

STUDENT DISCIPLINARY POLICY & PROCEDURE

We regularly review and update our regulations and policies, including this policy. Accordingly, the following changes have been made from the Student Disciplinary Policy and Procedure in place during the 2020-2021 academic year.

Clause(s)	Description
1.4	Adding back in Head of Cases role as designated Disciplinary Officer in place of the FXPlus Director of Student Library Services
2.1	Clarification on University roles and reporting routes
2.7	Amendments for main register of cases to be held within QAE
2.8	Added expected timeframe for initial disciplinary investigation
4.1	Removal of Director of Student Library Services from police process
4.6	Updated to reflect removal of deputy VC roles
5.1	Removal of unknown student from disciplinary committee membership as is not current practice
5.4.4	Amendment to disciplinary committee attendees to include a friend or family member
5.4.9	Updated to reflect new investigatory officer role
5.4.11	Updated to reflect new investigatory officer role
7.1	Updated to explicitly outline sexual harassment and sexual misconduct as an indicative type of misconduct

Key facts

You should familiarise yourself with the entirety of this policy, and we would particularly draw your attention to the following elements:

Clause(s)	Description
1.5	The burden of proof of the allegation of misconduct lies with the person or persons alleging the misconduct. The judgement of the allegation will be based on balance of probabilities. The seriousness of the offence will be considered in assessing the cogency, weight and quality of evidence presented.
4.4.	It is deemed a disciplinary offence for a currently enrolled student of the University to withhold information of a previous unspent criminal conviction.
5.4.4	A student may be accompanied at the meeting by one of three categories of individuals. This must be notified to the Committee in advance.
5.4.5	A Disciplinary Committee may proceed in the absence of, or any response from, the student.
7	Provides a list of indicative types of misconduct, but this is not exhaustive or definitive.

1 Introduction

- 1.1 This Policy and Procedure relates to non-academic misconduct. Academic misconduct is addressed within the University's Academic Integrity Policy.
- 1.2 The Vice-Chancellor is ultimately responsible for maintaining discipline among students of the University, and in this, students can expect them to be assisted by all University staff.
- 1.3 The discharge of this responsibility in respect of making decisions in respect of student conduct is delegated by the Vice-Chancellor to:
- Disciplinary Officers; and
 - The University Student Disciplinary Committee.
- 1.4 The following are nominated by the Vice-Chancellor as Disciplinary Officers:
- The Head of Student Cases & Advice (in normal circumstances the first point of contact); and
 - The Head of Quality Assurance & Enhancement

In this Policy and Procedure, the term Disciplinary Officer includes the Disciplinary Officer's nominee.

- 1.5 The burden of proof of the allegation of misconduct lies with the person or persons alleging the misconduct. The judgement of the allegation will be based on balance of probabilities. The seriousness of the offence will be considered in assessing the cogency, weight and quality of evidence presented.
- 1.6 The University will not investigate anonymous allegations. However, concerns can be reported anonymously using the shared *Falmouth and Exeter Speak Out* platform (<https://www.exeter.ac.uk/about/speakout/report/cornwall/>)

2 Procedure

- 2.1 Any member of the University who becomes aware of what they consider to be misconduct (see section 7) by any student, shall in the first instance report such a breach, normally in writing, to gae@falmouth.ac.uk for attention of a Disciplinary Officer or where they require support to Student Support Services for initial consultation. The Disciplinary Officer may:
- determine that the evidence is conclusive upon receipt of the initial report (for example boyworn camera footage showing the event) not requiring any further enquiry; or
 - organise an investigation of the matter (for example where numbers of students are involved, or where there are serious issues to be determined); or
 - request the student's Head of Subject or nominee to make such enquiries as are deemed necessary to confirm the facts reported and to forward the results of such enquiries to the Disciplinary Officer who will determine the seriousness of the incident.

