



# **DISCIPLINARY CODE AND PROCEDURES RELATED TO STUDENTS IN HALLS OF RESIDENCE**

These procedures take effect from 20 September 2008 and supersede all previously related procedures

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## **DISCIPLINARY CODE AND PROCEDURES RELATED TO STUDENTS IN HALLS OF RESIDENCE**

### **1. Introduction**

Under the provisions of Clause 12.3 of the Articles of Association of the University of Chichester procedures have been agreed by the Board of Governors related to the investigation and resolution of cases of student misconduct, including misdemeanours in the halls of residence.

The procedures are based on the principle that good conduct by students is essential to the maintenance of a high quality learning environment for all. Students at the University are part of a community which expects its members to show courtesy and consideration at all times, to respect persons and property and to observe University rules and regulations. It is hoped, therefore, that the need for disciplinary action will be rare. It is expected that cases of minor misconduct in the residences will be dealt with informally by the Accommodation Office. The procedures detailed below are intended for use in cases of misconduct where such informal procedures are deemed to be inappropriate or require more formal control.

Any staff member dealing with any disciplinary matter, including the most minor misdemeanour, will be required to keep a written record of the incident. Only matter leading to an informal or formal warning will be placed on the student's accommodation file and the student will be provided with a copy of the record, if requested. Normally, minor misdemeanours will not be referred to in references to employers/future landlords.

The disciplinary code and procedures set out in this document outlines the actions that will be taken in the case of alleged student misconduct. The procedures are intended to provide positive incentives for improved levels of behaviour and discharge of responsibility through discussion and action, where behaviour falls short of required standards. Where acts of misconduct take place, the method by which they are dealt with is determined by their level of seriousness.

Guidance on these procedures is offered by the Accommodation Office. Students are also able to seek advice offered by the Executive Officers of the Students' Union.

## **2. Authority**

The Vice-Chancellor is responsible for the maintenance of student discipline and, within the disciplinary code and procedures, for the suspension and expulsion of students from the halls of residence on disciplinary grounds. The Vice-Chancellor has duly delegated investigatory and decision making powers, as set out in these procedures, but the Vice-Chancellor retains overall responsibility for any decision in relation to suspension, disciplinary action or expulsion. The Vice-Chancellor, furthermore, retains the power to hear any appeal against any such decision.

Where a student is the subject of prosecution, the University recognises the precedence of such legal processes over the application of the accommodation disciplinary procedures. In such cases, it is for the Director of Business Services to decide whether and when action should be taken under these procedures in cases where alleged criminal conduct has been reported to the police and either prosecution or a decision not to prosecute has been taken. The disciplinary code and procedures relate to students in halls of residents and are specific to the accommodation provision. They underpin the disciplinary appendix of the Academic Regulations. Therefore the norm for the Academic Regulations to take precedence over the residential disciplinary procedures, where applicable

## **3. Applicability**

The residential disciplinary code and procedures apply to every student in accommodation, registered as a student of the University, including the Student Wardens.

The residential disciplinary code and procedures will not apply to actions taken in response to failures by students to achieve required standards of academic work, levels of attendance, academic unfair practice or other related academic pursuits. These are covered by separate regulations and procedures.

The residential code and procedure will not normally apply to misconduct which takes place off a University campus or at residential facilities not owed by the University, unless in some way linked to the students' accommodation licence agreement.

Initial and minor misconducts (such as noise, antisocial behaviour and breach of licence agreement conditions – see Appendix A) will be dealt with by the Accommodation Office via use of informal warnings. More significant or continued poor behaviour will be dealt with by the Accommodation Manager or the Director of Business Services.

## **4. Rules on Behaviour**

### **4.1 General Expectations**

Within the University's academic community it is expected that the highest levels of personal responsibility and mutual respect will be shown.

All students are required to observe existing University rules and regulations and any which may be introduced from time to time by the Vice- Chancellor or other authorised University body or authority.

