

Non-academic Misconduct Policy and Disciplinary Procedures for Students

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Summary of Changes between previous and current version	Page Number
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1 Introduction

This policy has been drafted in accordance with Universities UK's guidance for higher education institutions, *How to Handle Alleged Student Misconduct Which May Also Constitute a Criminal Offence* and the Office of the Independent Adjudicator (OIA)'s *Good Practice Framework for Handling Student Complaints and Academic Appeals*.

- 1.1 Once disciplinary proceedings have been taken against a student under this Policy, no disciplinary action may be taken against the student under other disciplinary rules or regulations within the College for the same misconduct. Where disciplinary proceedings have been taken against a student under other disciplinary rules or regulations within the College disciplinary action may be taken against the student under this Policy for the same misconduct.
- 1.2 Unless the context indicates otherwise, references within this Policy to the Director of Higher Education shall be construed to refer either to the Director of Higher Education or to a person or persons nominated by the Director of Higher Education to act on behalf of the Director of Higher Education.
- 1.3 Unless the context indicates otherwise, references within this Policy to the Registrar shall be construed to refer either to the Registrar or to a person or persons nominated by him or her to act on his or her behalf.

2 Misconduct

- 2.1 Any student studying or registered at David Game Higher Education Centre shall be subject to disciplinary measures if he or she is found to be guilty of misconduct as defined below.
- 2.2 Any act or omission, whether occurring on College premises or elsewhere, which improperly interferes with the functioning or activities of the College or of those who work or study in the College, or otherwise improperly damages the College or its reputation, shall constitute misconduct under this Policy, including but not limited to the following:
 - a. Any conduct which constitutes a criminal offence;
 - b. Disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the College;
 - c. Obstruction of, or improper interference with, the functions, duties or activities of any student or member of staff of the College, or any visitor to the College;
 - d. Violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language;

- e. Sexual harassment of any student or member of staff of the College, or any visitor to the College;
- f. Discrimination against any student, member of staff or visitor to the College on the basis of their race, ethnic origin, nationality, gender, sexual orientation, disability, political affiliation, religious beliefs or any other irrelevant distinction;
- g. Fraud, deceit, deception or dishonesty in relation to the College or its staff, students or visitors;
- h. Theft, misappropriation or misuse of College property, or the property of the College's staff, students or visitors, including computer misuse;
- i. Misuse or unauthorised use of College premises;
- j. Damage to College property, or the property of the College's staff, students or visitors, caused intentionally or recklessly;
- k. Action likely to cause injury or impair safety on College premises;
- l. Failure to respect the rights of others to freedom of belief and freedom of speech;
- m. Breach of the provisions of any College code, rule, policy or regulation;
- n. Failure to disclose personal details to a member of staff of the College in circumstances in which it is reasonable to require that such information be given;
- o. Failure to comply with a reasonable instruction relating to discipline, issued by the Registrar, or by a member of staff acting with the authority of the Registrar.

3 Academic Misconduct

- 3.1 Academic misconduct will be dealt with according to the rules set out in the Academic Integrity and Misconduct Policy.

4 Involvement of the Police and Criminal Courts

- 4.1 The following procedures apply where alleged misconduct is reported to the Director of Higher Education, and the misconduct, if proved, would also constitute an offence under the criminal law.
- 4.2 Where the Director of Higher Education considers it appropriate, having regard to the seriousness of the alleged misconduct, the matter may be dealt with internally. If the offence is reported to the police, the Director of Higher Education will normally defer action until the police and courts have dealt with the matter.

- 4.3 The College has the right to report any criminal offence to the police. However, if a person claims to be the victim of an offence committed by a student, but does not wish the police to be involved, the Director of Higher Education may at his or her discretion agree not to report the matter to the police.
- 4.4 Where a finding of misconduct has been made under this Policy, and a student has also been sentenced by a criminal court on the same facts, the penalty imposed by the criminal court will be taken into account in deciding the penalty under this Policy.

5 Suspension Pending Hearing or Trial

- 5.1 A student who is the subject of a complaint of misconduct, or against whom a criminal charge is pending, or who is the subject of police investigation, may be suspended from the College by the Registrar, pending the conclusion of the disciplinary or any criminal process.
- 5.2 A student who is suspended from the College pending hearing or trial has restricted rights to enter College premises and to take part in College activities. The terms of the suspension will be notified in writing to the student. An order of suspension may include a requirement that the student shall have no contact with a specified person or persons. The order of suspension shall identify the extent (if any) to which the student's status as a student of the College is affected.
- 5.3 Orders of suspension pending hearing or trial are to be used only where the Registrar considers it necessary to protect a member or members of the College community, or the property of the College or the property of a member or members of the College community. Written reasons for the decision will be recorded and made available to the student.
- 5.4 Unless the matter is deemed to be urgent by the Registrar, no student shall be suspended pending hearing or trial unless he or she has been given an opportunity to make representations to the Registrar. The representations may be made in person or in writing, as the student chooses, and may be put forward by the student or by the student's adviser, friend or representative. In cases deemed to be urgent by the Registrar, a student may be suspended with immediate effect. An opportunity will be given to the student to make representations as soon as reasonably practicable.
- 5.5 A decision to suspend a student pending hearing or trial shall be subject to review at the request of the student after four weeks. Such a review will not involve a hearing, but the student, either personally or through his or her adviser, friend or representative, will be entitled to make written representations. The review will be conducted by the Registrar and the outcome of the review will be communicated to the student.
- 5.6 In addition to the initial review, the Registrar shall review the suspension on receipt of evidence of altered circumstances which might affect the order.

