

PS4. Non-Academic Misconduct Disciplinary Procedure

General University of York Regulations as to the Discipline of Students apply when the CITY ULE Discipline Committee refers the case to the University Discipline Committee (see section below on Disciplinary Sanctions).

Responsibility for considering discipline of students has been delegated by the University of York to the CITY ULE.

1. Acts of Misconduct

A student will be subject to a formal disciplinary process if they are alleged to have committed an act of misconduct as illustrated here. They may be perpetrated intentionally, unintentionally, recklessly or negligently. The following list offers illustrative categories of the types of behaviour which would be considered to be misconduct and potentially result in disciplinary action under this procedure. The list is non-exhaustive and, where appropriate, the CITY ULE may take disciplinary action in relation to behaviours not specifically listed below.

(a) Physical Misconduct

- Punching, kicking, slapping or hitting another person.
- Spitting at, or throwing items at, another person.
- Grabbing, strangling or restraining another person.
- Pushing or shoving another person.

(b) Sexual Misconduct, Sexual Harassment and/or Sexual Violence

- Engaging in any sexual act without consent.
- Attempting to engage in a sexual act without consent.
- Sharing private sexual images or materials of another person without consent.
- Kissing without consent.
- Sexualised touching without consent.
- Inappropriately showing sexual organs to another person.
- Making unwanted remarks of a sexual nature.

(c) Abusive, Threatening, or Unacceptable Behaviour

- Threats to hurt another person.
- Abusive comments relating to an individual's sexual orientation, religion or belief, race, pregnancy/maternity, marriage or civil partnership, gender, gender identity, disability or age.
- Disorderly, riotous, violent, indecent, intimidating behaviour or language.
- Repeatedly contacting another person against the wishes of that person.
- Repeatedly following another person without good reason.
- Bullying or harassment.
- Hate incidences and hate crimes.

(d) Damage to Property

- Causing significant damage to CITY ULE property, the property of students or employees of the CITY ULE, or visitors of the CITY ULE and to property outside of the CITY ULE.
- Causing minor damage to CITY ULE property, the property of students or employees of the CITY ULE, or visitors of the CITY ULE.

(e) Unauthorised Taking or Use of Property

- Taking property belonging to another person without permission
- Unauthorised entry onto, or inappropriate use of, CITY ULE premises.

- Misuse of CITY ULE equipment, including computers.
- (f) Causing a Health or Safety Concern or Risk
- Any act or omission that did cause or could cause injury or harm to others (for example, disabling fire extinguishers)
 - Possession, storage, distribution or use of any controlled drug.
 - Possession, or use of a dangerous weapon on CITY ULE premises.
 - Failure to comply with Health and Safety rules, including smoking in a CITY ULE building.
- (g) Operational Obstruction
- Acts, omissions or statements intended to deceive the CITY ULE.
 - Disruption of the activities of the CITY ULE (including academic, administrative, sporting and social) on CITY ULE premises or elsewhere.
 - Disruption of the functions, duties or activities of any student or employee of the CITY ULE or any authorised visitor to the CITY ULE.
 - Failure to comply with any CITY ULE regulation, policy, procedure, code or sanction.
 - Acts that interfere with the CITY ULE ability to fulfil its statutory duties.
- (h) Reputational Damage
- Behaviour which has caused serious damage or may cause serious damage to the reputation of the CITY ULE or the University.
 - Antisocial activities in the community.
 - Repetitious noise and general nuisance.
 - Making libellous statements or unfounded allegations against the CITY ULE or the University on social networks or other sites.
- (i) Criminal Convictions
- Receiving a relevant criminal conviction incurred whilst registered as a student or during a period of leave of absence.
 - Failure to disclose a relevant criminal charge or conviction incurred whilst registered as a student or during a period of leave of absence.
 - Failure to comply with any disclosure requirements for courses leading to membership of a profession/professional body and/or for Fitness to Practise considerations.
- (j) Academic Misconduct
- Repeated or serious acts of academic misconduct in relation to assessment offences, as defined in the Academic Misconduct.
 - Presentation of fabricated or misleading evidence to gain advantage in admissions, research proposals, or in assessments.
 - Producing work on behalf of another student, or appearing as another student in an assessment.
 - Unethical research behaviour.

2. Authority to take action and responsibility for this procedure

The Vice-President & Principal of CITY ULE has delegated overall responsibility for this procedure to the CITY ULE Academic Registrar.

Issues that are considered minor and/or of academic misconduct nature can be dealt with by the Departmental Disciplinary Panel (DP). For each Department of CITY ULE, the DP shall consist of:

- (a) the Head of the Department as a Chair (or nominated person),
- (b) one member of the academic staff of the Department in which the student is registered and
- (c) one student member appointed by the President of the Student Union,
- (d) the Academic Registrar, and
- (e) the Gender Equality Officer when issues are related to Sexual Misconduct.

