

# University of Liverpool

## Appendix A – Student Conduct Procedures

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## 1 Introduction

These procedures form part of the University's Student Conduct Policy and should be operated alongside this Policy to achieve consistency across all student conduct issues.

1.1 These procedures shall adhere to the principles of natural justice namely;

- that no one shall be judge in their own cause;
- all decision makers be it at Local or University level shall make decisions impartially, without prejudice or any kind of personal interest in the outcome, providing reasons for these decisions and;
- every party shall have the right to be heard.

1.2 Where a responding student's conduct is a cause for concern, advice on how to proceed may, in the first instance, be sought from the Student Conduct Team. If it is determined that the responding student's conduct could constitute a breach of the Student Conduct Policy, then a decision as to the potential seriousness of the breach is required to agree which process to follow.

1.3 It is not always possible to investigate anonymous allegations, however where there are exceptional circumstances such as genuine fear or risk of reprisals, it may be possible to discuss the option of withholding the reporting student's identity from the responding student. This will be assessed on a case-by-case basis and will be the exception rather than the norm. A report cannot be investigated if the reporting party does not wish the substance of the allegation to be made known to the responding party.

1.4 An investigation may be initiated from an anonymous complaint if there is evidence to support a potential breach of the policy has occurred, e.g. CCTV footage or social media posts.

1.5 Wherever possible, sufficient initial investigation into the conduct of the responding student(s) should be undertaken, to avoid initiating formal investigation procedures for either minor issues, or where other procedures of the University might better be followed. Informal Resolution or Local Disciplinary Action should be instigated for less serious breaches.

1.6 If no formal disciplinary action is being taken, with the consent of the reporting party, the University may advise a student that concerns have been raised regarding their conduct in the hope that such conduct (if it had occurred) will not be repeated.

1.7 This procedure does not seek to reproduce elements of criminal law and is not a formal legal process. Students should be aware that the University does not have the legal investigatory powers of Police and cannot make any determination on criminal guilt. Any internal investigation is focused on whether a breach of the Student Conduct Policy has occurred. This internal process cannot be regarded

as a substitute for a Police investigation or criminal prosecution.

## **2 Informal Resolution Procedure**

- 2.1 Informal Resolution is a way to ensure that general standards of behaviour are maintained, and minor breaches are addressed in a timely manner.
- 2.2 In all cases that are dealt with under Informal Resolution, designated staff, detailed in the Student Conduct Policy, section 9.2, are required to establish the facts and a two-way discussion should take place in private. The discussion should be focused on the identified concerns around conduct and should focus on finding ways to ensure this does not happen again.
- 2.3 Notes of the conversation should be made and retained by the designated staff member in a secure location.
- 2.4 There is no right of appeal against actions taken under Informal Resolution, although the responding student could, if they wished the matter to be considered further, request that the matter is reviewed using the Local Disciplinary Action procedures below. This should be requested by e-mailing the member of staff who has dealt with the concern at the Informal Stage who will then refer it to Local Disciplinary Action.
- 2.5 If during the process of establishing the facts it becomes apparent that the misconduct is more severe than originally thought, the designated member of staff can recommend it be referred to either Local Disciplinary Action or University Disciplinary Action for further investigation.

## **3 Local Disciplinary Action Procedure**

- 3.1 Local Disciplinary Action procedures are designed to allow minor incidents of misconduct to be dealt with quickly by the relevant designated member of staff, to prevent further breaches, and sustain appropriate standards of conduct and behaviour of all students in the University. This is likely to be suitable only for breaches listed as Category 1 in Appendix B of this Policy, Student Conduct Breaches and Indicative Sanctions.
- 3.2 Where an allegation about another student is made to a designated member of staff, or misconduct has been identified in some other way, they must decide if the misconduct can be dealt with under Local Disciplinary Action by referring to the Student Conduct Policy, section 8 which illustrates examples of what types of misconduct can be considered locally. They can also refer to Appendix B – Student Conduct Breaches and Sanctions which sets out a non-exhaustive list of breaches and what category they fall into. Where the conduct under consideration may relate to Freedom of Speech, advice should be sought from the Student Conduct Team, they can also provide advice on which category a

range of behaviours may fall into.

- 3.3 If it is agreed that the misconduct can be dealt with under the Local Disciplinary Procedure, the relevant designated member of staff or their nominee should review the information to see if a meeting with the reporting student is required. It is likely that further details will be needed, and the staff member should invite the reporting party (if there is one) to an investigation meeting to obtain further details and evidence of the alleged misconduct. Please see below for further information about investigation meetings and meeting notes.
- 3.4 The designated staff member should write to the responding student via email and clearly set out the allegation / nature of the misconduct that has been made against them. Evidence obtained (redacted where necessary) should be made available to the responding student. Evidence may be in the form of any statements taken from the reporting student if applicable, or any other physical evidence such as photographs or witness statements.
- 3.5 Investigation meetings with reporting and responding students can take place in person or virtually. At least 3 working days' notice should be provided to the responding student unless there is a substantial body of evidence, in which case, it is advised that at least 4 working days' notice is provided. Students can be accompanied at any investigation meeting by one other person for support purposes. Students should be advised in writing that they can seek independent advice and representation from the Liverpool Guild Advice Service.
- 3.6 Students should be informed of the time and location of the meeting and the people who will be present. This would normally be the relevant designated member of staff and an independent note-taker. The role of the note taker is to list attendees, detail the allegation(s) being made, and summarise the discussion that has taken place. All circumstances surrounding the meeting should be noted, e.g. the behaviour of the student during the meeting.
- 3.7 Following the meeting, the notes should be typed up and reviewed by the designated staff member. They should then be sent to the student who attended the investigation meeting for review. This should normally be done within 5 working days of the meeting taking place. The student will be asked to review the notes within 3 working days of receiving them. See Section 7.11 below for further information in relation to a request for amendments to the notes. If the designated staff member does not hear back within this timescale, it will be assumed that the student agrees with the contents of the notes and the investigation will continue.
- 3.8 At the meeting with the responding student, the designated member of staff should give the responding student the opportunity to either admit or deny the allegation(s) made against them, provide their version of events and provide any further evidence that they wish to be considered. This meeting is also the

responding student's opportunity to provide details of any mitigating circumstances.