### **4.2 Misconduct**

Any act will be regarded as misconduct, and therefore subject to disciplinary action, if it constitutes improper interference with the proper functioning and activities of the University, or of those who work or study at the University, or which otherwise damages the reputation of the University. Whilst not an exhaustive list and without prejudice to the generality of the foregoing, the following should be regarded as misconduct, and therefore subject to disciplinary action:

- (a) Obstruction or improper interference with the functions, duties or activities of any student, member of staff or other employee of the University or any authorised visitor to the University.
- (b) Violent, indecent, disorderly, threatening or offensive behaviour or language whilst on University premises or engaged in any University activity.
- (c) Fraud, deceit, deception or dishonesty in relation to the University, its staff, or students whether in connection with holding any office in the University or in relation to being a student of the University.
- (d) Action likely to cause injury or impair the safety of oneself or others on University premises.
- (e) Sexual, racial or other harassment of any student, member of staff or other employee of the University or any authorised visitor to the University.
- (f) Damage to or defacement of University property or of the property of the members of the University community caused intentionally or recklessly; misappropriation of such property.
- (g) Misuse or unauthorised use of University premises or items of property.

- (h) Misuse or unauthorised use of University IT equipment and systems.
- (i) Failure to disclose name and other relevant details to an officer or employee of the University in circumstances when it is reasonable to require that such information be given.
- (j) Making a vexatious allegation regarding a member of staff or student of the University which causes or is likely to cause that member of staff or student serious difficulty in the performance of their duties and/or which damages or is likely to damage their personal reputation. "Vexatious" in this context means that which the student knows to be untrue or in respect of which the student is unable to produce any evidence.
- (k) Failure to comply with a previously imposed penalty under this code and procedure.
- (l) Behaviour which brings the University into disrepute.
- (m) Conduct which disrupts or is likely to disrupt teaching, study, examining, research or administration in the University, or which obstructs or is likely to obstruct any student in pursuit of his/her studies or the duties of any employee of the University in the performance of his/her duty.
- (n) Failure to leave any of the University premises when reasonably requested to do so by an officer or employee of the University or other person duly authorised.
- (o) Excessive noise in or around the University Halls of Residence, or other University owned residences.
- (p) Failure to declare to the University unspent convictions during the student application process or during subsequent study at the University.
- (q) Failure to comply with the University Car Parking and Transport Policy and Regulations.
- (r) The handling, possession or use of any illegal drug in or around University Halls of Residence or other University buildings.

In extreme cases of misconduct the Director of Business Services may, where s/he deems it to be appropriate, suspend a student from the premises for a maximum of 14 calendar days, whilst the procedures detailed below are operated. This suspension may take immediate effect

### **4.3 Cause of Damage or Loss**

The University has the power to require a student who has been found to be responsible for damage to or loss of University property or for the University incurring expenses as a direct result of confirmed misconduct, to pay, by way of compensation, such sums as it may determine appropriate – see equipment replacement and fines and charges tables in the 2008/9 (version 2) Residential Handbook for a guide of what is deemed reasonable.

## **5. Criminal Offences**

### **5.1 Reporting of Criminal Offences**

Incidents arising on the University campus or houses or through behaviour of persons while under the auspices of the University which may amount to the commission of a criminal offence will, in all circumstances, be reported to the Police by the University, unless decided otherwise by the Director of Business Services.

### **5.2 Where Misconduct is also a Criminal Offence**

Conduct which constitutes a criminal offence may also constitute misconduct if that conduct:

- (a) took place on University premises;
- (b) affects or concerns other members of the University;
- (c) damages the reputation of the University;
- (d) itself constitutes misconduct within the terms of this code;

### **5.3 University/Criminal Offence**

The following procedures apply where an alleged misconduct would also constitute an offence under the criminal law, if proved in a court of law:

- (a) Where the offence, under criminal law, is considered by the University to be not serious, action under this Code may continue, but such action may be deferred pending any police investigation or prosecution.