- 2.2 During the course of any enquiry the student will be informed about what is alleged against them and be afforded the opportunity to make such reply as they may wish, normally in an investigatory meeting, held with the Disciplinary Officer or nominee. The written report of the meeting will be shared with the student.
- 2.3 If the enquiry reveals that the student may be suffering from mental health, psychological, personal or emotional difficulties the Health, Wellbeing and Support for Study policy may be invoked as a more appropriate mechanism, depending on the individual circumstances of the case.
- 2.4 The Disciplinary Officer will determine which one or more of the following measures may be taken and will inform the student in writing:
- a) take no further action;
 - b) reprimand the student;
 - c) require the student to give a written undertaking as to their future conduct within the University which may take the form of a signed and dated Behaviour Agreement;
 - d) require the student to pay for any damage to property they have caused;
 - e) require the student to pay a fine not exceeding £250 (part or all of which may be suspended for a period);
 - f) require the student to participate in restorative justice (such as providing a written apology);
 - g) require the student to attend appropriate workshop(s) or meeting(s) with appropriate agencies (e.g. with a drug/alcohol treatment charity, etc.);
 - h) refer the matter to the University Student Disciplinary Committee.
- 2.5 In the case of 2.4 (b)-(g) the student shall have the right to appeal through the University's appeals procedure.
- 2.6 Any case of a student failing to comply with paragraphs 2.4 (c)-(g) should be reported to the Disciplinary Officer who may take appropriate further action including referring the matter to the University Student Disciplinary Committee under paragraph (h).
- 2.7 Disciplinary Officers will ensure completed casefiles containing all relevant correspondence and notes of meetings are maintained in a central register of student disciplinary procedures and outcomes. Where a case involves investigation by Student Support staff they will also hold a register of such cases and outcomes.
- 2.8 Initial disciplinary review and decision should be conducted within 30 working days from formal receipt of misconduct report.

3 Suspension

A student who is subject to the provisions of this Policy and Procedure may be suspended under the provisions of the **Behaviour Agreement and Suspension Policy**.

4 Criminal offences, the police and action under this procedure

- 4.1 The University will refer concerns to the police where it considers it appropriate to do so and will co-operate with the police in their investigation of an alleged breach of the law or of any matter that may involve a student of the University. The Investigatory or Disciplinary Officer shall record and forward such information to the Head of Quality Assurance & Enhancement. QAE should normally be notified of any such referrals in advance and in any event should be notified as soon as possible.
- 4.2 Conduct which may constitute a criminal offence may also amount to misconduct under this procedure. Therefore, in addition to any criminal process, this conduct may also be dealt with under this procedure.
- 4.3 Where a student's conduct comes under investigation by the police, the University's own investigations into alleged misconduct or proceedings under this procedure may be deferred until such time as the police and/or courts have completed their investigations and proceedings. The University may also, as appropriate to the circumstances, at any time, suspend a process already underway under this procedure. In determining whether to commence or proceed with any action or process under this procedure, the University is not bound by the outcome of any police or criminal investigation or prosecution. However, 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 under this procedure.
- 4.4 It is deemed a disciplinary offence for a currently enrolled student of the University to withhold information of a previous unspent criminal conviction (see the University's **Criminal Convictions Policy**). Should such information subsequently come to light, the student will be subject to the provisions of this policy.
- 4.5 Any student receiving a custodial sentence of four weeks or more will be unlikely to be able to satisfy the academic demands of a course of study and in accordance with the Academic Regulations, this will result in intermittence, withdrawal or the application of the Health, Wellbeing and Fitness to Study policy.
- 4.6 Notwithstanding any provision within the Policy on Suspension or elsewhere, should it be considered that there is an immediate and serious risk to the University community and/or to the University's reputation as a result of a student's actual or alleged misconduct, the Vice-Chancellor may suspend the student with immediate effect pending the outcome of the court case. Recommendations regarding immediate suspension or exclusion may be made by Disciplinary Officers to the Vice-Chancellor, following appropriate consultation.
- 4.7 The University will not normally investigate complaints about student behaviour, made by non-students, in privately managed properties but will work closely with the police and/or environmental health to help their investigation as appropriate. If the police and/or environmental health identify individual students as being persistently involved in noise complaints or anti-social behaviour, then the University may take appropriate disciplinary action.