3.9 Once all meeting notes have been agreed, the designated staff member will have 10 working days to review all of the evidence in the case and make a decision as to whether the alleged breach of the Student Conduct Policy has taken place or not, on the balance of probabilities.

3.10 If the responding student is found to have breached the Student Conduct Policy or has admitted the misconduct, the designated member of staff may impose a sanction in accordance with section 1.4 of Appendix B Student Conduct Breaches. Designated staff members should not usually impose any sanction other than those listed in section 1.4. However, where there are aggravating factors or multiple category 1 breaches the designated member of staff should seek advice from the Student Conduct Team.

3.11 The outcome of the meeting and the details of the sanction to be imposed will be communicated to the responding student in writing within 10 working days of all evidence being reviewed. The responding student will be informed that further breaches of the expected standards of student conduct are likely to lead to more serious disciplinary action. In the letter, the responding student should be provided with their right to appeal the decision taken and details about the grounds and procedures for this appeal, including the name of the person to whom a student should address any such request.

3.12 If no breach of the Student Conduct Policy is found to have taken place, this decision should be provided to the responding student in writing within 10 working days of all evidence being reviewed and no record of misconduct will be kept on the student's file.

3.13 Within 10 working days of all evidence being reviewed, the designated staff member will write to the reporting student to let them know, where possible, the outcome of the investigation into the alleged breach. In all circumstances, they will inform them that the investigation has concluded.

3.14 A copy of the notes of the investigation meeting and the outcome letter to the responding student should be retained by the designated staff member or their professional services staff against the student file and in a secure location.

3.15 Copies of the notes of the investigation meeting, any evidence and the outcome letters to the students should be sent to the Student Conduct Team at [StudentConduct@liverpool.ac.uk](mailto:StudentConduct@liverpool.ac.uk) in order that a central record of disciplinary action against the student can be retained. This is to ensure that first, should the student subsequently face allegations of misconduct at a University Disciplinary Panel, their full record of misconduct can be considered, as appropriate and in accordance with the procedures for convening a University Disciplinary Panel

and second, cases handled under Local Disciplinary Action can be reported and monitored as necessary.

- 3.16 There are times when an investigation is carried out under the University Disciplinary Procedures (section 6 below) but upon conclusion, the Investigating Officer makes a recommendation for Local Disciplinary Action instead of referral to a University Disciplinary Panel Hearing. In these instances, a copy of the investigation report and evidence base will be sent to the relevant designated member of staff.
- 3.17 On receipt of the case, the designated member of staff will review the investigation report and evidence obtained to ascertain whether they agree with the evidence presented.
- 3.18 If the designated member of staff agrees with the findings they may issue a sanction as set out in accordance with 1.4 of [Appendix B Student Conduct Breaches](#). This should be communicated to the responding student in writing within 10 working days of receiving the case from a member of the Student Conduct Team.
- 3.19 If the designated member of staff does not agree with the findings or they have further questions they should arrange to speak to the student themselves following the procedure from 3.4 onwards above.
- 3.20 Records should be retained for six years after the student has left the University.

#### **4 Local Disciplinary Action – Right of Appeal**

- 4.1 A responding student has the right of appeal of the decision taken under Local Disciplinary Action, but these can only be submitted on the following grounds:
- a) That there were procedural irregularities in the consideration and in the decisions made under Local Disciplinary Action which had a material bearing on the outcome reached and therefore renders the outcome unfair;
  - b) That new information is available which is material to the decisions taken and which, for a valid reason, was not available at the time that the case was considered;
  - c) That the penalty imposed is disproportionate to the offence.
- 4.2 An appeal can be made by submitting a statement within 10 working days of receiving the outcome letter to one of the following, as appropriate and detailed in the student's outcome letter:

- Action taken by an academic Head of Department, School or Institute to be submitted to the relevant Executive Pro-Vice-Chancellor, who may nominate another academic Head to act on their behalf;
- Action taken by a Head or Director of Service to be submitted to the Director of Student Experience and Enhancement, who may nominate another person who has had no previous dealing with the case, to act on their behalf.

4.3 The appeal will be considered by the designated person as listed in 4.2 above and they will determine one of the following:

- That the student's appeal is eligible for consideration and an alternative outcome should be made in terms of the finding of the alleged breach and/or the sanction imposed;
- That the student's appeal is not justified and the original decision and/or sanction should stand;
- That some other issue has arisen because of the appeal which requires further action. This further action could be (although not limited to):
  - Further consideration of the case by a different Investigating Officer under the Procedures described in Appendix A;
  - Increase in sanction;
  - Further disciplinary action under these procedures.

4.4 No decision can be made by the person undertaking the review which exceeds the powers under Local Disciplinary Authority as set out in the Student Conduct Policy.

4.5 The outcome of the appeal will be set out in writing to the responding student and the reporting party and any change to the decision and/or the sanction should be implemented.

4.6 The student will have completed the University's internal appeal procedures and, a Completion of Procedures letter will be issued. The student will also be advised of their right to refer to the OIA.

4.7 Copies of the review documentation and the outcome letter must be submitted to the Student Conduct Team in order that a central record of disciplinary action against the student can be retained.



