



DISCIPLINARY PROCEDURE

1. Scope:

All current students, licensees and tenants of the Queen's Foundation. If any student or their guest is alleged to have breached the Code of Conduct or Licence to occupy accommodation then this procedure will be followed.

2. Related Policies

- Code of Conduct
- License or Tenancy for use of accommodation
- Equality Policy
- Safeguarding policy
- Fitness to Study Policy
- Bullying and Harassment policy and procedure
- Code of Practice on Student Behaviour in Appeals and Complaints
- Acceptable (ICT) Use Policy & Guidance
- Fitness to Practice Framework
- Academic Malpractice.

3. Referred into this policy

Breaches of the academic malpractice policy and procedure will be dealt with directly by that procedure unless specifically referred to this panel to consider broader non-academic implications of the academic malpractice.

4. Referral

- a. Any allegation of behaviour by a student or their guest which contravenes the code of conduct may be reported by any other student or staff member to the Principal, Wellbeing Officer or relevant Centre Director or in their absence the Director of Operations. The staff member receiving this report will gather information, dates, times, possible witnesses, effect of the actions on others and any other pertinent information from the person reporting the behaviour. The matter could relate to a one off incident or repeated behaviour.
- b. The staff member will review with two other members of leadership team whether the matter should be referred for informal resolution or move straight to formal review. In reviewing the leadership team representatives should consider the impact of the matter on others and the student in question. If a health issue is claimed as a cause then referral to the fitness to study procedure at this stage may take place.
- c. If the alleged incident is serious and poses a potential threat to the safety of the student or others then the principal may suspend the student whilst the investigation takes place and until the outcome of the panel has been determined and communicated. The panel should be convened as quickly as possible within the timeframes below so as to minimise disruption to the student.

5. STAGE 1 - Informal stage

- a. Directors of Centres will be pro-active in approaching students about any concerns regarding Disciplinary Matters and will attempt to resolve these at an early stage by informal discussions jointly with the student and their personal tutor. The advice of the well-being officer should normally be sought and the student will be encouraged to use other means of support such as the chaplain. The potential impact of such matters including on end of year reports for sponsored students must be made clear to the student.
- b. Specific arrangements should be considered and action plans agreed with the student, which should include regular review procedures and specific timescales. Action plans can include:
 - Use of the grievance procedure to access mediation.
 - Seeking and then following medical and professional advice about a health matter
 - An individual learning plan.
 - Seeing if alternative accommodation is available.
 - Regular meetings with personal tutor.



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- c. The student or staff member may request that the Foundation proceed directly to formal stage 2 below if:
- i. The student fails to engage with this process
 - ii. there is no improvement during agreed timeframes
 - iii. the situation worsens in the view of the student or staff member.

The student should be informed of this decision and the reasons in writing.

6. Stage 2 Formal Procedure

6.1 The Principal will appoint an investigating officer unconnected to the informal stage / the events and commission a report into the matter including witness statements and other evidence. The report should be completed at least one week prior to the Misconduct Panel meeting.

6.2 The Principal will convene a Misconduct Panel and invite the student to attend with a supporter at a date not longer than 10 working term days and 20 non term working days since referral.

6.3 Constitution of the Misconduct Panel:

- a. The Panel shall consist of the Principal (or his/her nominee) and two other members of the academic staff appointed for the particular purpose who have not been involved in any earlier proceedings.
- b. The Principal (or his/her nominee) will normally be the Chair.
- c. A member of the administrative staff will act as secretary to make the necessary arrangements and take notes of hearings.
- d. The secretary to the Panel, acting on behalf of the Chair, shall notify the student in writing of the date and time of the Panel, and the names of its members as soon as reasonably practicable, and at least five working days before the date of the hearing.
- e. If the student wishes to object to any of the Panel members he/she must do so as soon as possible and in any event at least three working days before the date of the hearing. The only ground for objection is that of possible bias arising from either:
 - i. involvement in the process at an earlier stage, or
 - ii. involvement in a related appeal hearing, disciplinary hearing or grievance procedure

6.4 Order of the Misconduct Panel

- a. If the student fails to attend, the Panel will decide whether to proceed in his/her absence or to adjourn the hearing. Similarly if any witness fails to attend, the Panel will decide whether to proceed in his/her absence or to adjourn the hearing. Where the student does not attend the hearing in person, the Chair shall ensure that members of the Panel are instructed that no adverse inference may be derived from the student's absence.
- b. The student and any supporter/companion and the Investigating Officer will be invited into the room. The Chair will establish, based on the wishes of the student, whether the student or the supporter/companion will present the case for the student.
- c. If the student has admitted the offence, the Investigating Officer shall present their Report to the Panel and make such comments about the circumstances of its commission and what might be an appropriate sanction in the light of all the circumstances as s/he shall think fit.
- d. If the student denies the charge, the case shall be presented to the Panel by the Investigating officer.
- e. The Investigating officer may:
 - make a statement concerning the case;
 - call witnesses in turn relating to the case.



