

NON-ACADEMIC MISCONDUCT DISCIPLINARY PROCEDURE

1. Introduction

- 1.1 Students are expected to treat all members of the community with respect including their peers, staff, and visitors to the University and members of the local community, as outlined in the [Student Pledge](#). Students are also expected to behave in a way that does not interfere with or cause disruption to the normal operations of the University and community. Where there is reason to believe that rules and regulations have been broken, and/or when the behaviour of a student falls below the expected standards, these Disciplinary Procedures will be used.
- 1.2 The maintenance of discipline and good conduct is the responsibility of Senate. These procedures outline the means by which disciplinary matters involving non-academic misconduct will be assigned and managed.

2. Scope and Relationship with Other University Procedures

- 2.1 These Disciplinary Procedures relate to matters of non-academic misconduct as outlined in General Regulation IV - Discipline.
- 2.2 These Disciplinary Procedures apply to students who are registered and / or matriculated students at the time the misconduct allegations are made. These procedures may continue after a registered student has withdrawn/graduated, at the discretion of the University.
- 2.3 These Disciplinary Procedures do not cover students eligible for an award validated by the University but delivered by a partner organisation; in these circumstances, the regulations for student discipline in place at the partner organisation will apply.
- 2.4 The University's disciplinary jurisdiction over students' conduct is not limited to University premises or solely within term-time. Where the non-academic misconduct poses risks, creates disruption, or causes harm, loss or damage to the University or to members of the wider community, the University reserves the right to investigate allegations of non-academic misconduct that occur both on and off its premises and that occur within or outside normal University opening hours. This means that behaviour during vacations, weekends, evenings, placements or field trips, in a social setting (for example in residences or on social media), or in any other setting may be taken into consideration and have consequences under these Disciplinary Procedures.
- 2.5 As these Disciplinary Procedures relate to matters of non-academic misconduct, in circumstances where the alleged misconduct relates to academic offences, it will be referred to the appropriate procedure, under section 6.2.4 of the Learning and Teaching Handbook.
- 2.6 Occasionally there may be overlap between this disciplinary procedure and other University procedures. In such cases it is for the University to decide which procedure to follow. This decision will be taken by the Director of Student Experience (or their nominee).

- 2.7 The behaviour of a student may also be referred under the non-academic misconduct procedures, following reports of behaviour that may breach University policies in respect to Sexual Misconduct and Violence, and Individuals & Behaviour (bullying and harassment).
- 2.8 Where a student's behaviour and/or conduct is linked to concerns about the student's capacity to engage in academic engagements or University-related activities, maintain their own safety or reside in the College communities of Durham University without adversely impacting their peers or College staff, an allegation may also be referred to the [Fitness to Study Policy](#) for consideration as well as, or instead of, disciplinary action.
- 2.9 In cases where the alleged misconduct poses an actual or potential risk to members of the University community, [General Regulation VI – Suspension](#) may be applied as a non-judgmental precautionary measure whilst the University investigates the alleged misconduct.
- 2.10 To facilitate the sharing of information, the University has in place an agreement with Durham Constabulary. The University may be informed about incidents of anti-social behaviour and other possible alleged breaches in accordance with the Memorandum of Understanding. The University may also provide the Police with information about students under that same Memorandum of Understanding.
- 2.11 Students under investigation for non-academic misconduct are expected to comply with the [Code of Practice on Student Behaviour in Appeals and Complaints](#).

