

## 1 Introduction

- 1.1 The University's [Student Dignity and Respect Policy](#) sets out the behaviour expected of students. A failure to meet these standards of behaviour will be dealt with by the following procedure.
- 1.2 Allegations of sexual harassment and sexual misconduct will be dealt with under the Sexual Harassment and Sexual Misconduct Policy and Procedure. All other forms of harassment will be dealt with under this policy.

## 2 Scope

- 2.1 This policy applies to students enrolled on modules, programmes or courses delivered in whole by the University, or in whole or part by a franchise partner institution (franchise provision).
- 2.2 Disciplinary matters relating to students on programmes delivered by a Validated Partner should follow their disciplinary procedures.
- 2.3 Complaints by students against the University are dealt with under the [Student Complaints procedure](#).
- 2.4 Reports relating to staff member misconduct will be referred to the University Secretary who will determine the appropriate policy to follow.
- 2.5 Reports relating to sexual harassment and sexual misconduct for all members of the University community are dealt with under the [Sexual Harassment and Sexual Misconduct Policy](#).
- 2.6 Academic misconduct is dealt with under the [Academic Misconduct procedure](#).
- 2.7 Research misconduct is dealt with under the [Research Misconduct Policy and Procedures](#)
- 2.8 Misconduct in university accommodation is dealt with under the [Misconduct in Accommodation Policy](#).
- 2.9 The disciplinary procedures are intended to address misconduct by students rather than to resolve disputes between individuals.
- 2.10 In addition to or instead of its Disciplinary procedure, the University may apply its procedures on [Fitness to Study](#) and/or [Fitness to Practise](#).
- 2.11 Should a complaint be received during disciplinary proceedings, the Disciplinary Officer and Complaints Officer will decide if the complaint should proceed whilst disciplinary proceedings are ongoing, if disciplinary proceedings should be paused to allow the complaint to be reviewed or if the complaint will be reviewed upon conclusion of the disciplinary proceedings. The Disciplinary Officer and Complaints Officer will liaise with staff considered relevant to both cases in coming to a decision.
- 2.12 In cases involving the Complaints Officer or Disciplinary Officer, the University Secretary will assess the complaint and provide guidance on subsequent actions accordingly.

## 3 General principles

- 3.1 The Vice Chancellor delegates disciplinary functions to the Head of Governance and Compliance, who acts as the Disciplinary Officer. The Disciplinary Officer may further delegate powers to appropriate staff members.
- 3.2 This policy does not attempt to replace the law. The University reserves the right to refer matters to the police where appropriate.
- 3.3 The University disciplinary procedures are not a substitute for the criminal justice system; the University cannot decide whether a crime has been committed. It can only decide whether, on the evidence available to it, a breach of the Student Dignity and Respect Policy, the Student Disciplinary Policy and Procedure or the Sexual Harassment and Sexual Misconduct Policy is more likely than not to have taken place.
- 3.4 The University abides by the principles of natural justice. This means that if a disciplinary allegation is made against you, the University will ensure that:
  - You are made fully aware of the nature of the allegation(s) made against you.
  - You have an opportunity to reply to any allegation(s).
  - You have a fair and unbiased hearing at which all relevant circumstances are taken into account.
  - You have the right to appeal against a disciplinary finding or penalty.