- (b) In the case of all other offences under the criminal law, no action (other than suspension pursuant to section 6.4) may be taken under this code and procedure unless the matter has been reported to the police and either prosecuted or a decision not to prosecute has been taken, at which time the Director of Business Services should decide whether disciplinary action under this Code should continue or be taken.
- (c) Where poor behaviour is determined and the student has also been sentenced by a criminal court in respect of the same facts, the court's penalty shall be taken into consideration when determining the penalty under this code.

## **6. Procedures**

### **6.1 General Considerations**

- (a) All disciplinary proceedings are strictly confidential between the student and the University unless legislation dictates otherwise i.e. the University will normally refer all offences related to controlled drugs to the police.
- (b) At any stage in the disciplinary procedure the University reserves the right to recover any damages that the University has incurred as a result of action by the student concerned.
- (c) The University reserves the right to exclude the student from the Halls of Residence in accordance with the University Licence Agreement during investigation of incident for up to 14 days, unless the suspected misconduct is related to a criminal activity, upon which this period can be extended.

### **6.2 Reporting of Misconduct**

All cases of misconduct shall be reported by staff or students to the Accommodation Manager, the Duty Caretaker or Security staff as soon as possible after they occur and subsequently confirmed in writing. The report should contain the following information

- (a) person or persons against whom the allegation of misconduct is made.
- (b) nature and frequency of the misconduct.
- (c) time and location of the misconduct and its reporting.
- (d) witnesses who observed the misconduct and/or others made aware of the misconduct.
- (e) actions taken to deter the misconduct

### 6.3 Investigation of the Misconduct

The Accommodation Manager or nominee shall arrange the appropriate level of investigation of the reported misconduct based upon the disciplinary matrix (see Appendix A) :

- (a) Once information has been received by the Accommodation Manager or nominee they will determine within 14 working days, which of the following disciplinary proceedings will be invoked.:
  - (i) the matter be resolved by counselling
  - (ii) an investigation, that may lead to a stage 1 or 2 informal warning being issued if substantiated, is commenced. The investigation should be carried out by a nominated member of staff of the Accommodation Office. (Stage 1 informal warnings can be issued by Staff Wardens and stage 2 informal warnings by authorised Accommodation Office staff without the necessity of an investigation, if the facts surrounding the incident warrant the immediate issue of such a warning);
  - (iii) formal investigation by the Accommodation Manager;
  - (iv) formal investigation by the Director of Business Services;
  - (v) suspension of student pending formal investigation.
- (b) In circumstances where either option (i) or (ii) is invoked a nominee of the Accommodation Manager will advise the student of the report of misconduct and inform him/her of the outcome.
- (c) In circumstances where option (iii) is invoked it is the responsibility of the Accommodation Manager to ensure that;
  - (i) The student is informed in writing of the alleged misconduct and the procedures which will be adopted for its investigation
  - (ii) Arrangements are made to interview the student, who is informed of the right to be accompanied either by a fellow student or a sabbatical officer of the Student's Union, or a member of the academic, welfare or advisory staff of the University, but not accompanied or represented by any other individual. The name and status of any accompanying person should be advised to the Accommodation Manager who may object on grounds of status or involvement.

