UNIVERSITY OF BIRMINGHAM

REGULATIONS OF THE UNIVERSITY OF BIRMINGHAM

SECTION 8 - STUDENT CONDUCT

Executive Brief

Sets out the principles and Regulations to be followed in cases of Student misconduct, including instances of misconduct which do not take place on University property.

Section 8: Student Conduct

8.1 Introduction

8.1.1 These Regulations apply to all Registered Students, students on Leave of Absence, students with Thesis Awaited Status, External Resit Students, and Graduands ("students"). Under these Regulations the University has the power to discipline and to suspend or require students to withdraw. Once disciplinary proceedings have been instituted against a student under these regulations, no disciplinary action may be taken against the student under other disciplinary rules or Regulations within the University for the same misconduct, and for these purposes, suspension or removal of a Registered Student or Sabbatical Officer from a University committee is not disciplinary action in itself and can be implemented without constituting disciplinary action. The University reserves the right to refuse to accept a student's request to withdraw from the University pending the investigation and completion of proceedings commenced in relation to Regulation 8.2.1. If a student withdraws from the University during the course of an investigation commenced under this Regulation, the University reserves the right to continue with the investigation and report the alleged offence to the Head of College for consideration by the College Misconduct Committee or College Fitness to Practise Committee.

8.1.2 The following Codes of Practice also apply and should be followed where applicable:

(a) Misconduct and Fitness to Practise Committees;

(b) Discipline in Residences;

(c) Student Attendance and Reasonable Diligence;

(d) Plagiarism;

(e) Freedom of Speech on Campus.

(f) Health, Well-being and Fitness to Study

(g) Conduct of Centrally Coordinated Formal Written Examinations

8.1.3 Students registered for a programme which the programme requirements define as a Fitness to Practise programme are subject to Fitness to Practise procedures. Students on these programmes who are referred to the Head of College under clause 8.3.5 of this Regulation will be referred to a College Fitness to Practise Committee; Students on all other programmes will be referred to a College Misconduct Committee. Sabbatical Officers will be referred to such College Misconduct Committee as the Director of Academic Services and College Administration deems to be appropriate.

8.1.4 All investigations carried out under this Regulation shall be carried out in accordance with the guidelines approved from time to time, by Senate or its delegated authority.

8.2 Disciplinary Offences

8.2.1 Any student shall be subject to disciplinary measures if they are found to have breached the disciplinary offences as defined below:

(a) any breach of any University Statute, Ordinance, Regulation, Code of Practice or Code of Professional Conduct and Fitness to Practise;

(b) substantial obstruction of, or substantial improper interference with, the functions, duties or activities of any student or member of Staff of the University, or any visitor to the University;

(c) violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language;

(d) harassment of any student or member of Staff of the University, or any visitor to the University;

(e) fraud, deceit, deception or dishonesty in relation to the University or its Staff, students or visitors;

(f) theft, misappropriation or misuse of University property, or the property of the University's Staff, students or visitors;

(g) misuse or unauthorised use of University premises;

(h) damage to University property, or the property of the University's Staff, students or visitors, caused intentionally or recklessly;

(i) action likely to cause injury or impair safety on University premises;

(j) academic misconduct (including plagiarism when judged serious by the Principal Academic Unit, as specified in the Code of Practice on Plagiarism) in assessed academic work, examinations or other work required for academic progress including actions which constitute an Examination Irregularity under Regulation 7.2.3 (d) (iv) and the Code of Practice on the Conduct of Centrally Co-ordinated Formal Written Examinations;

(k) failure to respect the reasonable exercise of the rights of others to freedom of belief and freedom of speech;

(l) failure to disclose identity (i.e. name, University ID number, address and Principal Academic Unit at the University) to a member of Staff of the University and/or obscuring or attempting to disguise identity so that it cannot be ascertained by a member of Staff of the University in circumstances in which it is reasonable to require that such information be given;

(m) causing nuisance by the distribution of advertising materials on University premises without specific permission either by mounting posters on notice boards, or mounting posters on any other surface, or by distributing unsolicited leaflets to individual rooms or via pigeon holes in residences or Principal Academic Units, or by handing leaflets to passers-by on University premises;

(n) conduct (wherever occurring) resulting in the student receiving a formal police caution, community resolution order or other penalty imposed by the police,

notwithstanding that the student is not subsequently charged or convicted of an offence;

(o) conviction of a criminal offence by any court of competent jurisdiction;

(p) conviction of a breach of military discipline by due process of military law;

(q) conduct (wherever occurring) likely to bring the University into disrepute or adversely affecting other members or Staff of the University whether or not the student has been convicted of a criminal offence in respect of that conduct;

(r) divulging information or material received in confidence (unless the disclosure is permitted under the Public Interest Disclosure Act 1998 or in accordance with the University's Public Interest Disclosure Procedure or is required by law) ;

(s) breach of any fiduciary duty or obligation of trust or confidence owed to the University arising from holding office or membership of any University committee;

(t) behaving in an inappropriate or unacceptable manner during or in connection with attendance at or conduct of a meeting of a University committee.