3. Definitions and Terms

- 3.1 The term **non-academic misconduct** refers to actions which fall into one or more of the areas listed below:
- a) Actions or omissions, within or without the University, which cause actual or potential harm or distress to others,
 - b) Actions or omissions, within or without the University, which cause actual or potential damage to property of others or to the property of the University,
 - c) Actions or omissions, within or without the University, which disrupts, frustrates or interferes with the normal operations, and/or safe use of, the University including where applicable, actions or omissions, within or without the University, which cause reputational damage to the University,
 - d) Actions or omissions, within or without the University, which disrupts, frustrates or interferes with the pursuance of work or study of University members, or impact on normal operations of the University.
- 3.2 Examples of offences are given in Appendix A. The examples given are intended to be illustrative and not exhaustive. Additional examples may also be specified by other University policies, codes of practice and regulations.
- 3.3 **Authorised University Officers (AUOs)** are University staff who are authorised to act in relation to allegations of student misconduct and may delegate their authority to another member of staff on a case-by-case basis. AUOs are identified in [General Regulation I - Definitions](#). The AUO considers the findings of the Investigator and decides whether they constitute a breach of University Regulations and/or Policy. If so, the AUO identifies the specific University Regulations and/or Policy breached, will then consider any mitigating and aggravating factors, and adjudicate on the most appropriate and proportionate sanction. The

AUO will not re-investigate an allegation.

- 3.4 **Investigators** are senior members of the University who will carry out investigations into allegations of misconduct. For Sexual Misconduct and Violence, this will be a specially trained Senior Investigating Officer but for other allegations this may be an AUO such as a College Principal or Vice-Principal. The role of the Investigators is to make a decision, on the balance of probabilities, as to whether the allegations are founded. The Investigator does not determine whether this constitutes a breach of University policy. External investigators may be used in exceptional circumstances.
- 3.5 **Reviewers** are senior members of the University who will carry out the review of an investigation outcome where requested. For Sexual Misconduct and Violence, this will be a specially trained Senior Investigating Officer but for other allegations this may be another AUO such as a College Principal or Vice-Principal. The role of the Reviewer is to conduct a review of the Investigation outcome, where requested. The Reviewer will not re-investigate an allegation.
- 3.6 **Reporting Party** refers to a person (or persons) who has (or have) been the subject of an alleged incident of misconduct under this Procedure or another policy.
- 3.7 **Responding Party** refers to a person (or persons) whose behaviour it is alleged, amounts to an incident of misconduct under this Procedure or to a breach of another University policy.
- 3.8 **Senate Discipline Committee (SDC)** refers to the panel which considers the findings of the Investigator and makes a decision as to whether they constitute a breach of University Regulations and/or Policy. If so, SDC identifies the specific University Regulations and/or Policy breached, will then consider any mitigating and aggravating factors, and adjudicates on the most appropriate and proportionate sanction. SDC will not re-investigate an allegation.

4. General Principles

- 4.1 This procedure seeks to operate in a fair and transparent manner in accordance with the principles of natural justice. It does not seek to reproduce elements of the criminal law and is not a formal legal process.
- 4.2 The University has legal obligations which will apply to this procedure: for instance, the duty to act fairly and reasonably in relation to all parties in the application of this procedure.
- 4.3 The standard of proof required is the balance of probabilities, with outcomes determined on the basis of whether it is more likely than not that the alleged misconduct occurred.
- 4.4 Students involved in disciplinary procedures have the right to contact their College Student Support Office for advice with respect to those procedures being used.
- 4.5 Students involved in disciplinary procedures have the right to contact the Students' Union for advice with respect to those procedures being used and assistance with responding to the allegation.
- 4.6 Students involved in disciplinary procedures shall also have the right to be accompanied to any investigative meeting or hearing. The accompanier is there to provide immediate pastoral support only. Students are expected to speak on their own behalf; there is no automatic right for an accompanier to speak on a student's behalf and it is at the University's discretion as to whether the accompanier is permitted to address the meeting.

