

Procedure for convening a hearing of the Senate Discipline Committee (SDC) to consider an allegation of a “major” /”Category 2” offence

Part A: Proposed protocol for holding hearings remotely

Introduction:

- 1) Durham University is responding to the COVID-19 virus with the health and wellbeing of our community and the communities of which we are part as our first priority.
- 2) The restrictions in place limiting all non-essential access to University buildings in response to the Covid-19 pandemic necessitates, wherever possible, remote patterns of working to ensure continuity of core business functions.
- 3) In particular, it is recognised that ongoing delay of University disciplinary procedures has potential to negatively impact the health and wellbeing of students who remain subject to these processes. This protocol has been prepared to minimise the extent of delay experienced, ensuing all disciplinary matters which require consideration by Senate Discipline Committee (SDC) are conducted as quickly as possible, consistent with fairness.
- 4) This protocol has been developed as an interim measure until such time it is possible to resume to convene a hearing of SDC within the physical space of the University.
- 5) The protocol outlines the procedure for convening a meeting of the SDC to consider an allegation of a “major” / Category 2 offence.
- 6) The present situation has necessitated the University to review the practical arrangements in place to convene a meeting of SDC.
- 7) The protocol has been prepared in accordance with General Regulation IV – Discipline¹, Durham University Academic², Non-Academic Misconduct Procedure³ and the Procedure to Convene a Hearing of Senate Discipline Committee⁴.

¹ Durham University General Regulation IV – Discipline:
https://www.dur.ac.uk/university.calendar/volumei/general_regulations/

² Durham University Academic Misconduct Procedure:
<https://www.dur.ac.uk/learningandteaching.handbook/6/2/4/>

³ Durham University Non-Academic Misconduct Procedure:
<https://www.dur.ac.uk/resources/colleges.se.division/NAMPPolicy2019.pdf>

⁴ Durham University Procedure to Convene a Hearing of Senate Discipline Committee
<https://www.dur.ac.uk/resources/academicsupport.office/SenateDisciplineCommitteeHearingprocedureV1.pdf>

Part B: Procedure for convening a hearing of the Senate Discipline Committee (SDC) to consider an allegation of a “major” /”Category 2” offence

Jurisdiction

- 1) A hearing of SDC will be convened to hear any allegation of “major”/Category 2 offences referred to it by the Chair or Deputy Chair.

Membership

- 2) A quorum of three members of the SDC will attend a discipline hearing and will be comprised of:
 - The Chair or a Deputy Chair.
 - One member of staff, drawn from the panel of fifteen members of staff, who may also be a Deputy Chair.
 - One student representative drawn from those nominated by Durham Students' Union.
 - At least one member shall be staff and one a student representative.
 - At least one member shall be a man and one a woman.

Prior to the hearing

- 3) A hearing of the SDC shall normally be held within six weeks of the Chair or Deputy Chair referring an allegation of a “major”/”Category 2” offence.
- 4) It is acknowledged, at the current time, factors beyond the reasonable control of the University may cause unanticipated disruption to and /or delay in the procedure to convene a hearing of SDC within the usual timeframe specified.
 - i. In the circumstances that it is deemed necessary to postpone a meeting of SDC all parties will be contacted at the earliest opportunity to be advised of the delay and reasons for the delay, The parties identified will be advised as soon as practicably possible of the rescheduled date to convene a hearing of SDC.
 - ii. In the circumstances that it is not possible to convene a hearing of SDC within the six week time period specified, a hearing of SDC will be convened at the earliest opportunity possible. All relevant parties will be informed of the reasons for the extended timeframe.
- 5) Upon referral of a “major”/”Category 2” offence allegation to SDC the student accused will be contacted in writing within 5 days and informed and notified of:
 - i. General Regulation IV – Discipline and other University regulations, procedures, codes of practice or policies relevant to the allegation;
 - ii. The report of the Authorised University Officer (AUO) referring the “major”/”Category 2” offence to SDC and any evidence or supporting information relating to the “major”/”Category 2”offence;
 - iii. 10 working days' notice of the date to appear before SDC;
 - iv. The right to contact their college student support office or Students' Union for