(u) the possession, storage, sale, use or misuse of a controlled drug as defined by the Misuse of Drugs Act 1971 (as amended from time to time) on University property;

(v) failure to comply with any sanction imposed under the Code of Practice on Discipline in Residences;

(w) failure to comply with any sanction imposed under the formal disciplinary procedures of the Guild of Students;

(x) contempt of the University's discipline procedures by failure to co-operate with the University's discipline authorities or otherwise.

8.3. Initial Procedure

8.3.1 Every alleged offence shall first be investigated by the Investigating Officer, who shall be the Director of Academic Services and College Administration or their nominee. Where the allegations relate to plagiarism or students on programmes subject to Fitness to Practise procedures, the Investigating Officer shall be nominated by the Head of College (or delegated authority). Where the alleged offence relates to a Sabbatical Officer, the Investigating Officer shall be a Head of a College (or delegated authority) nominated by the Director of Academic Services and Colleeg Administration.

8.3.2 The student will be informed of the allegation(s) in writing and invited to attend a meeting with the Investigating Officer. If the Investigating Officer decides that there is a case to answer and if the student admits the alleged offence and, if appropriate, undertakes to pay compensation for any damage arising in respect of it, the Investigating Officer may, with the consent of the student, then decide to deal with the matter summarily by:

(a) reprimanding the student; or

(b) imposing a fine subject to a maximum to be determined by the Senate or under delegated authority from time to time; or

(c) determining that the student undertakes Community Service, the details of which must be specified before consent is solicited (save that this cannot be applied in respect of a Registered Student who is under the age of 18 at the date on which such consent would be solicited); or

(d) accepting an undertaking from the student as to their behaviour or to engage with appropriate student support and/or remedial tuition.

8.3.3 A record of all such decisions and summary penalties shall be kept by the Investigating Officer and should be taken into account in any subsequent proceedings under this Regulation. A record of this decision should also be communicated to the student.

8.3.4 Failure to comply with any sanction imposed under clause 8.3.2 shall amount to a separate disciplinary offence and shall be dealt with by reference of the case to the Director of Academic Services and College Administration or their nominee, or the Head of College for consideration in accordance with clause 8.2.1 (x) above.

8.3.5 The Investigating Officer shall report the alleged offence in writing to the Head of College for consideration by the College Misconduct Committee or College Fitness to Practise Committee in the following instances:

- If the student denies the allegation;
- If the student does not wish the matter to be dealt with as a summary offence;
- If the Investigating Officer deems the offence more serious than a summary offence; or
- If the allegation is of serious plagiarism which has become a student conduct case under the Code of Practice on Plagiarism.

8.3.6 In relation to alleged offences involving two or more students registered within two or more Colleges, if the Investigating Officer believes that it would be more appropriate for all the alleged offences to be heard by a single Misconduct Committee, the Investigating Officer may report the alleged offences in writing to the Director of Academic Services and College Administration who will decide to which College Misconduct Committee the alleged offences should be referred, normally the Misconduct Committee of the College within which the majority of students involved are registered; this shall not apply to a student following a fitness to practise programme who must in every instance be referred to the Fitness to Practise Committee of the College within which the student is registered.

8.4 Non-summary Offences

8.4.1 If the student is referred to a College Misconduct Committee or College Fitness to Practise Committee in accordance with clause 8.3.5 above then the matter will be dealt with as a non-summary offence.

8.4.2 A College Misconduct Committee or College Fitness to Practise Committee shall be convened according to the Code of Practice on Procedures for Misconduct and Fitness to Practise Committees.

8.5 Appeals to University Misconduct and Fitness to Practise Committee

8.5.1 A student may appeal against the decision of a College Misconduct Committee or College Fitness to Practise Committee. The student must submit the appeal and any further evidence which they may wish to present, in support of the appeal, in writing to the Director of Academic Services and College Administration not later than 15 University working days from the date on which the Committee report of the proceedings was sent to the student (whether by post or electronic mail), specifying the grounds of appeal. The grounds of appeal will be one or more of the following:

(a) the sanction is disproportionate to the offence;

(b) a procedural irregularity;

(c) relevant new evidence which was not available at the time of the initial hearing.

8.5.2 All appeals will be dealt with in accordance to the procedures laid down in the Code of Practice on Procedures for Misconduct and Fitness to Practise Committees.