- 3.5 The University aims to complete its procedures in a timely manner. It aims to complete the initial investigation and formal stage of the process **within 60 days** of the allegation being made and to hear any appeal **within 30 days** of the student making the appeal. If we cannot meet this timeframe, we will explain why.
- 3.6 Where a 'supporter' is referenced in the procedures, that person should be a current member of staff, a current registered student at the University, or a Students' Union representative. Where disciplinary action is required within the first three months of the student's studies and supportive links may not have been established, alternative supporters may be possible. Approval should be sought from the University Disciplinary Officer or their delegate regarding this.
- 3.7 The supporter's role is to observe and provide moral support. They cannot ask questions, interpret your responses, or speak on your behalf.
- 3.8 The student will be asked to provide the name and capacity in which the supporter is attending in advance. It is not normally expected that the student will have legal representation however students can request to be accompanied to any disciplinary meetings or hearings by a legal adviser. The university asserts that these meetings or hearings are internal proceedings and while the attendance of a legal adviser is not prohibited, their attendance must normally be to act as a supporter and therefore they must adhere to acting as the student's supporter.
- 3.9 If the student believes it is justified in the circumstances to have legal representation and wishes them to attend in their role as a legal adviser rather than supporter, the student should make these reasons known to the University Disciplinary Officer at least three working days in advance of the meeting or hearing. If the meeting has been arranged to take place within 3 working days, the student should make their reasons known as soon as possible to the University Disciplinary Officer. This should be done via the Casework email; [casework@yorks.ac.uk](mailto:casework@yorks.ac.uk). If the University Disciplinary Officer believes the student has established exceptional circumstances for legal representation, it will be permitted. These grounds may include:
- The seriousness of the allegation(s)
  - Complexities in the evidence likely to be presented
  - The capacity of the individual to understand the case against them
  - Likely procedural challenges
  - The needs for fairness in the cross-examination of evidence
  - The need to avoid delay
- 3.10 Where a student is known to have additional needs, the University will liaise with the student to make reasonable adjustments to its procedure where this is necessary in order to avoid substantial disadvantage. If you require an adjustment to the way in which we communicate with you due to disability or accessibility need please contact us by emailing [casework@yorks.ac.uk](mailto:casework@yorks.ac.uk).
- 3.11 Students will be signposted to wellbeing and welfare support services throughout disciplinary proceedings. In certain cases, the University Disciplinary Officer or Casework Team may request these teams to contact students directly.
- 3.12 Action taken under this Disciplinary Policy will take precedence over any action taken under all other University Policies and Regulations, including those of the YSJU Students' Union, and Accommodation.
- 3.13 The Disciplinary Officer is responsible for determining any issues of interpretation and for providing any clarification of this policy.
- 3.14 The University expects all students to treat other students and staff at the University with dignity and respect. The University reserves the right to suspend investigation of a disciplinary matter if there is a breach of expected standards, including where those investigating a case are subject to harassment, physical or verbal abuse. In these circumstances the student will be notified of the suspension and the reasons for it. If a student is judged to be in breach of University expectations of behaviour, the student might be subject to disciplinary procedures.
- 3.15 Where a responding student withdraws during the course of a University investigation or during provisional action, or has a withdrawal enforced, the University investigation will cease as they are no longer a registered student. Should reapplication be received a University investigation will be re-opened.

## 4 Examples of misconduct

- 4.1 The essence of misconduct under this policy is improper interference with the proper functioning or activities of the University, with other members of the University community, or actions which damage people, property or the University's reputation.
- 4.2 The University's jurisdiction under this policy is not limited to misconduct which occurs on its own premises. This policy covers misconduct wherever it occurs, including electronic and online activity.
- 4.3 Examples of student misconduct include (but are not limited to) the following:
- a. Violent, indecent, disorderly, threatening, or discriminatory behaviour or language, including microaggressions.
  - b. Action likely to cause injury or impair safety.
  - c. Behaviour intended to cause fear, distress or harm to others, including carrying weapons or replica weapons
  - d. Conduct which is a criminal offence, including drugs-related offences.
  - e. Sexual misconduct (including sexual assault, sexual violence and sexual harassment) (See [Sexual Harassment and Sexual Misconduct Policy](#)) and domestic violence, jeopardising the mental, physical, and emotional wellbeing as well as the safety of our community
  - f. Publishing of any matter (verbal, written or other) which is threatening, abusive or insulting or constitutes harassment or makes others fear violence. This includes the misuse of social media and other online content.
  - g. Access abuse, such as visiting inappropriate websites, uploading/downloading inappropriate content, propagation of computer viruses.
  - h. Anti-social behaviour which brings the University into disrepute.
  - i. Damage to or theft of property.
  - j. Behaviour which breaches university policies, including rules on health and safety, freedom of speech, and equality and diversity, failure to comply with requests to complete mandatory training, unless there are agreed exceptional circumstances.
  - k. Failure to comply with national or local Government restrictions in relation to public health emergencies.
  - l. Harassment or discrimination against any student, member of staff or visitor to the University.
  - m. Theft, misappropriation, misuse, fraud, deceit, deception, or dishonesty.
  - n. Failure to follow a reasonable instruction from a university officer; significant breach of university rules; failure to disclose name and other relevant details to a staff member where the staff member has good reason to require this information.
  - o. Failure to comply with a previously imposed disciplinary penalty.
  - p. False accusations that another student or staff member committed a breach of discipline.
  - q. Engagement in terrorism/extremism or with networks linked to terrorism/extremism

