel, taking the circumstances of the case into account.

9.5 The Risk Action Panel will consider the impact or potential impact on the reporting / responding student or staff member of any measures taken as precautionary action, and support arrangements that need to be put in place.

The Risk Action Panel will also consider any measures that need to be put in place to protect the investigation.

**10. Suspension**

10.1 Under para 11 of the Student Disciplinary Procedure, the Vice Chancellor or their nominee may suspend a student from attendance at Cardiff Metropolitan University for a specified period of time pending investigation. The circumstances specified for imposing suspension incudes (but not limited to):

1. Where allegations of serious breaches of discipline have been made;

or

1. Where the student is deemed to pose a risk to the health, safety or welfare of themselves for others.

10.2 The full terms of the suspension should be notified to the student in writing to the student. A student who is suspended is generally prohibited from entering Cardiff Metropolitan University’s premises and from participating in the University’s activities, although exceptions can be allowed.

10.3 Where a student is under suspension is deemed to be in a state of health that is perceived to pose a threat to themselves or others, may affect the welfare of students or staff or disrupt the learning and teaching process. Cardiff Metropolitan University reserves the right to refer the student for medical or occupational health assessment before any recommencement of studies can be considered. This includes a Covid19 test.

10.4 If no action is subsequently taken under the Student Disciplinary Procedure, the University will ensure so far as possible that the Responding Student has not been disadvantaged by the suspension (paragraph 13.5 of the Student Disciplinary Procedure).

**11. Review**

11.1 The Responding Student may request a review of any measures imposed by the Panel as precautionary action. A request must be sent in writing to the Complaints and Conduct Manager, within five working days of notification of the outcome.

11.2 The request for review will be considered within five working days by of receipt of the request by the Complaints and Conduct Manager.

11.3 The Review Panel will comprise the following members:

1. A Member of Vice Chancellor’s Executive Group
2. Director of Registry Services

11.4 The Secretary of the Risk Action Panel will also assist the Review Panel but will not be involved in the actual decision.

11.5 In the event of disagreement between the Review Panel, the Member of the Vice Chancellor’s Executive Group will have the deciding vote.

11.6 The Review Panel may request further information from the Reporting Party and /or Responding Student, and /or from the Risk Action Panel who made the original decision on precautionary action.

11.7 In making a determination on the request for a review by the Responding Student, the Review Panel, may make the following decision:

1. Uphold the original decision of the Risk Action Panel;
2. Replace the original decision of the Risk Action Panel, with their own decision.

Appendix 7

Student Conduct: Risk Action Panel Form

|  |  |
| --- | --- |
| Name of Responding Student: |  |
| Student Number: |  |
| Programme: |  |
| School: |  |
| Any other students: |  |
| Date of Panel Meeting: |  |
| Risk Action Panel Membership: |  |
| Review: |  |
| Review Panel Membership: |  |

**Actions Considered:**

|  |
| --- |
| **Summary of Report:** |
|  |
| **Risks Noted:** |
|  |
| **Action taken to mitigate risks:** |
|  |
| **Consideration of Suspension:** |
|  |
| **Likely impact of Precautionary Action:** |
|  |
| **Overall Panel Decision:** |
|  |
| **Communication (Who needs to be notified of Decision):** |
|  |
| **Action Plan to be sent:** |
|  |
| **Review / Changes:** |
|  |