- assistance with responding to the “major” /”Category 2” offence allegation;
- v. The right to submit relevant supporting information for SDC to consider at the hearing. Any such documents must be submitted 7 working days in advance of the hearing in order that they may be distributed with the agenda and papers for the hearing.
 - vi. The 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 SDC’s attention (e.g. an account of mitigating circumstances where the student wishes to admit the offence or evidence to support a rebuttal of the offence).
- 6) Witnesses may not attend the hearing in person. The student accused may submit a written statement from any witness (if willing, in all cases) for consideration by members of the Committee.
- 7) The student accused may be accompanied at the hearing by a member of the University, by a member of the Students’ Union, or by a member of their ‘household’. In terms of the procedures outlined, the role of the accompanier is limited to provision of pastoral and welfare support of the student accused during the hearing. Specifically:
- i. The student may attend the meeting accompanied by a single person only.
 - ii. At the beginning of the meeting the accompanier will be formally requested by the Chair to:
 - respect the private and confidential nature of the proceedings;
 - refrain from any interruption and abide by the principle that they should not seek to address directly any other person, other than the Chair or Secretary, during the course of the meeting.
 - iii. An accompanier may address the Chair to:
 - request a short break (5-10 minutes) for the purpose of providing pastoral and welfare support to the student accused;
 - indicate technological issues in transmission of the meeting;
 - read a final, closing statement as prepared by the student to members of the Committee assembled.
 - iv. With the exception of the Chair, Secretary and student accused, no other person in attendance at the meeting is permitted to address the accompanier.
 - v. Persistent, unwarranted interruption by the accompanier will result in a formal warning from the Chair. In the circumstances that persistent interruption is causing disorder to proceedings the Chair may request that the accompanier leaves the meeting. Exceptionally, the Chair may discontinue the hearing, directing that SDC should determine an outcome on the basis of the documents presented for consideration.
- 8) Relevant information about the student’s conduct at the University from or on behalf of the Head of the student’s College and the Head of the student’s Department will be sought in advance of the hearing for circulation as part of the agenda and papers. Where the Head of College or Head of Department is acting as AUO, another member of staff from the College or Department shall be asked to provide the statement.
- 9) The agenda and papers for the hearing will be sent out 5 working days in advance to the student accused, members of SDC attending the hearing, and the AUO. Except for the

student's final written statement, following circulation of the agenda the Chair or Deputy Chair attending the hearing will have discretion whether to allow witnesses or accompaniers to attend or to accept additional papers submitted by the student.

- 10) In response to the current COVID-19 situation, as an interim measure, all meetings of SDC will be convened to take place remotely.
 - i. Hearings of SDC will be convened to take place by virtual meeting (Teams, Zoom, Skype, etc).
 - ii. 48 hours prior to the meeting taking place, a representative of the University will arrange to meet on-line with the student due to appear before SDC to check that they are able to access the meeting appropriately.
 - iii. To enable adequate contingency, the student accused will be required to provide an active contact number to aid contact should there be a loss in transmission.
- 11) If the student does not appear on the date of the hearing and SDC is satisfied that reasonable attempts were made to communicate the date of the hearing to the student, the hearing may proceed and the appropriate sanction imposed in the student's absence. For virtual meetings, there will be three attempts to contact the student by telephone and their Durham University email address.
- 12) The "major" /"Category 2" offence allegation will be introduced by the AUO who referred the matter to SDC or by another officer authorised to act by the AUO.
- 13) The SDC Chair for the hearing may call and seek evidence from any member of the University before the hearing and postpone the hearing as a result. In all cases the student will be informed of the reason for any delay in the normal operation of the procedure and provided with any changes to the agenda and papers of the hearing.
- 14) Prior to the start of a hearing, SDC will conduct a private meeting to review the agenda and papers, any additional papers submitted following circulation and to consider any questions to be asked of the participants.