## 5 Provisional action prior to disciplinary action

- 5.1 If you are subject to a criminal charge or to a police investigation, or if the University believes that your behaviour is likely to cause injury or harm to others, the University may take provisional action to limit your interaction with the University community, including suspension and exclusion. If you are in University accommodation, a room move may be actioned pending any investigation. This will be sanctioned by the Disciplinary Officer. Restrictions may also be put on your University IT access.
- 5.2 If you are suspended, it means you are prohibited from entering all university premises and from participating in all university activities. The University may make a specific exception, for example, allowing you to come on campus to take an examination. Due to the [University Regulations](#) on periods of study, if the duration of a police investigation or court case will take you beyond the permitted periods of study, you may be withdrawn from your studies. Should you make a re-application following the completion of any criminal case, you may be asked to share details on the outcome of the case. The University may also investigate if you are re-admitted to the University as per 3.15 above.

- 5.3 If you are excluded, your right to enter university premises is restricted. You may be excluded from specific university and Student Union activities.
- 5.4 The University may impose a requirement on all parties (including a student reporting a disciplinary concern) not to have contact with each other and with named others. If you breach this requirement, this is in itself misconduct.
- 5.5 The Disciplinary Officer decides whether provisional action should be taken. You will normally be told that the Disciplinary Officer is considering this action before the decision is made and why and will have an opportunity to make representations before the decision is made. The University would normally give at least 24 hours' notice (Monday-Friday) of any meetings relating to provisional action, however, if the Disciplinary Officer believes that immediate action is justified based on the risk of injury or harm, this may be less. If the Disciplinary Officer believes that immediate action is justified based on the risk of injury or harm, the decision may be made with immediate effect. In this case, you will not have the opportunity to make representations before the provisional action is applied. In either case, you will be given details of the decision in writing once it is made, and you will be told how you can challenge the decision if you believe it is unfair. The University will make all reasonable attempts to minimise the harm to your studies and to your ability to access student services.
- 5.6 If there are known Wellbeing concerns, a Wellbeing Advisor may be in attendance at the meeting also or a referral to Wellbeing Services may be made during any stage of provisional action.
- 5.7 Any meetings held will not be audio recorded but will be minuted. They should not be recorded without the express consent of those involved. If the student does record any meetings without the consent of others, this may amount to a disciplinary offence. Any recording will not be permitted to be used as evidence.
- 5.8 Provisional action is **not** a penalty and is not a judgment of guilt – its aim is to protect members of the University community, or the property of the University, or the property of a member or members of the University community. It also protects you from allegations about further disciplinary concerns while the matter is being investigated.
- 5.9 The University's decision-making for any provisional action will be informed by an evidence-based risk-assessment. The University will give careful consideration to the implications of provisional action including consideration of the balance between the potential risk to others and the potential disadvantage to the student(s) in question, and where relevant the implication on the sponsorship of student visas.
- 5.10 You can appeal the provisional action at any time when it is in force, by emailing [casework@yorks.ac.uk](mailto:casework@yorks.ac.uk). The Vice Chancellor is responsible for deciding whether the decision should be varied or remain in force. This may be delegated to an appropriate nominee. The University aims to send you a response **within five working days**.
- 5.11 Even if you do not appeal, the University will automatically review any provisional action **after four weeks**. The review will be conducted by the Disciplinary Officer. The decision may then remain in force until the outcome of any criminal proceedings or University investigations, at which point a decision will be made by the Disciplinary Officer about any further action under this policy.
- 5.12 Failure to comply with any action required following the outcome, could result in further disciplinary action. The Disciplinary Officer will be notified of any failings and will determine if further action should be taken.