5 The University Student Disciplinary Committee

5.1 Membership

The Committee shall comprise:

- a) Vice-Chancellor's nominee who will act as chair;
- b) two senior (Head of Subject/Professional Services equivalent or above) members of staff of the University to include at least one academic member of staff (staff sitting on the Committee shall have no direct connection with the student's case);
- c) the Students' Union President Falmouth or another elected officer as nominated by them.
- d) Head of QAE (or nominee) as Secretary.

5.2 Quorum

A quorum of the Committee shall be at least three members including the Chair.

5.4 Procedures of the Committee

- 5.4.1 The Committee may make such enquiries as are deemed necessary to confirm the facts reported to it and to determine the seriousness of the incident. During any enquiry the student will be informed about what is alleged against them and be afforded the opportunity to make such reply as they may wish.
- 5.4.2 The Head of QAE or nominee will inform the student in writing (e.g. email to University email address) that a University Student Disciplinary Committee is being convened. A copy of these procedures shall be forwarded to the student, along with any information, evidence, to be presented to the Committee. A student shall have the right to appear and be heard at the University Student Disciplinary Committee and will be invited to attend the Committee.
- 5.4.3. The student will be given notice of at least five (5) working days of the Committee meeting. Committee meetings may be held online or in person at the discretion of the Chair. Students may respond in writing, if they do not wish to attend. If responding in writing, the student should outline any relevant factors that the student would like the Committee to consider.
- 5.4.4 The student may be accompanied at the meeting of the University Student Disciplinary Committee by one other person if they wish. That person should normally be one of the following:
 - a) a family member or friend
 - b) a representative from The Students' Union or other individual providing advice to the student;
 - c) an accessibility or academic support worker.

If the student is bringing another person with them, they must confirm with QAE at least twenty-four hours in advance of the meeting who that person will be. The person accompanying the student under consideration will not normally be allowed to make representations on the student's behalf other than in exceptional circumstances (for example, where the student has a disability which affects their ability to communicate). This must be agreed in advance of the meeting.

- 5.4.5 Any meeting of the University Student Disciplinary Committee may proceed (and any outcomes valid) in the absence of, or any response from, the student(s) (whether due to non-attendance in person or non-engagement with the process) provided that the stipulated notification of the meeting has been sent to the student.
- 5.4.6 The Committee shall have the right to order its own business and call for such reports, witness statements and consider such other evidence as it may deem necessary to reach a decision.
- 5.4.7 The student shall have the right to provide additional evidence not already within the committee papers. Additional evidence provided by the student will be subject to scrutiny by the Committee and other parties involved with the case.
- 5.4.8 The Committee will not usually receive 'live evidence' other than discussion with the student(s) whose alleged behaviour is under consideration at the Committee. The student shall have the right to question evidence obtained by the Committee.
- 5.4.9 The Committee shall first receive a statement from the Disciplinary Officer and/or Investigatory Officer setting out the reason for referral and the perceived facts of the allegation.
- 5.4.10 On completion of the case against the student, the case for the student(s) will be entitled to state their response to the allegation(s) drawing the committee's attention to evidence or other pertinent facts that they believe to be inaccurate, in support of their case or provides mitigation for their actions.
- 5.4.11 The Committee may question the Disciplinary Officer, Investigatory Officer, and the Student. Following completion of the Committee's questions, the student may make a closing statement to the Committee. The student and any accompanying support must then leave whilst the Committee considers its final decision.
- 5.4.12 After consideration of the case the Committee may take one or more of the following courses of action:
 - a) dismiss the case;
 - b) issue a reprimand;
 - c) require the student to give an undertaking as to their future conduct which may take the form of a signed and dated Behaviour Agreement;
 - d) require the student to pay for any damage to property they may have caused;
 - e) require the student to pay a fine determined by the University Student Disciplinary Committee (part or all of which may be suspended for a period);

- f) require the student to participate in restorative justice (such as providing a written apology);
- g) require the student to attend appropriate workshop(s) or meeting(s) with appropriate agencies (e.g. with a drug/alcohol treatment charity, etc.);
- h) recommend to the Vice-Chancellor that the student be excluded for a defined period and/or on specified terms;
- i) recommend to the Vice-Chancellor that the student be expelled.