## **5 Risk Assessment Panel Procedures**

- 5.1 A Risk Assessment Panel will be convened where it emerges that there are circumstances involving a student or students which suggest that a formal evaluation is needed of the risks associated with the situation. This is for their own health, safety and/or wellbeing and/or that of others, the wider University community, in the interest of public safety or the reputation of the University or an external partner or agency and/or its proper functioning and/or activities.
- 5.2 A suitable member of the Student Conduct Team, where applicable and necessary, will seek the views of the reporting student (if applicable) about precautionary measures which would help them to feel safe on campus prior to a Risk Assessment Panel and will present these views to the panel.
- 5.3 The Director of Student Life or nominee will decide whether to contact the responding student(s) for additional information prior to the Risk Assessment Panel e.g. for details of any investigation which has the potential to lead to a criminal charge, or up to date details of a criminal caution, charge, or conviction.
- 5.4 If the circumstances being assessed have any police involvement, a member of the Student Conduct Team will liaise with the on-campus Police Officer and/or Local Police authorities to gain further insight into what has occurred
- 5.5 The Risk Assessment Panel will consider if the student is representing the University in either a paid or unpaid capacity by consulting with (but not limited to), the Guild of Students, Sport Liverpool, Human Resources and External Relations. Where the Panel believes it necessary, the Panel may impose a restriction on the student representing the University in any capacity.
- 5.6 The Risk Assessment Panel will consider if there are any issues relating to the student remaining in University Accommodation and may recommend a removal from accommodation or a temporary move into alternative accommodation.
- 5.7 Following the Risk Assessment Panel, the Director of Student Life or nominee will write to the reporting and responding student(s) to provide information about the outcome of the panel with details of any measures / restrictions to be put in place. The responding student is responsible for informing the Risk Assessment Panel (via the Student Conduct Team) of any change in their circumstances which may result in a change to the risks identified, i.e. change in accommodation, change of course. The Student Conduct Team will regularly review the circumstances of the case to ensure that the RAP restrictions remain relevant and proportionate.
- 5.8 The reporting party will be asked to make the Student Conduct Team aware of any alleged breach of the RAP restrictions. The Student Conduct Team will maintain contact with any reporting parties to check that the restrictions in place remain relevant and proportionate.

- 5.9 The Risk Assessment Panel will be mindful of the requirements placed on the University under data protection legislation to ensure that appropriate confidentiality is maintained for the student and any other person involved.
- 5.10 A written record will be taken of all Risk Assessment Panel meetings which will be retained by the Student Conduct Team in accordance with the retention schedule.
- 5.11 The responding student has the right to appeal against any restrictions imposed on them following a risk assessment on the grounds that the restrictions are disproportionate or that the panel did not have access to all the information. Any appeal would be considered on the basis of the statements or evidence the responding student supplies, and whether this suggests that the measures in place are disproportionate to mitigate the risks that have been identified. Appeals should be made in writing to the Executive Pro Vice Chancellor of their Faculty or their nominee within 10 working days of receipt of the outcome letter. The Executive Pro Vice Chancellor or nominee will review the restrictions and decide if they are proportionate and will inform the responding student of their decision normally within 5 working days of receipt of the appeal. The risk assessment panel will also be informed of their decision. Details of how to appeal will be contained in every Risk Assessment Outcome Letter.
- 5.12 The reporting student has the right to appeal the level of restriction imposed on the responding student on the grounds that the restrictions do not enable them to carry out their day-to-day activities safely. Any appeal would be considered on the basis of the statements or evidence the reporting student supplies and whether this suggests that the measures in place are not sufficient to mitigate the risks that have been identified. Appeals should be made in writing to the Executive Pro Vice Chancellor of the responding student's Faculty within 10 working days of receipt of the outcome letter. The Executive Pro Vice Chancellor will review the restrictions and decide if they are proportionate and will inform the responding student of their decision normally within 5 working days of receipt of the appeal. The risk assessment panel will also be informed of their decision. Details of how to appeal will be contained in every Risk Assessment Outcome Letter

## **6 University Disciplinary Procedure**

- 6.1 Misconduct dealt with by a University Disciplinary Panel is usually defined as serious misconduct, or persistent incidents of misconduct that have originally been dealt with via Local Disciplinary Action.
- 6.2 Allegations of misconduct can be made to one of the designated members of staff, via Report and Support or directly to the Student Conduct Team. The

Student Conduct Team must decide if the allegation can be dealt with under the University Disciplinary Procedure by referring to the Student Conduct Policy, section 8.3 which illustrates examples of what types of misconduct would be considered at this level. They can also refer to Appendix B – Student Conduct Breaches and Sanctions which sets out a non-exhaustive list of breaches and what category they fall into. Further advice can be sought from the Student Conduct Team if required.

- 6.3 For serious allegations of misconduct or where there is on-going police involvement, the matter should be referred to the Student Conduct Manager who will decide in conjunction with the Head of Student Conduct, Complaints and Compliance, or their nominee, if a Risk Assessment Panel is required. If required, this will be convened in accordance with the section 12 of the Student Conduct Policy and following the Risk Assessment Procedures (section 5 above) prior to any formal investigation commencing.
- 6.4 Once it has been decided that the allegation warrants being investigated under the University Disciplinary Procedure the Student Conduct Manager shall appoint an Investigating Officer, who will normally be a member of Professional Services staff. It is the responsibility of the Student Conduct Team, to ensure that Investigating Officers are given training and support appropriate to the cases they are being asked to investigate.
- 6.5 The Specialist Investigating Officers within the Student Conduct Team will normally be responsible for leading on serious student conduct investigations and will provide advice and guidance to other Investigating Officers as appropriate.

## **7 University Disciplinary – Investigation Procedure**

- 7.1 Once appointed, the Investigating Officer will write to the responding student within 5 working days of being allocated the case to advise them of the allegation, including who has made the allegation against them, what the exact nature of the allegation is and how this is considered to have breached the expected standards of behaviour. Responding students may submit a written statement at any point during the investigation should they wish to. A copy of the relevant Policy and Procedures will be provided to the student.
- 7.2 The role of the Investigating Officer is to obtain statements of facts relating to the allegation which has been made against a student and any physical evidence. No third-party evidence such as external reports may be submitted unless it is medical evidence, for example, a medical report.
- 7.3 The student is entitled to be accompanied at the investigation meeting by one other person acting as their friend. Whilst this can be a family member it is not always advisable as the most effective support for a student attending a University investigation meeting is provided by someone who understands the

University's procedures. The Guild of Students' Advice Service has trained advisers who can provide this support.