## 6 Procedure for student discipline

### Informal stage

- 6.1 Anyone with a concern about a potential breach of discipline may find it useful to first raise the matter informally with a member of staff in the interests of pursuing a swift resolution. Mediation through the Students Union may be recommended if the issue relates specifically to societies, clubs and committees, if appropriate. Advice on disciplinary matters is available from the Student Casework Team, the Head of Campus and Residential Services (for misconduct in university accommodation matters), and the Wellbeing & Welfare Team.
- 6.2 If the above step is not appropriate or does not resolve the matter, allegations regarding misconduct can be sent to [casework@yorks.ac.uk](mailto:casework@yorks.ac.uk). An allegation will not normally be pursued unless it is received in writing with sufficient detail provided. Anonymous allegations are unlikely to be considered; where there is compelling evidence that the disciplinary offence did take place, the Disciplinary Officer may decide to consider the matter. Even where the disciplinary procedures are not invoked, staff members may remind students of the expectations regarding their conduct.
- 6.3 Having considered the allegation(s) of misconduct the Disciplinary Officer will decide whether to:

- a. Dismiss the allegation(s) as false, vexatious, trivial, or lacking in evidence.
- b. Refer the matter for consideration under Students' Union, Accommodation, or Fitness to Study/Practice procedures.
- c. Refer the matter for consideration as level 1 misconduct.
- d. Refer the matter for consideration as level 2 misconduct.

6.4 If the alleged misconduct involves more than one student, the Disciplinary Officer decides whether the cases should be investigated and/or heard together.

6.5 Once a decision is made regarding referring the matter for consideration as misconduct, students are advised to not discuss the matter with their peers due to the possibility of jeopardising the integrity of the investigation.

## Level One

6.6 This level will normally be appropriate in relation to allegation(s) of misconduct which are of a less serious nature, and/or in circumstances where it is considered desirable to address these as close as possible to the source of the alleged offence.

6.7 At this level, the Disciplinary Officer may delegate powers of investigation and resolution to an appropriate 'responsible person'. Programme leads and professional services staff in management positions or with appropriate experience would be examples of those considered to be an appropriate 'responsible person.'

6.8 The responsible person will review the evidence and make any further enquiries they deem necessary, including meeting with the reporting student(s), where appropriate. You (the responding student) will normally be invited to attend a meeting with the responsible person to allow you to explain your version of events and put forward any evidence you wish to provide. You may bring a supporter to this meeting. If you do not attend, the responsible person may still make a decision on whether misconduct took place and may issue a disciplinary penalty.

6.9 Any meetings held will not be audio recorded but may be minuted. They should not be recorded without the express consent of those involved. If the student does record any meetings without the consent of others, this may amount to a disciplinary offence. Any recording will not be permitted to be used as evidence.

6.10 The responsible person may:

- a. Dismiss the allegations.
- b. Issue a penalty appropriate to level 1.
- c. Refer the case to level 2.

6.11 The following penalties apply at level 1:

- a. Verbal warning.
- b. Written warning/reprimand (a copy will be retained on file for the remainder of your studies).
- c. Restitution of any damage caused by way of payment.
- d. Fines up to a maximum of £100.
- e. Other such action appropriate to the circumstances.

6.12 More than one penalty may be applied. Previous misconduct may be taken into account in deciding the appropriate penalty.

6.13 The Responsible Person will provide a short summary for the Disciplinary Officer to review. This summary will detail the conclusion on whether misconduct has taken place and if it has, will include recommendations on the outcome and recommended penalty. The Disciplinary Officer will review the recommendations and once confirmed, you will be told of the outcome as soon as possible following the conclusion of the Disciplinary Officer's review. The Responsible Person will notify you of the expected timeframe for completion of the case and will keep you informed of any delays.

6.14 Failure to comply with any action required following the outcome, could result in further disciplinary action. The Disciplinary Officer will be notified of any failings and will determine if further action should be taken.

6.15 If you (the responding student) think the finding or penalty is unfair or disproportionate based on the evidence, you may appeal to the Vice Chancellor **within 10 working days** from the date of the outcome. You may appeal on the following grounds:

- a. The outcome was disproportionate in the light of the evidence supplied. (You cannot appeal solely because you disagree with the outcome, but you can appeal if you believe the outcome

was not supported by the evidence presented).

- b. The procedure was deficient in a way which materially prejudiced your case.
- c. That further evidence has become available which would materially affect the decision.

6.16 The Vice Chancellor, or appropriate nominee, will review the case and may:

- a. Dismiss the case and allegations.
- b. Enforce the penalty.
- c. Adjust the penalty
- d. Refer the case back for further investigation – please note this may be with a different 'Responsible Person'
- e. Refer the case for hearing by the Appeals and Conduct Committee.

6.17 The Student Casework team will send the student the decision of the Vice Chancellor's (or delegate's) review in writing as soon as possible and normally within 10 working days. If your appeal is not upheld, you will be sent a 'Completion of Procedures Letter'. More information about this can be found in section 8.1.