Issues that are considered serious and/or of repeated academic misconduct nature can be dealt with by the CITY ULE Discipline Committee (DC). For CITY ULE, the DC shall consist of:

- (a) a Deputy Provost (chair),
- (b) the Head of a different academic Department to the one in which the student is registered,
- (c) one member of the academic staff of a different Department to the one in which the student is registered,
- (d) one student member appointed by the President of the Student Union,
- (e) the Academic Registrar, and
- (f) the Gender Equality Officer when issues are related to Sexual Misconduct.

If for any reason no Chairman of the CITY ULE Discipline Committee is able to act, the CITY ULE Vice-President & Principal may appoint another person to act as a Temporary Chairman.

The Departmental Disciplinary Panel (DP) or the CITY ULE Discipline Committee (DC) have the discretion to decide what level of sanction is appropriate for any act of misconduct under this procedure. When considering sanctions matters of mitigation and aggravation should be considered alongside the impact of the behaviour on those who have been affected.

3. Disciplinary Sanctions

Sanctions imposed by DP can be one or more of the following:

- an action plan and conditions for improvement in conduct (to be reviewed within a month of being issued); and/or
- a verbal warning; and/or
- a formal written warning; and/or
- compulsory attendance at a workshop, training and/or coaching session; and/or
- an apology in person or in writing; and/or
- restorative measures relevant to the misconduct; and/or
- restrictions, such as a non contact agreement.

The DP can refer the matter to the DC when the incident, after initial investigation, may lead to a stricter sanction.

Sanctions imposed by DC can be one or more of the previous and the following:

- partial or full exclusion from specific events, parts or the whole of the campus ; and/or
- suspension from the University; and/or
- expulsion from the University.

The DC may request advice from the University of York Student Conduct and Respect team on dealing with serious unprecedented incidents.

These lists are illustrative rather than exhaustive and the circumstances of each case will influence which sanction(s) are appropriate.

The reason for the decision shall be recorded in writing and shared with the student.

4. Reporting Misconduct

All CITY ULE staff and students are responsible for reporting student related misconduct.

Students and staff should report misconduct through the CITY ULE Academic Registrar. There will be a response to the report within five working days to explain what will happen next.

The Student Services team are able to provide advice, as required to anyone who is concerned about the conduct of a student. Anyone who is concerned should contact and take advice from the team before taking any action.

Anonymous reporting of student misconduct will not normally be acted upon by the CITY ULE.

The reporting student or member of staff will be contacted about the disciplinary process.

5. Reporting matters to the police

Students or staff who witness or who have evidence of alleged misconduct by a student which may also amount to a criminal offence have a number of options available to them once they have reported the incident to the CITY ULE. The main options are:

- Where it is reported that a criminal offence may have been committed against the CITY ULE, the CITY ULE may report the incident to the police. Otherwise, the CITY ULE will normally respect the decision of the reporting person (if they are the subject of the report) to decide whether or not to report the matter to the police. However, the CITY ULE may start disciplinary action against the reported student and investigate the incident on its own volition.
- reporting the matter to the police;
- seeking support from internal and external services;
- not reporting the matter to the police but requesting that the CITY ULE deals with the matter under this procedure.

The CITY ULE may in exceptional circumstances, following a risk assessment, decide to report an incident to the police against the wishes of the reporting person. Such a decision will consider the duty of care and safeguarding of the CITY ULE community to ensure that the reporting student or others are safe from harm or to prevent further harm taking place. The CITY ULE will explain its decision and the reasons to the reporting person either in advance or as soon as possible after the report is made.

In cases involving Sexual Harassment, the Gender Equality Officer reports the incident to a CITY ULE Officer and presents the results of the investigation performed by the relevant Departmental Disciplinary Panel (DP). The CITY ULE Officer decides whether to refer the matter to the police.

6. Disciplinary Procedure (Informal Action)

Where possible and appropriate concerns regarding conduct matters should be raised directly with students at the earliest opportunity at an informal level and this will normally occur in academic departments by senior departmental academic and professional support staff. These conversations should be held privately and must explain the reason for any concerns and set expectations for future behaviour.

Dealing with matters informally will normally only be appropriate when this is the first time concerns about the student's behaviour or conduct have been raised.

Misconduct causing minor disruption or anti-social behaviour that is not directed at other individuals can sometimes be dealt with informally without the need to initiate the formal disciplinary process.

Students and/or staff who observe misconduct that may give cause for concern should inform their Head of Department who is authorised to deal with such concerns informally. The purpose of these discussions is to ensure the student understands the nature of the concerns and expected improvements in behaviour, including timescales if appropriate, and that support is available.

In some cases, an informal verbal warning may be given, which will not form part of a formal disciplinary record. A note of any such informal discussions and verbal warnings will be held on departmental records for 12 months at which point if there are no further concerns the matter will be considered resolved.