- 4.7 Students will be advised of their right to be accompanied by a trained Durham Students' Union Advocate who will be able to advise the student, provide moral support and advocate on their behalf. The attendance of a Durham Students' Union Advocate would be in place of an accompanier under section 4.6.
- 4.8 The University does not normally permit legal representation in misconduct procedures. The University will consider requests by the student for legal representation at a Senate Discipline Committee hearing; however, the decision as to whether or not to permit legal representation will be taken by the University Secretary (or the University Secretary's nominee) and will be at the University's sole discretion.
- 4.9 The University will, wherever possible, seek to adhere to the time limits outlined within these procedures. In cases where there are special circumstances which require variance from specified time limits, students will be advised of the reasons for this.
- 4.10 Disciplinary hearings are convened online unless otherwise requested by the student and on a case-by-case basis after consideration of the relevant circumstances and information.
- 4.11 The University will take reasonable steps to enable the student to participate. However, the University does not require attendance by any student at any hearing convened under these Disciplinary Procedures. If student attendance is not possible to arrange within a reasonable timescale, or at a reasonable time in the UK working day, or if the student decides not to attend some or all of a hearing convened under these procedures, the University may proceed to hold the hearing in the student's absence.
- 4.12 The University reserves the right to proceed with any investigative or disciplinary meeting in the absence of a student, subject to the student having been properly notified of the date and time, or where criminal proceedings do not allow the student to attend in person. The University will ensure that the student is provided with information to be considered at the meeting and given opportunity to make written representation. The proceedings of any such meeting will not be invalidated simply by virtue of the student not attending.
- 4.13 The University reserves the right not to proceed with any investigation following an allegation against a student if it is considered there are insufficient grounds or evidence to do so.
- 4.14 During the application of these procedures the University reserves the right to adjourn any investigation or meeting and reconvene at a later time or date.
- 4.15 In line with the Office of the Independent Adjudicator's good practice framework all reasonable efforts are made to conclude investigation and disciplinary processes as soon as possible and, where practicable, within a 90 calendar day timeframe.
- 4.16 When aggravating factors are present, an offence may be subject to more severe sanctions. Where mitigating factors are present, this may lead to less severe sanctions. Aggravating and/or mitigating factors are only considered in relation to, and will only affect, the sanction; they do not alter decisions or outcomes at earlier stages of these Disciplinary Procedures.

5. Initiation of an Investigation

- 5.1 These Disciplinary Procedures commence once alleged non-academic misconduct has been reported and the Student Conduct Office has made the decision that an investigation is required. Minor infringements that do not require escalation to a formal investigation can be considered by an AUO at a local level following the broad principles set out in Section 6 and Section 8 of these procedures.

- 5.2 In making this decision, the Student Conduct Office will, on the basis of the information available at the time, consider and respond to the support requirements of the individuals involved and any need for any internal or external signposting or referral of the matters raised.
- 5.3 The Student Conduct Office will also arrange or recommend any appropriate and proportionate non-judgmental, precautionary measures to ensure the University manages the level of risk presented. Precautionary measures may consist of, but are not limited to, a No Contact Arrangement, a ban from specific areas of the University, a temporary change of accommodation/College, or a partial or full suspension. Such measures do not indicate that the University has concluded that a student is guilty of misconduct; they are precautionary measures required to be put in place while these Disciplinary Procedures and/or other procedures, such as police investigations, are completed. In cases where the alleged misconduct poses an actual or potential risk to members of the University community, [General Regulation VI – Suspension](#) may be applied as a non-judgmental precautionary measure whilst the University investigates the alleged misconduct.
- 5.4 To facilitate an investigation into alleged non-academic conduct, the Student Conduct Office refers the matter to an Investigator to carry out an investigation.
- 5.5 If a misconduct allegation relates to alleged breaches of rules in more than one regulation, policy or code of practice, a decision will be made by the Director of Student Experience (or their nominee) as to the process that will be followed. In certain cases, it may be appropriate for a joint investigation to take place.

6. Investigation

- 6.1 In cases of alleged sexual misconduct and violence, the [Sexual Misconduct and Violence Policy](#) will be referred to.
- 6.2 The investigation of student non-academic misconduct should follow the broad principles set out below to ensure that the process is fair and transparent to all involved:
- a) The Responding Party and those ruling on the allegations of misconduct will receive written notification of the allegations and the process to be followed to investigate.
 - b) Following notification, the Responding Party will have the right to be accompanied (as outlined in sections 4.6 and 4.7 above) at any meeting they attend to investigate the allegations.
 - c) Before a conclusion is reached the Responding Party should be given the opportunity to make written or oral statements to defend themselves against the allegation, or where they wish to admit an offence, to account for the misconduct and submit mitigation for the disciplinary procedure (Section 8 & 9).
 - d) Where the Responding Party was given reasonable notice to attend a meeting to investigate the allegations and fails to attend without good reasons, or attends for only part of this meeting, the Investigator may proceed to reach conclusions as appropriate in the absence of the student.
 - e) The Investigator also has the right to postpone, continue or adjourn the case at their discretion.
 - f) In the event that an investigation into allegations raises concerns for the welfare of an