6 Summary Procedure

- 6.1 Allegations of misconduct under this Policy should be made to the Registrar, who will refer them to the Director of Higher Education. The Director of Higher Education may dismiss the complaint immediately if he or she believes that there is

no case for the student to answer, or that it is for some other reason appropriate to do so.

- 6.2 If the complaint is not so dismissed, the Director of Higher Education will interview the student before any other steps are taken under this Policy. At the interview the student may be accompanied by a friend or representative. The purpose of the preliminary interview is for the Director of Higher Education to hear the student's initial response to the allegations of misconduct. Following the preliminary interview, the Director of Higher Education may decide to take no further steps under the disciplinary procedures in respect of the allegations, or may find that there is no case for the student to answer, and will write to the student accordingly.
- 6.3 If following the preliminary interview the Director of Higher Education decides to take further action in respect of the allegations of misconduct, the following principles shall apply:
- a. If the student agrees, the Director of Higher Education may deal with the case summarily, without recourse to a Disciplinary Panel, provided that he or she considers that it is appropriate to do so. The Director of Higher Education will normally decide to deal with a case summarily only where there is an admission of guilt from the student.
 - b. In all other cases the Director of Higher Education will refer the case to a Disciplinary Panel under section 8 of this Policy.
- 6.4 If the matter is dealt with summarily, the Director of Higher Education will consider written or oral evidence as he or she thinks fit. The Director of Higher Education will find the student guilty of misconduct if, on the balance of probabilities, he or she is satisfied of the student's guilt. If a finding of guilt is made, he or she may impose any of the penalties set out in Section 9.3 of this Policy, other than expulsion from the College.
- 6.5 At the termination of the proceedings, the Director of Higher Education will write a short report. In the event of a finding of guilt, the report will set out the misconduct alleged, a brief summary of evidence received, the grounds for the finding of guilt, the penalty imposed, and the factors taken into account in deciding the penalty. A copy of the report will be sent to the student.
- 6.6 If the Director of Higher Education does not consider it appropriate to deal with the matter summarily, or if the student does not agree to its being dealt with in that way, then it shall be referred to a Disciplinary Panel, under the procedure set out in Section 8 of this Policy.

7 Disciplinary Panel

- 7.1 The Director of Higher Education will appoint the members of the Disciplinary Panel, and invite one of them, who shall not be a student member, to act as its Chair. The Panel will have three or five members, at the discretion of the Director of Higher Education. The members will normally include both a member of the academic staff of the College and a student of the College. If a student is appointed to the Panel he or she will usually be a member of the Staff Student Liaison Committee. Members of the Panel may be appointed from outside the College. The Director of Higher Education shall have regard to the need to ensure that all members of the Panel are impartial.

- 7.2 The Head of Academic Administration or his or her nominee will act as clerk to the Panel, to give advice and to assist the Panel as it thinks fit. The clerk will arrange for a note of the proceedings to be taken. The Panel may seek advice from a qualified lawyer.
- 7.3 The student may be present at all disciplinary hearings, and may be represented by an adviser, friend or other representative.
- 7.4 If two or more students are involved in related misconduct, the Panel may at its discretion deal with their cases together.
- 7.5 The Panel will rely only on evidence presented at the hearing. The deliberations and decisions of anyone previously considering the matter shall be irrelevant for the Panel's purposes.
- 7.6 In most cases it is not expected to be necessary for witnesses to be called. Where necessary, witness evidence presented at the hearing will normally be oral, given by witnesses appearing in person. The Panel may accept a witness's written statement in evidence where the student agrees that the witness need not attend, or where it is impracticable for the witness to attend, or where in the opinion of the Panel it is for some other reason in the interests of justice to do so.
- 7.7 The Director of Higher Education will appoint a member of staff or (exceptionally) a lawyer to present the allegation against the student.
- 7.8 Subject to the provisions of this Policy, the order of proceedings shall be at the discretion of the Panel. Members of the Panel may ask questions of any witness. The Panel may ask for additional enquiries to be undertaken, and may call for additional witnesses to attend.
- 7.9 If the student wishes to challenge the relevancy or competency of the allegation of misconduct, he or she must do so in writing to the clerk of the Disciplinary Panel at least 48 hours in advance of the time fixed for the hearing, and this shall be the first question to be decided by the Panel at that hearing. If the challenge is upheld then the misconduct allegation is dismissed. The Panel may refer the matter for action under other College regulations if this is appropriate.
- 7.10 If the student does not admit the alleged misconduct and any challenge to the relevancy or competency of the allegation is dismissed, the case against the student will be presented by the case presenter.
- 7.11 Any evidence provided by or on behalf of the student is then heard.
- 7.12 The members of the Disciplinary Panel and the student and/or his or her representative may examine, cross-examine, and re-examine witnesses.
- 7.13 The case presenter and the student or his or her representative may make a final address, the student or his or her representative having the last word.
- 7.14 Everyone except the secretary to the Panel withdraws while the Panel considers its decision. The secretary records the Panel's decision and its reasons for reaching this decision.
- 7.15 The Panel will find a student guilty of misconduct if, on the evidence before it, it is

satisfied on the balance of probabilities of the student's guilt.