Where an issue has been discussed with a student informally and:

- the issue has not been resolved and the problem persists or
- the required improvements in conduct are not achieved or
- further information becomes available which suggests the matter is more serious

the formal disciplinary procedure should be invoked by referring the matter to the CITY ULE Academic Registrar.

7. Disciplinary Procedure (Formal Action)

Where the informal process has not led to improved student conduct, or where the reported misconduct is so serious that informal action is not appropriate formal disciplinary action will be initiated.

When a report of student misconduct is received, the CITY ULE Academic Registrar will process the report to the Chair of DP or DC (where appropriate) to assess whether there is a potential case to answer, and if necessary to initiate an investigation.

The CITY ULE Academic Registrar shall investigate as s/he deems appropriate, talking with the reported student, the person who is reporting them and, where appropriate, any witnesses. The CITY ULE Academic Registrar will submit a report of their findings to the Chair of DP or DC taking into account the circumstances and evidence available. The investigation will establish whether there is a disciplinary case to answer or not.

Upon receipt of the investigation report the Chair of DDP or CDC may:

- decide to take no further action; or
- refer the matter for informal resolution; or
- decide there is a case to answer and proceed to a formal Disciplinary Meeting of DP or DC.

Where an investigation indicates that there may have been an act of misconduct the student will be given the opportunity to attend a formal disciplinary meeting at which they can respond to the allegation and state their case.

The reported student will be notified of the decision to refer the matter to a DP or DC, and informed of the allegation(s) against them and how their behaviour is considered to have breached expected standards. In all cases students will be invited to submit further evidence about the facts of the case and also any mitigation in relation to the case.

The student will be provided with details of the alleged misconduct and it will be explained what the outcome or disciplinary sanction will be in a disciplinary meeting .

The student will be invited to submit any relevant evidence including details of any witnesses to the facts they wish to call, and will be given an opportunity to attend the DP or DC hearing. Prior to the hearing, the investigation report and any evidence which is to be considered, including the names of any witnesses to be called, will be shared with the student.

The DP or DC will determine the process for the conduct of the hearing, including how evidence should be given and whether any measures should be put in place to protect the reporting person or any other witnesses. The DP or DC may adjourn the hearing at any time.

Following the disciplinary hearing the members of DP or DC will decide whether the misconduct has been proven and, if so, will ask the reported student to submit any mitigation they consider relevant to the case.

Formal notification of the outcome of the disciplinary hearing, the reasons for the decision and (where relevant) any sanctions imposed will be sent in writing within five working days of the hearing. The letter will include the effective date that the sanction commences, and details of the student's right of appeal.

8. Appeals against the Disciplinary sanctions

Where a student wishes to contest a decision made under this procedure, they must do so in writing clearly stating the grounds for their appeal in writing and submitting them to the Chair of the Appeals Committee. Any appeal must be submitted within 14 days of receiving the outcome.

Students can appeal on the following grounds:

- there was a procedural irregularity at the formal stage e.g. there was a material failure by the CITY ULE to follow the student disciplinary procedure; or
- there is evidence of bias; or
- the outcome was not fair and proportionate in all the circumstances (i.e. no reasonable decision-maker, properly directing themselves and taking into account the relevant facts, could have reached that decision); or
- new material evidence is available which the student was unable, for valid reasons, to provide earlier in the process.

If the Chair of the Appeals Committee believes that the grounds for appeal are not satisfied, the student will be informed of the decision to reject the request for an appeal.

If the Chair of the Appeals Committee decides that the appeal is based on one or more of the permitted grounds and hence eligible to be considered, they will arrange for a review of the case. This will involve a review of the papers and may also involve a meeting with the student and the Chair of the DP or DC who considered the case.

The outcome of the review will be that the case is either upheld, i.e. the outcome remains the same, or there is a different finding which overturns the outcome. The Chair of the Appeals Committee may remit the matter to a different DP or DC to consider again, or hold an Appeals Committee hearing.

The decision taken at the appeal stage is final. The outcome of the appeal will be communicated in writing, with reasons, usually no more than 30 working days from the appeal being accepted.

Where a student remains dissatisfied with the outcome of their appeal they may take their case to the Office of the Independent Adjudicator. The complaint needs to be submitted to the OIA within 12 months of the Completion of Procedures Letter, following the appeal.

9. Notice to Students

For students studying at CITY ULE, the dispatch of a letter to a student's address last notified to the Department or the CITY ULE Student Services shall fulfil any requirement of giving notice or information to the student under these procedures.

10. Appealing to the University of York

Where a student is not satisfied with the decision taken in respect of the CITY ULE disciplinary or appeals procedures they may request their case to be treated in accordance with the University of York Regulations and Procedures, stating their grounds for the request.