6.18 Notes of any investigation, interview and action taken at level 1, and copies of correspondence relating to level 1 disciplinary procedure, will be retained by the Disciplinary Officer. The minutes from the meeting(s) held with yourself and any correspondence between yourself and Casework Team or the Responsible Person will be shared with you, upon request.

## Level Two

6.19 Level 2 will normally be appropriate in relation to:

- a. Multiple minor acts of misconduct.
- b. Instances in which level 1 action has failed or is considered inappropriate.
- c. Serious allegations of misconduct.
- d. Referrals on appeal from the level 1 procedure.

6.20 The Disciplinary Officer or nominee will appoint an 'Investigating Officer' and arrange for an investigation into the allegation(s) of misconduct to take place and a report to be written. You will receive information about the allegations made against you, how long we expect the investigation to take and the procedure we will follow in dealing with the allegation(s). The Investigating Officer will not have had any prior involvement with the situation.

6.21 Associate Heads, Heads of School, members of the Senior Leadership Team and Heads of Service may be appointed as an Investigating Officer as well as the Student Casework Investigators.

6.22 The Investigating Officer will review the evidence and make any further enquiries they deem necessary, including meeting with the reporting student(s), where appropriate. You (the responding student) will normally be invited to attend a meeting with the Investigating Officer to allow you to explain your version of events and put forward any evidence you wish to provide. You may bring a supporter to this meeting. If you do not attend, the Investigating Officer may still make a decision on whether misconduct took place and may recommend a disciplinary penalty within their report.

6.23 The Investigating Officer may meet with you and others, these meetings are not audio recorded, but are minuted. You should not record them without the consent of those involved. If you do record any meetings without the consent of others, this may amount to a disciplinary offence. Any recording will not be permitted to be used as evidence.

6.24 Following the investigation, the Investigating Officer will provide a report for the Disciplinary Officer to review. This report will include recommendations to the Disciplinary Officer.

6.25 On the basis of this report, the Disciplinary Officer may:

- a. Dismiss the allegations.
- b. Apply a penalty appropriate to the level 1 procedure.
- c. Refer the case for a full hearing by the Appeals and Conduct Committee.

6.26 You will be told of the outcome **within 10 working days** of the report being shared with the Disciplinary Officer. The report will be shared with you, alongside the outcome from the Disciplinary Officer.

6.27 Failure to comply with any action required following the outcome could result in further disciplinary action. The Student Disciplinary Policy and Procedure



Disciplinary Officer will be notified of any failings and will determine if further action should be taken.

6.28 If you (the responding student) think the finding or penalty is unfair or disproportionate based on the evidence, you may appeal to the Vice Chancellor **within 10 working days** from the date of the outcome letter. You may appeal on the following grounds:

- a. The outcome was disproportionate in the light of the evidence supplied. (You cannot appeal solely because you disagree with the outcome, but you can appeal if you believe the outcome was not supported by the evidence presented).
- b. The procedure was deficient in a way which materially prejudiced your case.
- c. That further evidence has become available which would materially affect the decision.

6.29 The Vice Chancellor, or appropriate nominee, will review the case and may:

- a. Dismiss the case and allegations.
- b. Enforce the penalty.
- c. Adjust the penalty
- d. Refer the case back for further investigation – please note this may be with a different ‘Investigating Officer’
- e. Refer the case for hearing by the Appeals and Conduct Committee.

6.30 The Student Casework team will send the student the decision of the Vice Chancellor’s (or delegate’s) review in writing as soon as possible and normally within 10 working days. If your appeal is not upheld, you will be sent a ‘Completion of Procedures Letter’. More information about this can be found in section 8.1.

## Hearing of the Appeals and Conduct Committee

6.31 All relevant documentation will be shared with you at least 5 working days before the hearing. You will have the opportunity to make your representations at the meeting. Should you wish to refer to any evidence, this should be provided **at least three working days before** the hearing, by email to [casework@yorks.ac.uk](mailto:casework@yorks.ac.uk).

6.32 You have the right to be accompanied at the hearing by a supporter. You need to tell us who this supporter is, **at least three working days before** the hearing, by email to [casework@yorks.ac.uk](mailto:casework@yorks.ac.uk). If you would also like a representative from the Wellbeing Team to be in attendance, we can also arrange this, where feasible.