- 7.4 The Investigating Officer will write to any reporting student(s) to advise them they are the Investigating Officer and arrange for an investigation meeting to take place.
- 7.5 Prior to the responding student's investigation meeting, they will be provided with sufficient information to allow them to respond to the allegation(s).
- 7.6 Students are not able to be accompanied by a legal representative / adviser at any investigation meeting, however, they are entitled to seek legal advice at their own expense and their statements can be compiled on their behalf by persons legally qualified.
- 7.7 The Investigating Officer may hold one or more investigation meetings (in person or virtual) with the reporting party, the responding student and any witnesses. It is anticipated that the reporting student and witnesses will be spoken to before the responding student. A minimum of 3 working days' notice will be given for the meeting. It is encouraged that both the reporting and responding student seek advice from the Guild of Students Advice Service [guildadvice@liv.ac.uk](mailto:guildadvice@liv.ac.uk).
- 7.8 Reporting parties and witnesses wishing to participate in a misconduct investigation will be expected to engage fully with the procedure and this includes attending investigation meetings, agreeing meeting notes and attending University Disciplinary Panels when required to do so. Consideration will be given to any reasonable adjustments required (see section 11). Should a reporting party fail to engage with the investigation, the Investigating Officer will attempt to contact them via email and telephone. After a number of failed contact attempts, the Investigating Officer may conclude that the reporting party is no longer supportive of the investigation and may close the investigation. The reporting and responding student will be informed of this in writing. The Investigating Officer will inform the Risk Assessment Panel and any restrictions in place may be removed.
- 7.9 The Investigating Officer shall normally only accept written statements from the responding student, the reporting party, or witnesses. If another party offers to submit a statement in support of the responding student, then the Investigating Officer will ask them to submit it through the responding student.
- 7.10 Following the investigation meeting, where possible, within 5 working days, the interviewee will be provided with a copy of the notes and asked to verify them; the interviewee will be asked to confirm accuracy of the notes, or to request any amendments within 5 working days.
- 7.11 If the interviewee requests amendments to the notes the Investigating Officer will either agree to the amendments and provide a revised version to the

interviewee or disagree to the amendments, in which case copies of both the original notes and the interviewees amendments will be included in any subsequent evidence base.

7.12 The Investigating Officer can use their discretion to decide whether an investigation meeting is required or whether facts can be established by way of written statements. It is likely that written statements will be taken from certain witnesses and not from reporting or responding parties.

7.13 In conducting their investigation and reaching their determination, the Investigating Officer shall maintain an impartial view of the case, based solely on the evidence gathered. The Investigating Officer will not make any judgement on the likely outcome of any disciplinary action to be taken following their determination and will not consider any previous record of misconduct on the part of the student in reaching their determination.

7.14 On conclusion of the investigation, the Investigating Officer will produce an investigation report and evidence base and will make a recommendation to the Student Conduct Manager or nominee, that:

- There is no case to answer, no further action should be taken but a note of the investigation should be kept on the responding student's record until they graduate in case of complaint of further allegation(s); or
- There is evidence to support a breach of the Student Conduct Policy has likely occurred but that the potential breach is not sufficiently serious to be referred to the University Disciplinary Panel and can be dealt with under Local Disciplinary Action; or
- There is evidence to suggest a breach of the Student Conduct Policy has likely occurred, and the potential breach is of a serious nature such that it should be referred to the University Disciplinary Panel.

7.15 The Student Conduct Manager, or nominee, will review the Investigating Officers investigation report, evidence base and recommendations and if in agreement with it, will do one of the following within 5 working days of receiving the report:

- Write to the responding student informing them no further action is to be taken. If applicable, the reporting party will also be informed.
- Write to the relevant designated member of staff requesting they take Local Disciplinary Action, enclosing the investigation report and evidence base. Both the responding student and reporting student, if applicable will also be informed in writing of this;
- Write to the responding student to inform them their case is being referred to a University Disciplinary Panel Hearing. If applicable, the reporting

student will also be informed. They will provide a copy of the Investigating Officer's report (redacted as necessary) to the responding student. If applicable, the reporting party will receive a copy of the Investigation report with the papers for the panel hearing.

7.16 If the Student Conduct Manager or their nominee, disagrees with the recommendations of the Investigating Officer they may request they do further investigation (if required), or ask for the Head of Student Conduct, Complaints and Compliance to review the case for a final decision.

7.17 Once a decision has been reached, the Investigating Officer will contact any witnesses and inform them the investigation has concluded and advise whether they are required to attend a University Disciplinary Panel. Witnesses will not receive the investigation report or the evidence base, but they will have access to any meeting notes or witness statement they have provided if the matter is referred to a University Disciplinary Panel.

## **8 Counter Allegations during the Investigation**

8.1 Where a responding student, or their witness(es) makes a counter allegation during the investigation, the Investigating Officer will determine whether it is appropriate for these to be considered as part of the current investigation.

8.2 Where it is determined that this is appropriate, the counter allegations must be submitted in writing within 10 working days of the Investigating Officer's decision, and must be accompanied by evidence, where available. Failure to do so will result in the counter claim(s) being disregarded.

8.3 If the Investigating Officer determines that it is not appropriate for the counter claim(s) to be considered as part of the ongoing investigation, the complainant will be advised that a separate investigation will be undertaken by an alternative Investigating Officer.

8.4 If the counter claim is of a serious nature, the Investigating Officer will consult with the Student Conduct Manager to determine the next steps. All parties will be advised of the decision, the reason for the decision and the next steps and timescales for following them.