- 7.16 If the members of the Panel cannot agree, the verdict of the Panel will be that of the majority of its members.
- 7.17 At the termination of the proceedings, the Chair will write a report on behalf of the Disciplinary Panel. In the event of a finding of guilt, the report will set out the misconduct alleged, a brief summary of evidence received, the grounds for the finding of guilt, the penalty imposed, and the factors taken into account in deciding the penalty. A copy of the report will be sent to the student and to the Director of Higher Education.
- 7.18 The Registrar has the power at any time to suspend disciplinary proceedings, including the proceedings of a Disciplinary Panel, and to stop the proceedings against the student, if he or she believes it to be appropriate to do so.

8 Penalties

- 8.1 If a student is found guilty of an allegation of misconduct, one or more penalties may be imposed by the Director of Higher Education in the case of matters dealt with summarily, or by the Disciplinary Panel in other cases. The penalties are set out below. A student may not be expelled following an allegation heard under the summary procedure. The student or his or her representative shall be entitled to make representations in mitigation before the penalty is decided.
- 8.2 When determining penalties, consideration will be given to the seriousness of the misconduct, the circumstances of the misconduct, and the means and general personal circumstances of the student.
- 8.3 A student found guilty of misconduct may be:
- a. Absolutely discharged, which means that although the student may be technically guilty of the misconduct alleged, no blame should be attached to his or her actions;
 - b. Admonished;
 - c. Cautioned, which means that no immediate punishment is imposed, but if the student is found guilty of misconduct on a subsequent occasion in the following twelve months, or some other specified period, he or she will then be dealt with for both offences;
 - d. Conditionally discharged, which means that no immediate punishment is imposed, subject to the student fulfilling certain stipulated conditions including future good behaviour over the following twelve months or some other specified period. If the conditions are not met, a punishment may be imposed following a further hearing;
 - e. Fined up to a maximum of £600. This maximum figure will be subject to periodic review by the Academic Board;
 - f. Required to pay a reasonable sum by way of compensation for identified and quantified loss;

- g. Required to perform unpaid services for the College community to a maximum of 40 hours;
- h. Required to have no contact, or restricted contact, with a specified person or persons;
- i. Suspended from the College for a fixed period of time, up to a maximum of twelve months. A student who is suspended ceases to be a student of the College for the duration of the suspension and is prohibited from entering College premises, and from participating in College activities. Suspension may be subject to qualification, such as permission to take an examination. The terms of the suspension will be notified to the student in writing;
- j. Expelled from the College, which means that the student ceases to be a student of the College, and loses all rights and privileges of enrolment;
- k. Required to attend a specified course or programme and to pay the reasonable cost as determined at the relevant time by the College.
- l. Be subject to some other appropriate penalty as determined by the Panel.

9 Mental Illness

- 9.1 If it appears to those considering an allegation of misconduct that the student in question is suffering from mental illness or mental instability, the proceedings may be adjourned for the preparation of a medical report.
- 9.2 If there is medical evidence that the student is suffering from mental illness or mental instability, those dealing with the case may suspend or terminate the proceedings, if it is felt appropriate to do so. It may be made a condition of suspension or termination of the proceedings that the student seek medical treatment.

10 Appeals

- 10.1 A student may appeal against a finding of guilt. The appeal must be made to the Registrar within twenty-eight days of the conclusion of the proceedings. The student must set out in writing the grounds on which the appeal is based. The appeal will be heard by a Complaints Panel constituted under the provisions set out in the Student Complaints Policy.
- 10.2 There will be no entitlement to a rehearing of the case, which will be allowed only in exceptional circumstances. Those hearing the appeal may overturn the finding of guilt where they consider it just to do so. In particular, a finding may be overturned in the light of new evidence; or where it is considered that the original hearing was not conducted fairly; or where the finding of guilt was unreasonable in the light of the findings of fact. The student may present the appeal in person or in writing as he or she chooses, and may be represented by an adviser, friend or other representative.
- 10.3 A student may appeal against a penalty imposed following a finding of guilt. The appeal must be made to the Registrar within twenty-eight days of the conclusion of the proceedings. The student must set out in writing the grounds on which the appeal is based. The appeal will be heard by a Complaints Panel constituted under the provisions set out in the Student Complaints Policy.

- 10.4 Those hearing an appeal against penalty may impose a lesser or greater penalty, having considered whether the original penalty imposed was fair and reasonable in the light of all the circumstances of the case, and the student's means and general personal circumstances.