6.33 You can also invite one or more witnesses to the hearing. You need to tell us who this witness is **at least three working days before** the hearing, by email to [casework@yorks.ac.uk](mailto:casework@yorks.ac.uk). Witnesses should be called in relation to the allegations only, character witnesses will not be permitted.

6.34 The Investigating Officer/responsible person for the case will be invited to the hearing to present their report and to allow the hearing panel to ask any questions they may have on this.

6.35 The University may also invite one or more witnesses to the hearing. If it does so, you will be told of this in advance of the hearing.

6.36 You will not be permitted to cross-examine witnesses; you may address questions to the Chair, who will relay questions to the witness if the Chair believes it is appropriate.

6.37 Where there are concerns about safety, the hearing may be coordinated so the responding student and witnesses are not in attendance at the same time, or correspondence may be conducted in an alternative manner.

6.38 At least two members of the Appeals and Conduct Committee will be present at the hearing; Committee members with previous involvement with the case shall not take part. One member of the Committee will be appointed as Chair of the panel. [A President or Student Officer](#) will also be present to ensure there is student representation on the panel.

6.39 You are required to attend the hearing. If you have a good reason for being unable to attend, please inform the University, who will make a reasonable attempt to rearrange it. If you do not do attend, the Committee may still make a finding and agree on a penalty in your absence. If you are unable to attend the meeting physically, you may request alternative arrangements such as use of video-conferencing (normally applicable only to students who are outside the UK at the relevant time or where this represents a reasonable adjustment). If you choose not to appear before the Committee, the Committee has the right to hear the case in your absence, drawing such conclusions as it deems appropriate.

6.40 A formal record of the hearing will be kept by the Committee and will be shared with you.

6.41 At the hearing, you will be invited to respond to the allegations made against you. You may be asked questions by the Committee members. You have the opportunity to make any points you believe relevant to the decision of the Committee.

6.42 At the conclusion of the hearing, the Committee will reach a decision based on the available evidence and will uphold the case or dismiss the allegation. If the Committee agrees that a disciplinary offence was committed, a penalty will be imposed as identified from the list below. You will receive the decision in writing **within 5 working days** of the hearing.

6.43 Penalties available to the Appeals and Conduct Committee are:

- a. A verbal warning.
- b. Written warning/reprimand (a copy will be retained on file for the remainder of your studies).
- c. Restitution of any damage caused.
- d. Enforced suspension.
- e. Exclusion from specified University facilities or activities.
- f. Fines up to a maximum of £250.
- g. Expulsion.
- h. Other such actions as may be appropriate to the case.

6.44 More than one penalty may be applied. Previous misconduct may be taken into account in deciding the appropriate penalty.

6.45 Failure to comply with any action required following the outcome, could result in further disciplinary action. The Disciplinary Officer will be notified of any failings and will determine if further action should be taken.

6.46 You have the right of appeal against the decision of the Appeals and Conduct Committee **within 10 working days** from the date from the date of the outcome letter. You may appeal on the following grounds:

- a. The outcome of the Committee was disproportionate in the light of the evidence supplied. (You cannot appeal solely because you disagree with the outcome, but you can appeal if you believe the outcome was not supported by the evidence presented).
- b. The procedure for the hearing was deficient in a way which materially prejudiced case.
- c. That further evidence has become available since the hearing which would materially affect the decision.

6.47 Appeals against decisions of the Committee will be heard by the Vice Chancellor or nominee.

### **Appeal to the Vice Chancellor**

6.48 To appeal against the decision of the Appeals and Conduct Committee, you (the responding student) must do so **within ten working days** from the date on the hearing outcome letter. You must email [casework@yorks.ac.uk](mailto:casework@yorks.ac.uk) to confirm the grounds on which you are appealing (see 6.46).

6.49 The Vice Chancellor or nominee will normally review the case based on the existing case documentation, unless new evidence has become available and there is a good reason why it was not available previously.

6.50 The Vice Chancellor or nominee may:

- a. Uphold the Committee decision.
- b. Set aside the penalty and/or substitute an alternative penalty.
- c. Refer the matter back for further consideration by the Appeals and Conduct Committee.

6.51 The Student Casework team will send the student the decision of the Vice Chancellor's (or delegate's) review in writing as soon as possible and normally within 10 working days.

6.52 Disciplinary matters relating to students on programmes delivered by a Validated Partner should follow their disciplinary procedures.