5.4.13 The decision of the University Student Disciplinary Committee and the grounds for the decision shall be given to the student in writing, by the Chair or their representative, within five (5) working days of the meeting of the Committee.

5.4.14 In the case of a student failing to comply with 5.4.12 (c)-(g) the University Student Disciplinary Committee may re-consider the matter.

6 Appeal

A student may appeal the outcome from the University Student Disciplinary Committee through the University's **Appeals Procedure**. Any exclusion or expulsion ordered by the Vice-Chancellor following recommendation from the University Student Disciplinary Committee shall remain in force pending the outcome of such an appeal.

7 Misconduct

7.1 The following is indicative of types of misconduct but is not intended to be exhaustive:

- Engaging in conduct either on or off the University premises which is in breach of any Statute, Ordinance, Regulation, policy, procedure, code of practice or other rule of the University or the law of the land including but not limited to the University's policies on Equality and Diversity and Health and Safety (including not following instructions or procedures relating to preventing the spread of disease).
- Sexual harassment (as defined by Section 26(2) of the Equality Act 2010)
- Physical and virtual sexual misconduct including distributing/sharing private and personal explicit images or video footage of an individual without the consent of all parties
- Behaviour or language (whether in a physical or virtual environment) which is violent, indecent, disorderly, threatening, offensive or causes fear or distress to others. (for example, deliberate disrupting, or facilitating the disruption of a taught session, or threatening members of the University community)
- Malicious or reckless damage to or theft of University property or the property of any student or member of staff.
- Harassment or bullying of any member of the University or any visitor to the University (whether in a physical or virtual environment).
- Vexatious complaints or allegations of misconduct that are found to be mischievous or malicious.

- Misappropriation of University or The Students' Union funds or assets.
- Fraudulent activity or claims – academic, personal, and/or financial – including the non-disclosure of any previous unspent criminal convictions.
- Conduct which prevents, obstructs or disrupts the holding of, or orderly conduct of, any meeting or other lawful assembly in the University (e.g. preventing a speaker from lawfully expressing their views).
- Any action likely to cause injury to any person or impair the safety of the premises, including interference with health and safety access routes, equipment and/or materials.
- Use, possession, buying or selling of illegal drugs or other illegal intoxicating substances on University premises.
- Any behaviour or action of a kind which is likely to bring the name of the University into disrepute or which reflects adversely on the relationships which the University seeks to maintain with the local community.
- Extremist views (whether in a physical or virtual environment) that risk drawing people into terrorism

8 Definition of terms

8.1 **Expulsion** is compulsory, permanent withdrawal from the University. A student who is expelled ceases to be a member of the University and does not retain their student status from the date of expulsion. From that date, the student may not reside in the University or have any access to any of its facilities (academic, social or sporting) or premises. No further assessment activity will be undertaken regarding the student.

8.2 An order of **exclusion** involves a permanent or time-limited sanction or sanctions imposed as the outcome of a disciplinary procedure. The sanction(s) may include either or both of the following:

- a) that the student may not remain in accommodation in University and/or may be forbidden to use all or specified facilities of the University (academic, residential, social or sporting) but remains a member of the University expected to fulfil their academic commitments. The student formally retains their student status.
- b) that the student, whilst retaining their student status, should have no contact of any kind with a named person.

VERSION CONTROL

PURPOSE/CHANGE	AUTHOR	DATE
Original document for approved at AQSC.	Student Services / QAE	2015
Updates to the clauses below following approval at Academic Board: 1.4; 4.1; 4.6; 5.4.11	Student Services / QAE	12/07/2017
Minor updates to job title (1.4, 2.7, 4.1) and policy title 2.3 and amendment of the expectations of evidence and process	QAE	22/07/2020
Updates to roles & responsibilities within the University (1.4, 2.1, 2.7, 4.1, 4.6, 5.4.9, 5.4.11), updates to committee attendess (5.1, 5.4.4), added expected timeframe (2.8), added further examples of misconduct (7.1)	QAE	02/07/2021