- (iii) The facts surrounding the alleged breach are investigated taking into account the statements of any available witnesses.
  - (iv) The evidence against the student is disclosed to him/her and that the student has the opportunity, at a hearing, to respond to the evidence. If the student is invited to such a hearing and fails without good reason to attend, the Accommodation Manager may reach a decision in his/her absence or recommend suspension of proceedings pending compliance
- (d) The Accommodation Manager has delegated powers from the Vice-Chancellor to implement any one or a combination of the following:
- (i) Counselling
  - (ii) Informal Stage 1 Warning
  - (iii) Informal Stage 2 Warning
  - (iv) Compensation order;
  - (v) Letter of Apology;
  - (vi) Written Formal Warning;
- (e) In circumstances where section 6.3 (a) (iv) is invoked the Director of Business Services will advise the student of the report of misconduct and preside over proceedings. The student may be accompanied either by a fellow student or a sabbatical officer of the Student's Union, or a member of the academic, welfare or advisory staff of the University, but not accompanied or represented by any other individual. The name and status of any accompanying person should be advised to the Director of Business Services who may object on grounds of status or involvement.
- (f) It will be the responsibility of the Director of Business Services to ensure that:
- (i) The student is informed in writing of the alleged misconduct and the procedures which will be adopted for its investigation
  - (ii) Arrangements are made to interview the student, who is informed of the right to be accompanied either by a fellow student or a sabbatical officer of the Student's Union, or a member of the academic, welfare or advisory staff of the University, but not accompanied or represented by any other individual. The name and status of any accompanying person should be advised to the Director of Business Services who may object on grounds of status or involvement.
  - (iii) The facts surrounding the alleged breach are investigated taking into account the statements of any available witnesses.

- (iv) The evidence against the student is disclosed to him/her and that the student has the opportunity, at a hearing, to respond to the evidence. If the student is invited to such a hearing and fails without good reason to attend, the Director of Business Services may reach a decision in his/her absence or recommend suspension pending compliance.
- (h) The Director of Business Services has delegated powers from the Vice-Chancellor to make the following decisions for disciplinary action:
  - (i) That no disciplinary action be taken.
  - (ii) That the student is requested to attend counselling
  - (iii) That the student receives an informal warning (stage 1 or 2) and that a note be placed on the student's records giving the date of the warning and the reasons for it. The student shall receive a copy of that note and the consequences of further offences will be explained to him/her.
  - (iv) That the student receives a written formal warning and a note be placed on the student's records giving the date of the warning and the reasons for it. The student shall receive a copy of that note and the consequences of further offences will be explained to him/her.
  - (v) That the student be required to pay appropriate compensation for any damage caused.
  - (vi) That the student be suspended from Halls for such time as the Director of Business Services shall recommend, normally not greater than 14 days.
  - (vii) A combination of (i) to (vi) above.
  - (viii) That the student should be expelled from Halls. In this event the Director of Student and Academic Services will be request to approve this recommendation after review the case notes
- (i) A record of any disciplinary action from Counselling to Expulsion shall be placed on the student's file for the remainder of the academic year and may be used when prioritise residential places for the following academic year.
- (j) The usual sequence of events for official warnings is for a stage 1 informal warning to be given followed by a stage 2 informal warning and then a formal warning. In serious cases this sequence may be over-ridden.

- (k) If a student receives a formal warning he/she will be required to sign a copy to acknowledge receipt. A formal warning will state that if the student repeats the offence or receives a further formal warning, following disciplinary proceedings involving conduct of the same nature or not, then he/she risks being expelled from the halls of residence.
- (l) If the student is to be issued a notice to quit then the notice to quit will not be processed until the appeal procedure, see section 7, has been completed. If the time limit for commencing an appeal under section 7.1. has expired and no appeal has been commenced then the Director of Business Services will refer the matter to the Accommodation Manager in order for the 'notice to quit' to be processed.

## **6.4 Suspension**

In circumstances where the alleged misconduct is sufficiently serious to warrant temporarily moving the student to alternative accommodation, the Director of Business Services may utilise this option. All displacement costs, when greater in value than rent being paid by the student, will initially be supported by the Accommodation Office, but these can be recouped if the student is subsequently found at fault, following an investigation.

## **7. Appeals**

### **7.1 Right and Notice of Appeal**

A student may accept or appeal against a formal warning recommended by the Accommodation Manager, by writing to the Director of Business Services within 14 working days of adjudication being received. An appeal against the issue of a notice to quit, indicating the grounds of the appeal, must be submitted in writing, within 14 working days of adjudication being received, to the Chief Finance Officer (nominee of the Vice-Chancellor).