6.53 If the Responding Student thinks the finding or penalty by the Validated Partner is unfair or disproportionate based on the evidence and wishes to appeal the outcome after completing the procedures, they may ask to have the matter reviewed under the YSJU procedure. In these circumstances, the responding student should



## 7 Report to the Board of Governors

- 7.1 Any disciplinary outcome involving suspension, exclusion or expulsion will be reported at the next meeting of the Board of Governors.

## 8 Completion of Procedures Letter

- 8.1 If your appeal is rejected, you will be sent a 'Completion of Procedures Letter'. If you remain dissatisfied, you have the opportunity to apply for a review by the Office of the Independent Adjudicator for Higher Education (OIA). The OIA is an independent body which was established by the Higher Education Act 2004 to consider student complaints which have not been resolved through an institution's internal procedures. The deadline for an appeal to the OIA is **12 months** from the date of the Completion of Procedures letter. This service is free to students. For further details, see the OIA website: [www.oiahe.org.uk](http://www.oiahe.org.uk).

## 9 Appendix 1: Duties under the Counter Terrorism and Security Act 2015

- 9.1 The Counter Terrorism and Security Act 2015 places a duty on the University to have due regard to the need to prevent people from being drawn into terrorism. This legislation is given specific statutory force through the Prevent duty guidance for higher education institutions in England and Wales, known as the 'Prevent Duty'.

- 9.2 In implementing the Prevent Duty, the University takes into account our commitment:

- To the safety and wellbeing of our staff and students and all who interact with the University.
- To meet our legal responsibilities.
- To academic freedom and freedom of speech within the law and with the appropriate obligations and responsibilities arising from such freedoms (see [Freedom of Speech Code of Practice](#)).
- To promote equality and diversity.
- To support campus cohesion and harmonious relations across all parts of the University community.
- To act in a proportionate and risk-based manner, relevant to the local context in which the University is based.

- 9.3 The University may follow disciplinary procedures against any student who is found to have committed criminal acts or any other misconduct related to terrorism, in the course of their studies or work activities, which may result in expulsion or dismissal.

- 9.4 The University has a legal duty to share information – in confidence – within the University, and with external authorities, on matters related to individuals assessed as vulnerable to being drawn into terrorism, or at risk of being complicit in terrorist activity. Confidentiality cannot be guaranteed if, as a result of an investigation, individuals are requested to participate in subsequent investigations by the statutory authorities.

## 10 Appendix 2: Involvement of police and criminal courts

- 10.1 It is normally the reporting student's decision whether or not to report a crime to the police, although the following exceptions apply:

- 10.1.1 In some circumstances, it is a legal requirement for the University to report incidents to the police, e.g. under the Acts of Parliament relating to the prevention of terrorism (see previous appendix) and the protection of children or safeguarding of other vulnerable persons.

- 10.1.2 Circumstances may arise when failure to report a matter to the police may be against the public interest or the interest of the University community, for example, when significant violence has been used which may subsequently put the reporting student or others at risk. In such a case, the Disciplinary Officer and University Secretary will make the decision whether the matter should be reported to the police, taking into account any potential harm to the reporting student from unauthorised disclosure, including further distress to the student and loss of trust in the University.

- 10.2 Once the reporting student has made a decision about the next step then, save in exceptional circumstances, for example, where a report to the police is necessary to protect the reporting student (or others) from harm or to prevent a further crime taking place, the university should seek to act in accordance with the reporting student's wishes.

- 10.3 Where a reporting student does not report or retracts a statement in relation to an alleged serious offence to the police, and the Disciplinary Officer does not intervene to do so, the disciplinary procedures may still be invoked. The University disciplinary procedures are not a substitute for the criminal justice system; the

University cannot decide whether a crime has been committed. It can only decide whether, on the evidence available to it, a breach of the Student Dignity and Respect Policy and the Student Disciplinary Policy and Procedure is more likely than not to have taken place.