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- be questioned by the Panel.
- f. When making a statement concerning the case the Investigating Officer shall not include details of any previous misconduct committed by the student which does not form part of the charge.
- g. The student (or the Friend) may then:
 - make a statement concerning the case;
 - call witnesses in turn in relation to the case;
 - be questioned by the Investigating Officer through the Chair.
 - be questioned by the Panel.
- h. Witnesses may be called to:
 - i. make a statement to the Panel;
 - ii. be questioned by the student or his/her Friend through the Chair;
 - iii. be questioned by the Investigating Officer through the Chair;
 - iv. be questioned by the Panel.
- i. The student (or the Friend) may make a final statement.
- j. The issue of whether any evidence is admissible shall be at the sole discretion of the Chair whose decision shall be final.
- k. All other persons shall withdraw whilst the Committee considers whether or not the charge is proved. The burden of proof shall be on the basis of the *balance of probabilities* and the decision shall be taken by a simple majority of the members present. Once a decision is reached, the Panel, advised by its secretary, shall consider what sanction to impose if appropriate.
- l. If the Panel decides that the offence is not proven, the student will be sent a letter to that effect, confirming that the allegation is not proven and enclosing a summary report of the Committee's decision.
- m. If the Panel decides that the offence is proved, the Panel shall consider what sanction to impose if appropriate.
- n. At the termination of the proceedings, the Panel will write a short report. In the event of a proven offence, the report will set out the misconduct alleged, a brief summary of evidence received, the grounds for the finding, the sanction imposed, and the factors taken into account in deciding the sanction. A copy of the report will be sent to the student.
- o. The student will be informed in writing of the Panel's decision and the reasons for that decision normally within two working days. Normally, this should include the report prepared by the Panel.

6.5 Sanctions for non-academic misconduct

- a. Where an offence is admitted or the Panel finds the offence proved, the Panel may impose, after examining any information as to the character and circumstances of the student which the student wishes to present, a sanction which may be a reprimand or a disqualification of the student from use of or access to any Queen's service or facility or premises for such period as the Panel may decide; or
- b. Suspension from or withdrawal from the college.



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- c. In addition to any of the above, the Panel may order a student to make good in whole or in part any damages resulting from a disciplinary offence. This includes damage to property. Or the Panel may accept an undertaking from the student as to his/her behaviour or to engage with appropriate student support and/or remedial tuition.

6.6 Closing Considerations: having made a decision the Misconduct Panel shall decide:

- a. whether any record of the decision shall be placed in the student's personal file and, if so, whether permanently or for a stated limited time; and
- b. whether to make a referral to a Safeguarding Authority (in cases where there is concern that the student's conduct gives rise to concerns about harm or the risk of harm to children or vulnerable adults).
- c. Whether to make referral to another body such as the police.

7. Stage 3- Appeal

7.1 The student may appeal against a suspension or requirement to withdraw. A letter setting out the grounds of appeal should be addressed to the Principal, to be received within 10 working days (20 working days out of term time) of the date on which the order for suspension or the requirement to withdraw was made.

7.2 The appeal must make clear on what grounds it is being submitted.

The appeal can be made on the following grounds:

- Availability of new evidence which could not reasonably have been expected to have been before the panel previously.
- Procedural error of the previous panel.
- The outcome of the panel was inappropriate or not proportionate to the offence.

7.3 The appeal will be heard by a panel convened by the Principal and consisting of one governor from the Queen's governing body (who will normally chair the Panel), one non-teaching director, and one associate tutor.¹

7.4 The appeal will receive and review all relevant documentation about the process that has been followed including any new evidence submitted. The agenda including indication of attendance of witnesses or new evidence and details of panel members will be determined by the Chair and will be communicated clearly to the student in writing and will broadly follow the agenda set out in *Appendix C*.