individual, the Investigator may raise their concerns with the relevant College Student Support Office and/or the Head of the Counselling and Mental Health Service and the Head of the Disability Support Service.

- 6.3 Following their investigation into the allegations, the Investigator may determine, based on the available evidence and the balance of probabilities:
- a) that the allegations are upheld and did occur,
 - b) that the allegations are not upheld or did not occur
 - c) that there is insufficient evidence to determine an outcome.
- 6.4 The Investigator will prepare a report of the findings including a summary of the supporting information informing their determination and notify the Responding Party and Reporting Party of their determination and their right to request a review of this determination.
- 6.5 The Reporting Party and/or Responding Party may request a review of the determination reached by the Investigator in writing to the Student Conduct Office within five working days of notification of the investigation findings. A request for a review can be made on the following grounds only and should include supporting evidence where appropriate:
- a) Evidence that the Investigator did not follow appropriate procedure in investigating the allegations and that this had a material effect on the investigation outcome, making it unsound,
 - b) Substantial and relevant new information which the Reporting Party or Responding Party was unable to provide previously for a good reason and that this had a material effect on the investigation outcome, making it unsound, and/or
 - c) The findings of the Investigator are unreasonable given the evidence available.
- 6.6 Where a request for review is received from either party (or both), it will be shared with the other party. The Director of Student Experience or their nominee, will identify a senior University officer, independent of the case, to undertake the review (Reviewer). If both parties submit a request for a review a single Reviewer will review both requests.
- 6.7 The Reviewer, in the circumstances set out in section 6.5, will not re-investigate the report. The request will be reviewed on the basis of the documentation provided by the student and that held by the Investigator. The Reviewer may also seek further information if necessary. The Reviewer may decide to:
- a) confirm the findings of the original Investigator,
 - b) refer the case back to the original Investigator for continued investigation in light of new evidence or in a procedurally correct manner,
 - c) require a new investigation by a new Investigator, or
 - d) specify appropriate recommendations to annul, amend, or confirm the findings or determination of the original Investigator.
- 6.8 Both parties will be informed of the outcome of the review request within 15 working days of receipt. In all instances the decision reached by the review is final. In the event the Reviewer

determines that a new investigation takes place, an additional review request will be available.

7. Panel Decision on Onward Referral

- 7.1 Where the Investigator has determined that the allegations did occur a panel will be convened to consider the Investigator's report and decide on the appropriate process to be followed for the next stage of these Disciplinary Procedures.
- 7.2 This panel will be comprised of at least two senior University officers, who are independent of the case.
- 7.3 The role of this panel will be limited to deciding that either:
 - a) the matter should be referred to an AUO for a decision as to whether the allegations may constitute a breach of University Regulations and/or Policy, and if so consider mitigating and aggravating factors and decide on an appropriate sanction, or
 - b) the matter should be referred to the Senate Disciplinary Committee for a hearing to decide whether the allegations constitute a breach of University Regulations and/or Policy, and if so consider mitigating and aggravating factors and decide on an appropriate sanction.
- 7.4 When making this decision, the panel will ensure that cases meeting any of the following criteria are referred to the Senate Discipline Committee:
 - a) Behaviour which is frequent or repeated or which involves the student failing to comply with disciplinary decisions or sanctions previously imposed or failing to comply with the terms of a suspension or No Contact Order.
 - b) Any other allegations which does, or has the potential to, seriously affect or cause serious damage to students, the University, its staff, or to the reputation of the University.
- 7.5 If a decision is not clear, the panel may seek advice from the Student Conduct Office. The Head of the Student Conduct Office will consult with the Director of Student Experience as necessary.