- 10.4 The University may seek and maintain informal liaison with the police. Advice may be sought on whether a matter is considered by the police to be serious or not serious and whether there are compelling grounds for reporting a matter formally where the reporting party is opposed to such action.
- 10.5 A serious offence is one that is likely to attract an immediate custodial sentence if proved in a criminal court or one that can be tried as a criminal offence only at the Crown Court.
- 10.6 If the offence is referred to the police, the Disciplinary Officer will usually decide to postpone full disciplinary action until the police and courts have dealt with the matter. The criminal justice system takes priority, and the University will avoid taking any action that may in any way compromise criminal proceedings.
- 10.7 Where a disciplinary case has been postponed pending the outcome of police investigation or judicial process, the University will normally follow the formal disciplinary procedure after a criminal case has been concluded. The judicial outcome will be taken into account by the University, although it may reach a different conclusion to that of the court as it is operating on a different standard of proof (the balance of probabilities rather than beyond reasonable doubt) and may consider different evidence. If the situation alters as a result of an appeal against conviction or sentence, the University reserves the right to re-consider its action once any formal legal process has been completed.
- 10.8 Where a criminal conviction has been made against a student, the University will not re-investigate the matter. The finding would be made by the University that the student has engaged in misconduct by committing a criminal offence. The responding student would still be given an opportunity to respond to the allegation of misconduct by committing a criminal offence.
- 10.9 If, as a result of due judicial process, you are unable to attend meetings relating to the University investigation and/or a Committee hearing, the investigation and where applicable hearing will be conducted in your absence. You will be informed of the date of the hearing and are entitled to send a representative, if you wish.

## 11 Associated Links

<https://www.oiahe.org.uk/resources-and-publications/good-practice-framework/disciplinary-procedures/>

<https://www.yorks.ac.uk/students/concerns-and-complaints/>

[https://www.yorks.ac.uk/policies-and-documents/code-of-practice-for-assessment/#the-code-of-practice-for-assessment-\(by-section\)](https://www.yorks.ac.uk/policies-and-documents/code-of-practice-for-assessment/#the-code-of-practice-for-assessment-(by-section))

<https://www.oiahe.org.uk/>

<https://www.yorks.ac.uk/policies-and-documents/freedom-of-speech/>

## Version Control Statement

Policy reference code:			
Version:	8		
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	Section 1 & 2  Introduction and Scope added Clarification added as to under which policies different reports will be handled. Clarification that the policy is not intended to resolve disputes between individuals.  Section 3  Section expanded substantially  Section 4  Examples added and section expanded  Section 5  Information added around possible room moves and	26/06/24	Academic Board

	<p>restrictions to IT access, maximum periods of study and provisional action, exclusions from specific SU activities, reiteration of wellbeing and welfare support, clarifications around recordings and judgments of guilt, failing to comply with action.</p> <p>Section 6</p> <p>informal stage – addition of reference to SU mediation, clarification on referral pathways, information added around no discussions on the case.</p> <p>Level 1 – clarification of those who can act as the responsible person, clarification on recording of meetings, addition of the responsible person to produce a short summary for the Disciplinary Officer to review, clarification on timeframe and grounds for appeal, additional of adjusting the penalty and referring the case back for further investigation as an outcome option from the VC review, clarification on how the outcome will be shared, details around receiving a CoP letter, and information regarding sharing correspondence.</p> <p>Level 2 – addition of roles to the Investigator Officer, clarification of timeframe for outcome and when the report will be shared, clarification on timeframe and grounds for appeal, addition of adjusting the penalty and refer the case back for further investigation as an outcome option from the VC review, clarification on how the outcome will be shared and details around receiving a CoP letter.</p> <p>Hearing of the Appeals and Conduct Committee - clarifications on timeframe for sharing documentation, addition of including representative from Wellbeing, clarification of timeframe for receiving outcome following hearing, clarification on timeframe to appeal and grounds to be able to appeal.</p> <p>Appeal to the Vice Chancellor- Clarification on when the outcome will be shared, clarification on validated partner programmes and details on the process to be followed if they responding students thinks the finding is unfair or disproportionate.</p> <p>Appendix 2: Involvement of police and criminal courts - Addition to clarify that the reporting student's wishes will be followed unless there are exceptional circumstances, Clarification added that where a criminal conviction is made the university will not re-investigate the matter but the allegation that the student has engaged in misconduct by committing a criminal offence, clarification that if a student is not able to attend meetings relating to the University investigation due to the judicial process, the investigation will be conducted in their absence.</p>		
	<p>Introduction</p> <p>Clarification about which policy harassment (separate to sexual harassment) will be managed.</p> <p>Section 4</p> <p>Amendment to the harassment example of student misconduct and definition of harassment amended to mirror OfS definitions</p>	20/08/2024	Executive Board