### **7.2 Decision of Appeal**

The Chief Financial Officer may confirm, overturn or modify the decision and recommendation(s), if any, of the Director of Business Services. In turn, the Director of Business Services may confirm, overturn or modify the decision and recommendation(s), if any, of the Accommodation Manager. The decision of the Chief Financial Officer or Director of Business Services will be made known to the student making the appeal within 14 working days. The decision of the Chief Financial Officer is final within the University – see point 9.

## **8. The Standard of Proof to be Satisfied in Respect of Allegations of Student Misconduct**

- 8.1 Under clause 6.3 of the disciplinary code and procedures, a Vice-Chancellor's nominee must conduct an investigation into the allegations of misconduct, to find either that those allegations are, or are not, proved and if they are proved to decide what action the University should take.
- 8.2 There is often confusion as to the standard of proof an investigating panel should apply when considering whether an allegation of misconduct.
- 8.3 The standard of proof that will be applied is the "balance of probabilities" test. The presiding member of staff is required to consider whether, looking at all the evidence objectively, it is possible to say that it is more probable than not that the allegation is correct. In other words, has the party making the allegation satisfied the member of staff overseeing the process that there is a better than 50% chance that the allegation is correct?
- 8.4 It is not appropriate for the member of staff to apply the "beyond reasonable doubt" test; in other words, to ask itself whether it is "sure" that the allegation is proved. This is the case even if the allegation might of itself constitute a criminal offence. They do not they have the power to apply criminal sanctions. If the individual believes, taking into account the terms of the University's disciplinary code and procedures, that the alleged misconduct may constitute a criminal offence but nonetheless action under the procedure may continue, the member of staff is empowered only to consider whether the allegation constitutes misconduct under the procedure – which is a civil matter. If the allegation is later the subject of a prosecution in a criminal court, the higher standard of proof will be applied.

## **9. Independent Adjudicator**

Any further correspondence on the issue would be addressed through the student seeking recourse through the services offered by the Office of the Independent Adjudicator, under the rules and regulations published by that office ([www.oiahe.org.uk](http://www.oiahe.org.uk)) and referred to in paragraph 10.7 of the University's Academic Regulations.

## **10. Report to the Board of Governors**

Any accommodation disciplinary proceeding resulting in a 'notice to quit' being issued and any subsequent appeals will be reported to the Board of Governors.

## Appendix A

### Disciplinary Matrix

		Disciplinary Level to adopt to start the disciplinary procedure and guide of outcomes, if inappropriate behaviour is substantiated					
		Example Offence	Local Stages		Formal Stages		
			Staff Warden	Accomm. Office staff	Accomm. Manager	Director of Business Services	
Guide of Outcomes. Issue of;	Informal Stage 1	Noise disturbances	X				
		Refusal to clean communal areas/rooms	X				
		Not attending the H and S Induction. Not participating in an fire evacuation					
		Petty theft	X				
		Smoking in the residence	X				
		Minor damage					
		Fire door propped open	X				
	Repeat offence of very minor incidents			X			
	Informal Stage 2	Verbal abuse of staff/fellow student			X		
		Damage to property			X		
		Theft			X		
		Disruption of local residences			X		
		Interfering with mail			X		
		Throwing items from windows			X		
		Falsely raising fire alarm			X		
		Setting off fire extinguishers			X		
	Repeat offence of stage 1 incidents				X		
	Formal	Bullying/Intimidating behaviour			X		
		Unlawful entry into student room or unauthorised area			X		
		Inciting violence			X		
		Tampering with the fire system			X		
		Repeat offence of stage 2 incidents					X
	Notice to Quit	Assault of a student or member of staff					X
		Possession of a weapon					
		Arson					
		Drug dealing					X
		Significant theft					X
Criminal Activities						X	

This table should not be considered as exhaustive and should only serve as a guide. Each incident should be assessed on an individual basis by the presiding member of staff and assess each incident in an objective manner, reaching a conclusion based on the 'balance of probabilities' test.