At the hearing:

- 15) The AUO, student accused, any persons accompanying them will enter the hearing. The Chair will confirm receipt of the agenda and papers and, if necessary, will note any substantial changes to the circulated agenda and papers and the order of the hearing. Should it become necessary to temporarily pause the meeting, the AUO and student accused (along with any persons accompanying them), will be required to leave the virtual space of the meeting. Each will be permitted to re-join the virtual space of the meeting at the same time as the other.
- 16) The SDC shall have power to adjourn, continue or postpone a hearing once it has begun or require the removal of any participant at the hearing where they cause disruption to the effective operation or conduct of the hearing.

- 17) At the hearing, normally the AUO will speak first and the student second. The order of appearance and any statements by witnesses or accompaniers will follow as specified by the Chair.
- 18) At the hearing, both the student and the AUO may question and be questioned by each other and by members of SDC. . The Chair may request at any time that questions be directed through the Chair. Input from the Head of Department and /or Head of College and witnesses is via the provision of a written statement only (to be provided one week in advance of the meeting)
- 19) At the end of the hearing, the AUO will be invited to make a final statement followed by any final statement from the student. The student's final statement may set out an account of mitigating circumstances where the student wishes to admit the offence or evidence to support a rebuttal of the offence. The student may ask to make the statement with only SDC members or may ask that the student's accompanier make the statement for them.
- 20) All participants at the hearing will withdraw

Following a disciplinary hearing

- 21) SDC will hold a private meeting to consider its decision.
- 22) Within 5 working days of the hearing, the SDC Secretary will inform the student of the outcome of the hearing.
- 23) Normally within 10 working days of the hearing, the student will be provided with notes of the hearing which will set out the reasoned decision of SDC and summarise the facts found and considerations which led it to reach its decision. The Secretary of SDC will also inform the student of any further actions to be taken as a result of the decision and the right of request a review when any further actions are complete. The student will be kept reasonably informed of progress in the case.

Part C: Additional Considerations

Privacy and Confidentiality:

- 1) All persons attending the hearing agree to respect and be bound by the private and confidential nature of these and related proceedings.
- 2) Prior to a hearing being formally convened, the Chair aided by the Secretary, will require each member of the Committee, the student accused, the AUO and the note-taker to provide reasonable assurance that they have made arrangement to:

- i. Join the meeting from a location which is private, ensuring seclusion from any other members of the household;
- ii. Mitigate potential disruption and interruption from others within the household or outside the household (i.e. telephone disruption).

Information Governance:

- 3) Durham University is committed to protecting the rights and privacy of individuals in accordance with appropriate UK and European legislation. This includes the:
 - i. General Data Protection Regulation;
 - ii. Data Protection Act 2018;
 - iii. Privacy and Electronic Communications Regulation.
- 4) The University's Data Protection Policy is available to review at:
<https://www.dur.ac.uk/ig/policies/dppolicy/>
- 5) At the end of the meeting ordinary members of the Committee will be required to delete all electronic files held locally, provided to enable consideration of the allegation of a "major" / Category 2 offence. An email will be sent on behalf of the Secretary to ordinary members of the Committee within 48 hours of the close of the hearing, requiring members of the Committee to confirm by return email that files related to the case have been permanently deleted from all devices.
- 6) Following approval of the final report of the hearing, the AUO and Chair will be required to delete all electronic files held locally, provided to enable consideration of the allegation of a "major" / Category 2 offence. An email will be sent on behalf of the Secretary to the AUO and Chair following provision of the final report to the student accused, requiring the AUO and Chair to confirm by return email that files related to the case have been permanently deleted from all devices.

Recording:

- 7) Facility to record the hearing will be strictly limited to the Secretary and note-taker only.
- 8) On-line-capture of the hearing is permitted only to facilitate an accurate record of proceedings for the purposes of producing a final written report.
- 9) All persons attending the meeting consent to participate in recording of the hearing, only for the purposes outlined.
- 10) No persons attending the hearing may proceed to record the meeting for their own purposes, either directly or covertly. Such actions will be considered as indicating a potential breach of Data Protection Law and may result in further action against the individual(s) concerned.

Further clarification:

- 11) Further clarification regarding these procedures is available by contacting student.cases@durham.ac.uk.