7.5 The outcome of an appeal may be:

- To endorse the original decision.
- To ask the Principal to reconsider the decision and report the outcome to the appeal panel.
- To overturn the decision and require the Principal to re-convene a Fitness to Study Panel.

8. STAGE 4

8.1 The appeal panel will issue a completion of procedures (COP) letter to the student. If the student is dissatisfied with the Appeal outcome s/he may inform the **Office of the Independent Adjudicator** by completing the complaint form to be found: <http://www.oiahe.org.uk/making-a-complaint-to-the-oia/oia-complaint-form.aspx> and submitting this along with appended evidence (including the COP) within 12 months of the date of the COP.

¹ The Queen's Foundation has relationships with many tutors who work for other institutions including Universities' and TEs but who are affiliated with the Foundation for instance as PhD supervisors. They are invited to be a panel member to bring wider sector knowledge and experience.



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9. Addendum- Data Protection

9.1 When submitting evidence under this procedure please consider the privacy of others and what the investigating officer needs to know, please do not describe unnecessary personal details especially about third parties. Details of activity under this procedure will be kept on your file for a minimum of 15 months from the date of the closure of procedures letter. As this information is a special category (sensitive) the details will be kept in a confidential subsection of your student file and referred to only in the event of an appeal to the OIA or any future action by you on this matter. Under the General Data Protection Act 2018 the lawful basis on which we will keep this data is 'legitimate interest' to enable us to provide details of our handling of your complaint to the OIA or to you in any future proceedings or to enable to enable the Queen's Foundation to defend itself in the event of future legal action.



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Appendix A

Draft Stage 2 Panel Agenda

Present:

Date:

1. Introductions
2. Presentation of report by investigating officer including witness statements
3. Questions by Panel and Student of investigating officer
4. Withdrawal of investigating officer.
5. Presentation of evidence and / mitigation by student.
6. Questions to student by panel.
7. Discussion of possible outcome and options open to the panel with the student
8. Any final comments or questions.
9. Confirmation by panel of deliberation and outcome process
10. Deliberation of Panel.



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Appendix B

Guide for Supporters/Companions to a Misconduct Panel

Companions should consider whether they have a conflict of interest (for instance if they are also witnesses to this case), with the case before accepting the role of supporter/companion. This can be especially difficult in small organisations such as the Queen's Foundation. If the student is struggling to find someone who is able to agree to be a companion then they should flag this to a senior member of staff who can assist in appointing someone who is unconnected with the case.

The role of the companion is to support the student by doing the following:

- Meeting the student prior to the hearing to confirm what the student wishes to say, what evidence they wish to present and what they want to ensure that the panel understands and is clear about. Companions should make a note of these things and in the section of the agenda where there is an opportunity for final comments or questions should encourage the student to raise any matters which the companion feels have not yet been ticked off from this list, or may address the panel directly with these points e.g.

“Sarah wanted to ensure that the panel had seen and understood the significance of the attendance register for **date”.

“Daniel really wished to convey to the panel that he hadn't intended X”

- Sometimes a student can become upset during the hearing and can indicate to their companion that they wish them to finish what they were saying on a point. If this is something that had been discussed prior to the meeting then the companion can feel free to do this. If not then the companion may use their knowledge to indicate what they think the student is saying- and ask the student to confirm this is correct.
- The companion may assist the student put their case across during this section of the agenda including by summarising what the student wishes to say, with the student's permission.
- The companion may take notes for the benefit of the student and in order to check minutes sent at a later date.

The companion may not:

- Answer questions put to the student by the panel following the submission of the case by the student. If the student is unable to answer the panel may ask the companion, who should answer based on what the student discussed with them prior to the meeting. If they do not know then they should reply that e.g. “This was not something that we discussed prior to this meeting and I do not know the answer to that question”.

The companion also may not:

- participate in any way that the student has indicated they don't wish for them to do – such as speak when the student clearly doesn't want them to;
- disrupt the meeting or its progress;
- Express personal opinions, or the opinions of other people.



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Appendix C

Agenda for appeals

Draft Stage 3 Appeal Panel Agenda

Present:

Date:

1. Introductions
2. Presentation of evidence forming grounds for appeal by student.
3. Questions by Panel of Student
4. Discussion of possible outcome and options open to the panel with the student
5. Any final comments or questions.
6. Confirmation by panel of deliberation and outcome process
7. Deliberation of Panel.