## **9 University Disciplinary Arrangements**

9.1 The Student Conduct Manager, assisted by the Student Conduct Administration Team will make the arrangements for the University Disciplinary Panel Hearing. They will convene the panel in accordance with the panel membership detailed in the Student Conduct Policy (section 11.3) and will act as Adviser to the panel during the hearing.

- 9.2 The University will conduct all University Disciplinary Panel Hearings virtually using Microsoft Teams or Zoom. Should a reporting or responding student wish for the meeting to take place in person, they must inform the Student Conduct Manager of this and the reasons for this adjustment as soon as possible after the referral to University Disciplinary Panel has been made. The Student Conduct Manager will review the reasons provided and decide whether an in-person hearing should be held. All parties will be updated in writing.
- 9.3 The responding and reporting student will be invited to the hearing via email and given a minimum of 15 working days' notice of the date of the hearing. All evidence that will be considered by the panel will be sent at the same time as the invitation. All communication with students will be sent by electronic copy to their University e-mail address unless they request otherwise. It is the student's responsibility to check their e-mails regularly whilst there is an ongoing Disciplinary process.
- 9.4 Should any party wish to submit any supplementary evidence and/or statements in addition to the evidence bundle they have already received to be considered by the panel, they must do so at least 7 working days before the hearing but earlier if possible. This additional information will be circulated to all parties, including the reporting party (if applicable) but excluding witnesses, at least 5 working days before the hearing.
- 9.5 Late submission of supplementary evidence and/or statements by any party will not normally be included and it is not normally permitted for papers to be tabled at the meeting (with the exception of cases where proportionate adjustments have been made). If there is good reason why evidence and/or statements couldn't have been submitted in time, they may be permitted. This will be reviewed on a case-by-case basis.
- 9.6 Where necessary, to protect the identity of individuals not involved in the case, notes and evidence may be suitably redacted. Whilst neither the Adviser to the Panel nor the Investigating Officer may refer to a student's previous misconduct, registration, immigration status or academic performance, references made to these issues by the responding student or their supporters in written statements will not normally be redacted. If a reporting student refers to these issues, a decision will be taken whether to redact this or not.

## **10 University Disciplinary- Right to Representation**

- 10.1 The reporting and responding student are entitled to be accompanied at the hearing by one other person acting as their friend. Whilst this can be a family member it is not always advisable as the most effective support for a student attending a University Disciplinary hearing is provided by someone who understands the University's procedures. The Guild of Students' Advice Service

has trained advisers who can provide this support. The University recommends that reporting and responding students should seek the assistance of the Guild of Students Advice Service.

- 10.2 The role of the person accompanying a student to a hearing is to support the student. The Panel will wish to hear predominantly from the reporting and responding students directly. A person accompanying a student to a hearing as their friend or legal representative may be invited at an appropriate point in the procedure to address the Panel. The reporting or responding students are responsible for the behaviour of the person accompanying them at the hearing. If the Chair deems that the friend / supporter is not acting in the best interests of the student, the Chair has the right to remove the friend / supporter and / or prevent the friend / supporter from participating in the process any further.
- 10.3 It is not normally necessary for students to bring legal representation to the University Disciplinary Panel Hearing. Any requests to bring legal representation will be decided by the University Secretary on a case- by- case basis taking into consideration if there is good reason to do so by reviewing the complexity of the case and potential consequences for the student. Students should make any request to bring legal representation as soon as possible to give the University Secretary reasonable time to review the request. The Panel would not normally accept a late decision by a student to seek legal advice to constitute grounds for postponement of a hearing date.
- 10.4 Any costs related to legal representation at the Panel hearing shall be borne by the student. Students are also entitled to seek legal advice at their own expense and have any statements compiled on their behalf by persons who are legally qualified.
- 10.5 If a responding student is permitted to be legally represented at a University Disciplinary Panel, it is not expected that the University or the reporting party will also be legally represented, however the University reserve the right to be legally represented, if required. The reporting party will be advised that the responding student will be legally represented at the hearing.
- 10.6 A student who wishes to be accompanied by anyone other than a legal representative, must inform the person arranging the hearing at least 7 working days before the hearing date and provide contact details of the accompanying person to be included in the circulation of the papers.

## **11 University Disciplinary – Witnesses**

- 11.1 In the event that a responding student denies the allegation(s), witnesses may be called by the responding student and the University (if applicable). Students must ensure that the names and contact details of all their respective witnesses



are communicated to the person arranging the hearing not later than 7 working days before the hearing.

- 11.2 It is anticipated that any witnesses called by either party will be witnesses to actual events / disclosures etc and not simply character witnesses. If a responding student wishes to submit character references, this can be done so in writing prior to the circulation of the final evidence base (7 days prior to the Panel hearing).
- 11.3 They must also ensure that their respective witnesses are informed of the date, time, and place of the hearing and are able and willing to attend. It is the responsibility of each party, to ensure that the witnesses are ready to appear when they are called.
- 11.4 In cases where there is a reporting student, it is expected that they will be available to attend the University Disciplinary Panel Hearing.
- 11.5 Reporting students or witnesses in cases of a traumatic nature (such as sexual misconduct, violent or abusive conduct) will be asked if there are any reasonable adjustments the University can make to facilitate their participation in the hearing. Such adjustments could include providing a statement by video link, by pre-recorded video or audio, or a written statement; providing separate waiting rooms for the reporting student/witness and the responding student; or allowing the reporting student/witness to be accompanied by a friend as they give evidence. Each adjustment will be considered on a case-by-case basis. This list is not exhaustive, other reasonable adjustments can be used if deemed appropriate.
- 11.6 Reporting students and witnesses will be required to wait in a waiting room (physical or online) until they are called. It is not possible to run a hearing to any kind of timetable. After they have given evidence, reporting students or witnesses will be required to retire to the waiting room if any need to recall them is anticipated by either party. Otherwise, the Chair of the Disciplinary Panel may ask them to leave as soon as they have finished giving their evidence. Reporting parties and witnesses are not permitted to remain to observe the hearing after they have given their evidence unless they are recalled. Reporting students are permitted to wait for the outcome of the University Disciplinary Panel and should a breach of the Student Conduct Policy be found to have taken place, the reporting party can provide an impact statement to the panel. This can be done in person or can be written and read out by the Adviser to the panel at the appropriate time.
- 11.7 Witnesses will not be called if a student admits a breach.