8. Cases Referred to an AUO for Sanction

- 8.1 When a case is referred by the panel to an AUO to decide whether the findings of the Investigator constitutes a breach of University Regulations and/or Policy, and if so to decide on an appropriate sanction, under section 7 of these Disciplinary Procedures, the Student Conduct Office will assign the relevant AUO.
- 8.2 The AUO shall have due regard to any relevant aggravating or mitigating factors, as set out in section 11 of these Disciplinary Procedures. When aggravating factors are present, an offence may be subject to more severe sanctions. Where mitigating factors are present, this may lead to less severe sanctions. Aggravating and mitigating factors are only taken into account in relation to the sanction, and do not affect other aspects of these Disciplinary Procedures i.e., they are not considered in determining if a breach of Regulations and/or Policy has occurred.
- 8.3 Within 10 working days of the outcome of the initial investigation, or within 10 working days of the conclusion of any review of the Investigator's determination under section 6.7, the AUO

will provide the student(s) with a brief written, reasoned report relating to their decision about whether and which Regulation and/or Policy has been breached, and any sanctions they have decided to impose. These sanctions may include any or all of the following:

- a) a written reprimand,
- b) a behavioural contract,
- c) restitution of damage or reasonable costs,
- d) temporary or permanent exclusion from use of specific University and/or College facilities or services,
- e) compulsory attendance to undertake training or workshops,
- f) restorative justice including voluntary work or community service, and/or
- g) any other sanction (other than exclusion or expulsion from the whole University), as deemed by the AUO to be appropriate and proportionate to the nature of the misconduct.

8.4 Where students are cited in multiple or repeated offences, cases will be considered with the utmost seriousness and previous disciplinary action will be considered by the AUO as part of deciding on the sanctions to be imposed.

8.5 The outcome of the investigation and any subsequent sanction will be shared with the Student Conduct Office, the Reporting Party, and the student's Academic Department, College and relevant Service. Academic departments will decide whether authority to contact external regulators is required (for example, for regulated professions such as social work and teaching, external funding bodies).

8.6 A student may exercise the right to appeal by completing the Non-Academic Appeal or Request a Review Form within 5 working days of receiving the outcome of the investigation. The appeal process will not re-investigate the allegations.

8.7 The request for the right to appeal will be considered by the Principal of the student's College (or alternative Principal where the Principal of the student's college has already been involved in the case) or Head of the relevant Department. The student will be asked to state the grounds of their appeal, and the right to appeal will only be granted if there is evidence of one or more of the following:

- a) Procedural irregularity
- b) Evidence of further material circumstances which could not reasonably have been expected to have been submitted for consideration at the time of the investigation/hearing
- c) The sanction imposed was disproportionate to the offence.

8.8 If there are grounds for appeal, the Principal or Head of Department will review the papers but will not re-hear the case or interview the student. They may then make one of the following determinations:

- a) Uphold the original decision of the AUO.
- b) Refer the case back to an Investigator for reconsideration in light of new evidence or in a procedurally correct manner. The Investigator would be someone who has had no prior

involvement in the case.

- c) Uphold the original decision of the AUO but amend the sanction.
- d) Overturn the original decision of the AUO and remove the sanction.

8.9 If the Principal or Head of Department decides that the student has not demonstrated sufficient grounds for appeal, the appeal will be dismissed. The decision is final, and the student shall receive a 'Completion of Procedures' letter summarising the reasoning and outcome of the appeal, and the right to complain to the Office of the Independent Adjudicator and the deadline for submitting a complaint.

9. Cases Referred to the Senate Discipline Committee

9.1 Senate Discipline Committee has a specific role in the disciplinary process:

- a) To officially receive the findings of the Investigator.
- b) To refer any new evidence, submitted with good reason for non-submission at the correct time, to the Investigator for a determination of the impact on their findings.
- c) To decide if those findings constitute a breach of University Policy.
- d) To consider any evidence of mitigating or aggravating factors.
- e) To sanction proportionally and appropriately.

