

## **STUDENT DISCIPLINARY POLICY AND PROCEDURE**

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### **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 Principal of Bodmin College and The Vice-Chancellor of the University are ultimately responsible for maintaining discipline among students of Bodmin College and partner The University, and in this, students can expect both the Principal and The Vice-Chancellor to be assisted by all Bodmin College and partner The University staff.
- 1.3 The discharge of this responsibility in respect of managing student conduct is delegated by the Bodmin College's Principal and the Vice-Chancellor of the University to:
- Bodmin College's Senior Leadership Team;
  - Disciplinary Officers; and
  - The University's Disciplinary Committee.
- 1.4 The following are nominated by the Principal of Bodmin College and The Vice-Chancellor of the University as Disciplinary Officers:
- Bodmin College's Director of Business and Vocational Studies
  - The University's Director of Student Services (in normal circumstances the first point of contact); and
  - The University's Head of Student Administration.

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 taken into account in assessing the cogency, weight and quality of evidence presented.
- 1.6 The University and partner Bodmin College will not investigate anonymous allegations.

### **2 Procedure**

- 2.1 Any member of Bodmin College and partner The University who becomes aware of what they consider to be misconduct (see section 6) by any student, shall in the first instance report such a breach, normally in writing, to a Disciplinary Officer. The Disciplinary Officer may:
- determine that the evidence is conclusive upon receipt of the initial report (for example a police report of drug-taking) not requiring any further enquiry; or

- investigate 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 him/her 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 Fitness to 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 Bodmin College which may take the form of a signed and dated Statement of Conduct;
  - 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 Principal of Bodmin College
- 2.5 In the case of 2.4 (b)-(g) the student shall have the right to appeal through the partners 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 Principal of Bodmin College (h).
- 2.7 Disciplinary Officers should forward completed casefiles containing all relevant correspondence and notes of meetings to the University's Director of Student Services who will maintain a central register of student disciplinary procedures and outcomes.

### 3 Suspension

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

### 4 Criminal offences, the police and action under this procedure

- 4.1 Bodmin College and partner 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 Disciplinary Officer shall record and forward such information to the Director of Student Services and the Head of Student Administration. 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, Bodmin College and partner 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. Bodmin College and partner 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, Bodmin College and partner 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 Bodmin College and partner 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 Registrar & Director of Student Administration, following appropriate consultation.

- 4.7 Bodmin College and partner The University will not investigate complaints about student behaviour 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 Bodmin College and partner The University will take appropriate disciplinary action.

## **5 The University Student Disciplinary Committee**

### **5.1 Membership**

The Committee shall comprise:

- a) Deputy Vice-Chancellor who will act as chair;
- b) two senior members of the academic staff of the University (staff sitting on the Committee shall have no direct connection with the student's case);
- c) the President of the FXU Students' Union or nominee
- d) one registered student of the University (students sitting on the Committee shall have no connection with the student concerned by way of personal friendship, family, household, society or academic course).

### **5.2 Quorum**

A quorum of the Committee shall be at least three members including the Deputy Vice-Chancellor.

### **5.3 Administration**

The Head of Quality Assurance & Enhancement (QAE) or nominee shall act as Secretary and be responsible for the membership administration on the Committee in accordance with these procedures.

### **5.4 Procedures of the Committee**

- 5.4.1 The Committee may make such enquiries as are deemed necessary to confirm the facts reported and to determine the seriousness of the incident. During the course of any enquiry the student will be informed about what is alleged against him/her 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 and via e-mail 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, and call for witnesses that will 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. The student will be given notice of at least ten (10) working days of the Committee meeting. Students studying via non-traditional modes will be afforded the opportunity to participate through videoconferencing or other similar means. Students may respond in writing, if they do not wish to attend either in person or via videoconferencing or

other similar means. If responding in writing, the student should outline any relevant factors that the student would like the Committee to take into account.

5.4.3 The student may be accompanied at the meeting of the University Student Disciplinary Committee by one other person if they wish. That person should be one of the following:

- a) another student who is currently enrolled on a course at the University;
- b) a representative from FXU Students' Union;
- c) an accessibility or academic support worker.

If the student is bringing another person with him/her, they must confirm with the 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.

5.4.4 Any meeting of the University Student Disciplinary Committee may proceed in the absence of, or any response from, the student (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 and a decision may be made notwithstanding such non-participation.

5.4.5 The Committee shall have the right to order its own business and call for such reports, interview such persons and consider such other evidence as it may deem necessary to reach a decision. The student shall have the right to question persons and evidence obtained by the Committee.

5.4.6 The student shall have the right to call for such reports, interview such persons and provide such other evidence as is relevant to the issues to be decided by the Committee. The Committee shall have the right to question persons and evidence produced by the student.

5.4.7 The Committee shall first receive a statement from the Disciplinary Officer or their representative setting out the reason for referral and the facts of the allegation. All witnesses called, appearing one by one, shall be available for cross-examination when they have given their evidence and re-examination if necessary by the Committee and by the student.

5.4.8 On completion of the case against the student, the case for the student shall be stated and all witnesses, appearing one by one, shall be available for cross-examination when they have given their evidence, and re-examination if necessary by the Committee and by the student.

5.4.9 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.

5.4.10 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 Statement of Conduct;
- 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.

5.4.11 The decision of the University Student Disciplinary Committee and the grounds for the decision shall be given to the student in writing, by the Registrar & Director of Student Administration or their representative, within seven (7) working days of the meeting of the Committee.

5.4.12 In the case of a student failing to comply with 5.4.10 (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 appeals procedures. 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.
- Behaviour or language (whether in a physical or virtual environment) which is violent, indecent, disorderly, threatening, offensive or causes fear or distress to others.
- Malicious or reckless damage to or theft of University property or the property of any student or member of staff.
- Harassment of any member of the Bodmin College or partner The University or any visitor to Bodmin College or partner The University.
- Vexatious complaints or allegations of misconduct that are found to be mischievous or malicious.
- Misappropriation of University or FXU 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.
- 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.
- Being intoxicated and incapable 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 Bodmin College and partner The University and does not retain their student status from the date of expulsion. From that date, the student may not reside in Bodmin College and partner 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.