## **12 University Disciplinary - Attendance at the Hearing**

- 12.1 The University believes that it is in the best interests of responding students for them to attend a hearing of the University Disciplinary Panel, so they are normally expected to be present. Reporting students are also expected to attend the hearing. See section 11.5 above for information on reasonable adjustments.
- 12.2 The University believes that it is in the best interests of reporting and responding students for Panels to take place as soon as possible. If either party can provide good reason (with supporting evidence where necessary) that they cannot attend e.g. ill health, academic commitments (other than normal scheduled classes) they may request a postponement. In any request for a postponement, the requester should also indicate their earliest availability.
- 12.3 If dates are outside of term time the Student Conduct Team will work with all parties to identify a suitable date.
- 12.4 Responding and reporting students may not normally request a postponement because of the non-availability of any person who they wish to accompany them to the hearing or of a witness.
- 12.5 Postponement of a hearing shall be at the discretion of the Adviser who is arranging the hearing, on consideration of the responding or reporting student's request. Under normal circumstances any re-scheduling of a hearing would take place within 3 months at the latest and both parties will not be permitted more than one request to postpone.
- 12.6 In the event that a postponement is not granted, the hearing shall proceed on the date set and the responding and reporting student must decide whether or not to attend or to be unrepresented at the hearing.
- 12.7 In the event that the responding student indicates that they do not wish to attend the hearing, they must provide the person arranging the hearing with a statement which clearly sets out whether they wish to admit or deny the allegation(s) and, if they wish to deny the allegation(s), their case for doing so.
- 12.8 A decision by a responding or reporting student not to attend the hearing shall not be regarded as valid grounds for subsequent appeal against a decision of the University Disciplinary Panel.

## **13 University Disciplinary - The Hearing**

- 13.1 The meeting will commence with the Chair introducing those in attendance and explaining the scope of the Panel.
- 13.2 The responding student and any representatives or friends will be asked to introduce themselves and clarify the role of each person.

- 13.3 The Chair will ensure all attendees have received a copy of the evidence base along with a copy of the relevant policy and procedures.
- 13.4 The Chair will ask the responding student whether they admit or deny the alleged breach(es).
- 13.5 If the responding student admits the alleged breaches Procedure A will then be followed. If the alleged breaches are denied, in full or in part, procedure B will be followed.

#### **14 University Disciplinary - Procedure A: Follow if the student admits the allegation.**

- 14.1 The Chair will invite the Investigating Officer to present their findings.
- 14.2 The Chair will invite the responding student to make a statement.
- 14.3 If applicable, the Chair will invite the reporting party into the hearing and will advise that the responding student has admitted the alleged breach(es) of the Student Conduct Policy. The Chair will invite the reporting student to make an impact statement. Alternatively, this will be presented to the Panel by the Adviser. This statement may detail the impact the breach of the policy has had on them, measures they would wish to be put in place to protect their safety and their views on potential sanctions. The reporting student will then be asked to leave the hearing. They can remain available if they wish to hear details of the sanctions imposed which are relevant to them.
- 14.4 The Chair will ask the responding student if they wish to add anything further. The responding student has the right to respond to anything raised in the reporting party's impact statement during this time. It is not an opportunity to raise counter allegations as that should have occurred during the investigation.
- 14.5 The Chair will invite the responding student to raise any mitigating factors they would like the panel to take into consideration. At the Chair's discretion, members of the Panel may question the student but only in relation to the plea in mitigation, not in relation to the facts of the case itself.
- 14.6 The Panel will receive evidence from the Adviser of any record of previous misconduct on the part of the responding student.
- 14.7 All parties except members of the Panel, the Adviser and any Note-Taker and/or Observer, will be asked to withdraw from the room / online meeting whilst the Panel considers its finding regarding any sanction to be imposed.

- 14.8 The responding student and their friend/representative (if present) will be invited to return, and the Chair will announce the decision of the Panel in respect of any sanction to be imposed and, where appropriate, issue a warning regarding the consequences of any further breaches of the Student Conduct Policy. The student will be informed of their right to appeal. The responding student is then free to leave the hearing.
- 14.9 The reporting student, if applicable, will then be invited back into the hearing and will be informed of any sanction to be imposed which is relevant to them.
- 14.10 The Chair will close the hearing.
- 14.11 Post hearing, an outcome letter is sent to both the responding student and the reporting student (see Procedures for after a University Disciplinary meeting), which will also include details of the appeals procedures.

### **15 University Disciplinary - Procedure B: Follow if responding student denies all or part of the allegation(s):**

- 15.1 The Chair will invite the Investigating Officer to present their findings.
- 15.2 The Investigating Officer can then be asked questions by the Panel and the responding student or their representative.
- 15.3 The reporting party will be invited into the hearing and the Panel will introduce themselves. The Chair will explain that the Panel, the Investigating Officer and the responding student (or representative) may have questions for them to clarify their understanding of the events. The reporting student will then be questioned by those outlined above. Any questioning of the reporting party by the responding student or their representative will be asked via the Chair of the Panel. Once questioning has finished, the reporting party will be asked to leave the room. They can remain available if they wish to hear the decision of the panel.