9.2 Senate Discipline cannot overturn the factual findings of the Investigator.

9.3 If new evidence relevant to the case is submitted with good reason for non-submission during the Investigation or Review period, SDC must defer to the Investigator for a decision as to whether it impacts those findings.

9.4 If SDC identify any procedural defect that may impact the factual findings of the Investigator then it must be referred back to the Investigator to decide its impact on those findings.

9.5 When a case is referred by the panel to the Senate Discipline Committee, under section 7 of these Disciplinary Procedures, the Responding Party will be contacted in writing by the Student Conduct Office within 5 working days and informed and notified by email of the nature of the allegations founded and the date of the SDC hearing.

9.6 The SDC hearing will take place as soon as is practicable, while ensuring that the student is given at least 10 working days' notice of the scheduled hearing date. Where there are exceptional circumstances requiring a shorter period of notice to be given, this can be approved by the Chair and the reasons will be explained to the student.

9.7 The student has a right to submit a final written statement no later than 7 working days before the hearing. The student's statement may set out any relevant additional information to bring to the Committee's attention (for example, an account of mitigating circumstances). Statements and other documentation will be circulated to the Committee and the student not less than 5 working days before the hearing, although later circulation may be allowed at the discretion of the Chair.

9.8 If the student does not appear on the date of the hearing and the Committee is satisfied that

reasonable attempts were made to communicate the date, or if the student attends the hearing but leaves before its completion, the hearing may proceed and/or conclude in the student's absence.

- 9.9 The Committee shall have due regard to any relevant aggravating or mitigating factors, as set out in section 11 of these Disciplinary Procedures. When aggravating factors are present, a breach of Regulations and/or Policy may be subject to more severe sanctions. Where mitigating factors are present, this may lead to less severe sanctions. Aggravating and mitigating factors are only taken into account in relation to the sanction, and do not affect other aspects of these Disciplinary Procedures i.e., they are not considered in determining if a breach of Regulations and/or Policy has occurred.
- 9.10 Where students are cited in multiple or repeated offences, cases will be considered with the utmost seriousness and previous disciplinary action will be considered by the Committee as part of deciding on the sanctions to be imposed.
- 9.11 Within 5 working days of the SDC meeting, the Student Conduct Office will inform the student of the outcome and any sanctions (if applicable), which may include any or all of the following:
- a) a written reprimand or final written warning
 - b) a behavioural contract
 - c) restitution of damage or reasonable costs
 - d) temporary or permanent exclusion from use of specific University and/or College facilities or services
 - e) compulsory attendance to undertake training or workshops
 - f) restorative justice including voluntary work or community service
 - g) restricting access to the University or parts of it and/or activities organised or sanctioned by the University and/or the Students' Union,
 - h) temporary or permanent exclusion from the University and/or
 - i) any other sanction, as determined by the SDC to be appropriate and proportionate to the nature of the misconduct.
- 9.12 Normally within 10 working days of the hearing, the student will be provided with the report of the hearing which will set out the reasoned decision of Senate Discipline Committee. The outcome of the investigation and sanction will be shared with the Student Conduct Office, the Reporting Party, and the student's Academic Department, College and relevant Service(s). Academic departments will decide whether authority to contact external regulators is required (for example, for regulated professions such as social work and teaching).
- 9.13 A student may exercise the right to appeal by completing the Non-Academic Appeal or Request a Review Form and submitting it to the Student Conduct Office within 10 working days of receiving the report of the Committee. The appeal process will not re-investigate the disciplinary allegations.
- 9.14 The request for the right to appeal will be considered by the Director of Student Experience (or their nominee). The student will be asked to state the grounds of

their appeal, and the right to appeal will only be granted if there is evidence of one or more of the following:

- a) Procedural irregularity
- b) Evidence of further material circumstances which could not reasonably have been expected to have been submitted for consideration at the time of the investigation/hearing.
- c) The sanction imposed was disproportionate to the offence.