*Note: The Panel Chair will use their judgment to decide whether the responding students' (or representatives) questions are reasonable. Examples of unreasonable questions would include any matter that is not relevant to the case, including questions about the reporting party's previous sexual history or how they were dressed in cases of sexual misconduct.*

- 15.4 The Investigating Officer will be asked if they have any witnesses to call. If yes, witnesses will be invited into the hearing at the appropriate time.
- 15.5 The Panel will introduce themselves to the witness and advise that the Panel, the Investigating Officer and the responding student (or their representative) may have some questions for them. The witness will then be questioned by those

outlined above. Questions from the responding student (or their representative) will be asked via the Chair of the Panel. Once questioning of the witness has finished, they will be asked to leave the hearing.

- 15.6 The responding student will be invited to make a statement regarding the alleged breach(es). Members of the Panel and the Investigating Officer may ask questions of the responding student to seek clarification of events.
- 15.7 Any witnesses that the responding student wishes to call to support their case will be invited into the room individually. They will be introduced to the Panel and advised that the Panel, the Investigating Officer and the responding student may have some questions for them. They will then be questioned by those outlined above. Once questioning has finished witnesses will be asked to leave the room.
- 15.8 The Chair will ask the Investigating Officer if they have anything further to add.
- 15.9 The Chair will ask the responding student if they have anything further to add.
- 15.10 Once the Chair is satisfied that the Panel has completed its questioning and that the responding student has had a full opportunity to convey information to them, the Chair will ask the responding student, their friend or representative as well as the Investigating Officer to withdraw, so that the Panel may consider its findings about the alleged breach(es).
- 15.11 If for any reason the Panel requires further clarification of any aspect of the case from any participant, then where applicable the relevant parties and the responding student, will be invited back into the hearing while the questioning takes place. They will then leave the hearing again. The same adjustments will be put into place for the reporting student that were there for the initial questioning.
- 15.12 Once the Panel has agreed their findings, the responding student (and friend / representative accompanying them, if applicable) will be invited to return to hear the Panel's determination as to whether it finds a breach of the Student Conduct Policy has occurred or not.
- 15.13 If a breach is found not to have occurred the responding student will be informed of this finding, and will then be asked to leave.
- 15.14 The reporting student will then be invited back into the hearing and will be informed of this finding, after which the Chair will close the hearing.
- 15.15 If a breach is found to have occurred, in full or in part, the responding student will be informed of this finding and will be asked to remain in the room. The reporting student will then be invited back into the hearing and will be informed of

this finding and will be invited to make a statement regarding the impact of the events, and any concerns they have for their future safety. They may include in their statement, what measures they think should be in place to ensure their future safety. The reporting party will then be asked to leave the hearing.

15.16 The Adviser will present evidence of any previous record of misconduct by the responding student.

15.17 The responding student will be invited to make a statement of reflection, including any mitigating factors.

15.18 The responding student and their friend/representative (if present) will be asked to withdraw for the Panel to consider what sanction(s) to impose.

15.19 The responding student and their friend/representative (if present) will be invited back into the meeting to hear the Panel's decision in respect of any sanction to be imposed and, where appropriate, issue a warning regarding the consequences of any further breach of the Student Conduct Policy. The student will be informed of their right to appeal. The outcome will also be sent to the responding student by email. The responding student and their friend / representative (if present) can leave the hearing at this point.

15.20 The reporting student will then be invited back into the hearing and will be informed of any outcome / sanctions relevant to them, after which the Chair will close the hearing. The outcome will also be sent to the reporting student by email.

15.21 The above procedure will be utilised in the majority of University Disciplinary Panel Hearings. Due to the nature of certain hearings, the running order of the hearing may change, and this will be at the discretion of the Panel Chair and Panel Adviser. Students will be advised prior to the hearing should any deviation from the above procedure be required.

## **16 University Disciplinary - Procedures after a Hearing**

16.1 Following a University Disciplinary hearing, the Note-Taker will prepare the minutes of the hearing for approval by the Chair.

16.2 Following the approval of the minutes, the Adviser will notify the responding student and the reporting party in writing of the outcome of the hearing and of their right to appeal, setting out clearly the grounds for appeal and the procedures which will be followed in considering any appeal.

16.3 A copy of the letter to the responding student shall also be sent to all relevant parties.

16.4 If the student is studying on a joint or dual award programme or is studying at the University of Liverpool on an exchange programme, relevant staff at the student's other institution may also be sent a copy of the letter. Except where a breach is found not to have occurred, the letter shall be placed on the student's central record and shall be referred to should the student appear on any further occasion before a University Disciplinary Panel.

16.5 All decisions of the University Disciplinary Panel shall be reported to the Senate and the Council annually on an anonymised basis.

## **17 University Disciplinary – How to Appeal**

17.1 Any appeal must be submitted in writing to the Director of Student Experience and Enhancement, with a copy to the Student Conduct Team (studentconduct@liverpool.ac.uk) within 10 working days of receipt by the student of the outcome letter. For the purposes of this deadline, the date of receipt shall normally be taken to be the date on which the letter was sent to the student's University or other agreed email address.

17.2 Where either reporting or responding student exercises their right of appeal, any decision by the University Disciplinary Panel including any sanctions, will remain in force until the outcome of the appeal. This means that any registration or immigration implications for the student will still apply during the appeal process.

17.3 The written appeal, which should be submitted electronically, must include the following:

- The student's name and ID number.
- The date of the hearing of the University Disciplinary Panel.
- The date on which the student received the outcome letter.
- A clear statement of the grounds on which the student is making the appeal (see section 18 below) and all supporting evidence must be submitted with the appeal.

17.4 Late submission of supporting evidence may not be accepted unless the student demonstrates that there was good reason that the evidence could not be provided in time.

## **18 University Disciplinary – Grounds for Appeal**

18.1 Responding and reporting students shall have a right of appeal against the finding of a University Disciplinary Panel and/or a sanction imposed by them.

18.2 Where the responding student has admitted an allegation, they may only appeal against the sanction.

18.3 Where the **responding** or **reporting** student submits an appeal against the **finding** of the University Disciplinary Panel the grounds on which such an appeal may be submitted are as follows:

- a) That the procedures were not followed properly.
- b) That the decision maker(s) reached an unreasonable decision.
- c) That new material evidence exists that the student was unable, for valid reasons\*, to provide earlier in the process.
- d) That there was bias, or reasonable perception of bias during the procedure.

18.4 Where the **responding** student submits an appeal against the **sanction** imposed by the University Disciplinary Panel, the grounds on which such an appeal may be submitted are as follows:

- a) That new material evidence exists which, for valid reasons\*, the student was not able to provide earlier in the process and which could have ordinarily been considered, in mitigation, by the University Disciplinary Panel, when it determined the sanction imposed;
- b) That the sanction imposed was disproportionate, or not permitted under the procedures.

18.5 Where a **reporting** student submits an appeal against the **sanction** imposed by the University Disciplinary Panel, the grounds on which such an appeal may be submitted are as follows:

- a) The reporting student believes that the Panel ignored their request to apply a specific sanction in order to ensure they can safely carry out their day-to-day activities;
- b) There is compelling evidence that the sanction imposed was not proportionate to the breach committed.

\*The student will be expected to demonstrate why there was a valid reason that the information was not available at the time of the University Disciplinary Panel. Sensitivity of the information will not normally be considered to be a valid reason.

## **19 University Disciplinary - Powers and Membership of the Disciplinary Appeal Panel**

19.1 The Appeals Panel has the authority to confirm, set aside, increase, decrease or otherwise vary any sanction(s) imposed by the University Disciplinary Panel.



19.2 The Panel has the authority to impose an appropriate sanction in line with those set out in Appendix B Student Conduct Breaches and Indicative Sanctions.

19.3 The Panel membership will be the same composition as stated in the Student Conduct Policy section 11.3. No Panel members who were involved in the original hearing shall take part in the appeal hearing.

## **20 University Disciplinary - Procedures Prior to a Disciplinary Appeal Hearing**

20.1 Following receipt of an appeal from either the reporting party or the responding student, the Director of Student Experience and Enhancement, or nominee will determine whether the grounds of appeal have been met.

20.2 If the grounds of appeal have not been met, the student will be issued with a Completion of Procedures letter explaining why the grounds have not been met so that they can refer their case to the Office of the Independent Adjudicator for Higher Education if they so wish.

20.3 If the grounds for appeal have been met, the appeal will be referred to the Disciplinary Appeal Panel and the procedures set out below will be followed:

20.4 Responding and reporting students will be notified that an appeal has been received and the basis of the appeal.

20.5 The Adviser to the Disciplinary Appeal Panel will schedule a meeting and notify all relevant parties of the date, giving a minimum of 10 working days' notice.

20.6 No less than 5 working days prior to the meeting the Adviser shall provide all parties with the appeal documentation. This will include:

- The new information or evidence provided by the student which for good reason was not available at the time of the University Disciplinary Panel.
- The statement of appeal and the grounds on which the appeal has been accepted.
- All information considered by the University Disciplinary Panel at the original hearing.
- The minutes of the meeting of the University Disciplinary Panel.
- Any subsequent report completed by an Investigating Officer (if appropriate).

20.7 If the responding student denied the alleged breach(es) at the University Disciplinary Panel hearing, witnesses may be called by both the appellant and the University.

## **21 Procedures during a Disciplinary Appeal meeting**

- 21.1 The Chair will introduce the members of the Panel and invite all present to introduce themselves.
- 21.2 The student who has submitted the appeal is referred to as the appellant, the other student is referred to as the student in this section.
- 21.3 The Chair will summarise the findings of the University Disciplinary Panel and the reasons for those findings.
- 21.4 The Chair will explain the grounds for appeal, referencing the new evidence or arguments put forward by the appellant.
- 21.5 If new evidence has been presented, the Chair will invite the Investigating Officer, if present, to present their findings following receipt of this new evidence.
- 21.6 The Investigating Officer and any witnesses called by the University will be questioned by the panel and the appellant.
- 21.7 The Chair will invite the appellant (or their representative) to make a statement.
- 21.8 The Chair will invite the student (or their representative) to make a statement.
- 21.9 Witnesses nominated by the appellant will be questioned by the panel. The student may also question these witnesses.
- 21.10 The Chair will invite the appellant or their representative to make a closing statement if they wish to.
- 21.11 The Chair may also invite the student or their representative to make a closing statement.
- 21.12 The Chair shall ask all parties except the members of the Panel, the Adviser and the Notetaker to withdraw from the hearing whilst the Panel considers the appeal and whether any changes should be made in relation to the findings of and/ or sanction imposed by the University Disciplinary Panel.
- 21.13 Those that were asked to leave the room will be invited to return and the Chair will announce the finding of the Panel in respect of whether the appeal is

upheld and the decision of the Panel in respect of any sanction to be imposed.

21.14 The Chair will close the meeting.

## **22 Procedures after a Board of Appeal Meeting**

22.1 No more than 10 working days after the meeting, the Adviser to the Panel will notify the appellant and student of the outcome of the hearing in writing.

22.2 The outcome letter will include a Completion of Procedures letter so that the student can refer their case to the Office of the Independent Adjudicator should they wish to.

## **23 External Review.**

23.1 The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review student complaints and appeals. The University of Liverpool is a member of this scheme. If a student is unhappy with the outcome, they may be able to ask the OIA to review their complaint or appeal. Students can find more information about making a complaint to the OIA, what it can and can't look at and what it can do to put things right if something has gone wrong at <https://www.oiahe.org.uk/>

23.2 A student normally needs to have completed the Appeals procedure before they can complain to the OIA. The University will send a student a letter called a "Completion of Procedures Letter" when they have reached the end of the University processes and there are no further steps the student can take internally. Students can find more information about Completion of Procedures Letters and when they should expect to receive one at: <https://www.oiahe.org.uk/providers/completion-of-procedures-letters>.