9.15 If accepted for appeal, within 20 working days of the appeal being received by the Student Conduct Office, it shall be considered by an appointed lay member of University Council together with all of the information considered at the Senate Discipline Committee hearing.

9.16 If there are grounds for appeal, the lay member of University Council will review the papers but will not re-hear the case or interview the student. They may make one of the following determinations:

- a) Uphold the original decision of SDC.
- b) Refer the case back to an Investigator for reconsideration in light of new evidence or in a procedurally correct manner. The Investigator would be someone who has had no prior involvement in the case.
- c) Uphold the original decision of SDC but amend the sanction.
- d) Overturn the original decision of SDC and remove the sanction.

9.17 If the lay member of University Council decides that the student has not demonstrated sufficient grounds for appeal, the appeal will be dismissed.

9.18 Except in cases where further action is to be undertaken, the decision is final and the student shall receive a 'Completion of Procedures' letter summarising the reasoning and outcome of the appeal, and the right to complain to the Office of the Independent Adjudicator and the deadline for submitting a complaint.

10. Group Discipline

10.1 In some cases, an allegation of potential misconduct may involve a group of students, whether that is an informal group of students or a group that is associated with a particular team, club, society or group.

10.2 In such circumstances, the Student Conduct Office will advise the Director of Student Experience of the allegation, who will decide on any adjustments to the process set out in these Disciplinary Procedures to reflect the group nature of the alleged misconduct. Such adjustments may include, but are not limited to:

- a) A lead investigator being appointed to investigate the matter, who will normally be a Senior Investigating Officer, who will be supported, as required, by a team of investigators, who may be Principals, Vice Principals and/or Assistant Principals.
- b) The Director of Student Experience commissioning Terms of Reference for the investigation.

- c) A report being produced by the lead investigator, with support from the team of investigators, making clear how its determinations, as set out in section 6.5, relate to individual members of the group.
 - d) A larger panel than described in section 7 being convened to consider the report. The panel should specify which students, if any, should be referred to an AUO for a decision on an appropriate sanction and which students, if any, should be referred to the Senate Discipline Committee for a further hearing.
 - e) Any other adjustments to the process that required to ensure these Disciplinary Procedures can be appropriately, proportionately and effectively applied in the context of the group discipline matter.
- 10.3 In relation to any disciplinary action and sanctions that follow this investigation, the normal procedures will apply.
- 10.4 Investigations relating to group discipline under this procedure will need to be conducted as swiftly as possible, while ensuring that they are both thorough and proportionate.

11. Aggravating and Mitigating Factors

- 11.1 Aggravating and mitigating factors, as described below, may only be taken into account in relation to the sanction imposed under these Disciplinary Procedures and do not affect other aspects of the process.

Aggravating factors

- 11.2 There may be certain circumstances in which an offence is subject to a more severe sanction due to the presence of aggravating factors. Aggravating factors could include, but are not limited to the following:
- a) Offences which directly or indirectly cause a physical or mental injury.
 - b) Offences which may be considered to constitute domestic abuse.
 - c) Offences which include the use of force, violence, threats or intimidation.
 - d) Offences which involve serious acts of discrimination as described in the University's Equality, Diversity and Inclusion Policy.
 - i. the panel should have regard to the perceptions of the reporting party and to other circumstances of the case, and
 - ii. the panel should, in deciding whether misconduct in question has the effect of creating an intimidating, hostile, degrading, humiliating or offensive environment, also consider whether it is reasonable for the misconduct in question to have that effect.
 - e) Offences where there is a power relationship between the Responding Party offender and the Reporting Party, where this power is abused.
 - f) Offences that occur whilst the student is under a No Contact Arrangement, No Contact Order or any type of suspension.
 - g) Offences for which a student has received a previous warning or sanction.

- h) A pattern of misconduct which has been founded previously.

Mitigating factors

- 11.3 There may be certain circumstances in which an offence is subject to a less severe sanction due to the presence of mitigating factors. Mitigating factors could include, but are not limited to the following:
 - a) Evidence that the offence was committed without the intent to cause harm, damage or upset (a lack of evidence that harm was intended is not evidence that it was not intended)
 - b) Evidence that the student has clearly accepted responsibility for the offence.
 - c) Evidence that the student has demonstrated sincere remorse for the offence.
 - d) Evidence that the student took immediate steps to remedy the effects of the offence.
- 11.4 The influence of alcohol or drugs at the time of the offence does not constitute a mitigating factor but could be considered an aggravating factor¹.

Further Information and References

This document was approved by University Council on 10 December 2024

Further University policies are available from the [Policy Zone](#).

Contact for further information: Student Conduct Office (student.cases@durham.ac.uk)

¹ [Policy on Alcohol Awareness and Use - Durham University](#)

APPENDIX A – EXAMPLES OF MISCONDUCT

Examples of offences are listed below. The examples given are intended to be illustrative rather than exhaustive.

Actions which cause actual or potential harm or distress to others, such as:

- a) Offences against the criminal law.
- b) Sexual violence and misconduct.
- c) Assault or causing physical harm.
- d) Causing distress to others through excessive and unacceptable levels of noise in University residence on campus or in the local community.
- e) Anti-social behaviour which causes distress to others and/or reputational harm and/or damage to the University's relationship with the local community.
- f) Verbal abuse or intimidation.
- g) Threatening, offensive or indecent behaviour.
- h) Acts of bullying, harassment or intimidation.
- i) Theft, fraud, or deliberate falsification of records.
- j) Possession and/or intent to supply controlled drugs.
- k) Possession of an offensive weapon/firearm including imitation or replica products.
- l) Initiation-style events or behaviour.
- m) Multiple or repeated minor offences, such as any of those listed above.

Actions which cause actual or potential damage to the property of others or to the property of the University, such as:

- a) Offences against the criminal law.
- b) Causing minor and deliberate damage to property.
- c) Causing serious and deliberate damage to property.
- d) Multiple or repeated minor offences, such as any of those listed above.

Actions which disrupt the normal operations, and/or safe use of, the University including where applicable, actions which cause reputational damage to the University, such as:

- a) Offences against the criminal law.
- b) Causing distress to others through excessive and unacceptable levels of noise in University residence on campus or in the local community.

- c) Anti-social behaviour which causes distress to others and/or reputational harm and/or damage to the University's relationship with the local community.
- d) Assault or causing physical harm.
- e) Threatening, offensive or indecent behaviour.
- f) Persistent acts of bullying, harassment or intimidation.
- g) Theft, fraud, or deliberate falsification of records.
- h) Possession and/or intent to supply controlled drugs.
- i) Possession of an offensive weapon/firearm including imitation or replica products.
- j) Multiple or repeated minor offences, such as any of those listed above.

Actions which impede or interfere with the pursuance of work or study of University members, or impact on normal operations of the University, such as:

- a) Offences against the criminal law.
- b) Failure to comply with explicit rules or regulations; for example, unauthorised parties in residences, smoking in non-designated areas, causing a disturbance in examinations.
- c) Infringement of University Health and Safety rules; for example, failure to vacate during fire alarms, lighting fires or barbecues in unauthorised areas, or tampering with safety equipment.
- d) Refusal to respond to reasonable requests by relevant University staff; for example, refusing to confirm identity when requested during the normal course of their duties, failure to attend a disciplinary meeting without good reason.
- e) Causing distress to others through excessive and unacceptable levels of noise in University residence on campus or in the local community.
- f) Anti-social behaviour which causes distress to others and/or reputational harm and/or damage to the University's relationship with the local community.
- g) Threatening, offensive or indecent behaviour.
- h) Persistent acts of bullying, harassment or intimidation.
- i) Possession and/or intent to supply controlled drugs.
- j) Possession of an offensive weapon/firearm including imitation or replica products.
- k) Persistent refusal to pay a fine or observe another penalty imposed following a disciplinary hearing.
- l) Trespassing.
- m) Multiple or repeated minor offences, such as any of those listed above.