8.6 Suspension from Placements

8.6.1 Where there is a reasonable suspicion that a student:

(a) may have a medical illness or condition, including but not limited to, alcohol, drug and substance abuse, which in the judgement of the Director of Academic Services and College Administration, or the Head of College or their nominee renders him or her a possible danger to themselves or to others with whom they will come into contact whilst attending a placement; or

(b) may have committed a disciplinary offence under Regulation 8.2; or

(c) may otherwise have behaved in such a way that the placement provider is not willing to continue to provide the placement,

then the Director of Academic Services and College Administration, or the Head of the College or their nominee may suspend the student from attending placements until the investigation has been completed and the student's case has been heard by the College Misconduct Committee or the College Fitness to Practise Committee, if applicable. The decision to suspend the student will be taken in consultation with the current placement provider (where appropriate). In the case of suspension under (a) above, the decision must be taken in consultation with the University Medical Officer or their nominee, and where the Student is not following a fitness to practise programme the matter should be dealt with as a Level 3 Serious/Persistent Concern in accordance with the Code of Practice on Health, Wellbeing and Fitness to Study. The University may consult with the student's prospective placement provider, where appropriate.

8.6.2 The College Misconduct Committee or the College Fitness to Practise Committee

must meet to hear the student's case as soon as practicable and normally within six weeks from the date of the suspension. In the event that the student provides a medical certificate from a General Practitioner indicating that the student is unwell and unable to attend, the College Misconduct Committee or the College Fitness to Practise Committee may in its absolute discretion decide to postpone the hearing.

8.7 Temporary Exclusion or Suspension of Students on Health Grounds

8.7.1 The Director of Academic Services and College Administration or their nominee may, due to concerns over a student's health, suspend a student and/or require that student to cease attendance on the programme and/or debar any student from use of University facilities, entry to the whole or any part of the University premises, or to University property situated elsewhere.

(a) in relation to students other than those following a fitness to practise programme, in accordance with the Code of Practice on Health, Wellbeing and Fitness to Study;

(b) in relation to students following a fitness to practise programme in accordance with these Regulations,

In relation to a student following a fitness to practise programme, any temporary exclusion or suspension shall continue until the student's case has been heard by the College Fitness to Practise Committee provided that such temporary exclusion or suspension shall not normally exceed three months. Subsequent periods of temporary exclusion or suspension, each not exceeding three months, may be imposed if a hearing is delayed to take account of some external event or circumstance.

8.7.2 The Director of Academic Services and College Adminstration's decision under 8.7.1 above must be taken in consultation with the student's Head of College and the University Medical Officer and shall be reviewed from time to time. The student has the right to make representations at any time during the period of suspension.

8.8 Temporary Exclusion or Suspension of Students on Grounds of Misconduct

8.8.1 Where there is a reasonable suspicion that a student has committed a serious or significant disciplinary offence or has been accused of, charged with or is being investigated by the police for a serious or significant criminal offence, the Director of Academic Services and College Administration or their nominee may:

(i) temporarily suspend the student and/or:

(ii) require that the student temporarily ceases attendance on the programme; and/or

(iii) temporarily debar the student from use of some or all of University facilities; and/or

(iv) temporarily debar the student from entry to the whole or any part of the University premises, or to University property situated elsewhere.

8.8.2 The Director of Academic Services and College Adminstration's decision in 8.8.1 above shall normally be taken in consultation with the relevant Head of College unless it is considered that there is an immediate danger to the student or other members of the University or to other persons with whom the student will come into

contact, in which case the Director of Academic Services and College Administration or their nominee may suspend the student with immediate effect.

8.8.3 A temporary exclusion or suspension under this Regulation shall be reviewed from time to time and the student will have the right to make representations at any time during the period of suspension. A temporary exclusion or suspension shall normally continue until the relevant investigation has been completed and, if applicable, the student's case has been heard by a College Misconduct Committee or College Fitness to Practise Committee, provided that it shall not exceed three months. Subsequent periods of temporary exclusion or suspension, each not exceeding three months, may be imposed if a hearing is delayed to take account of some external event or circumstance.

8.9 General Provisions

8.9.1 A record of all proceedings shall be kept by the Secretary to the College Misconduct Committee or College Fitness to Practise Committee, but no reference to the record shall be made in the student's personal file, except as permitted by this Regulation and the Code of Practice on Procedures for Misconduct and Fitness to Practice Committees.

8.9.2 Failure to comply with any sanction, condition, or compensation order imposed by the Committee shall be dealt with by reference of the case to the Director of Academic Services and College Administration or their nominee, or the Head of College for consideration as a separate disciplinary offence as per clause 8.2.1 (x) above.

8.9.3 The University has a duty to refer to the Independent Safeguarding Authority any information about a student's conduct where such conduct gives rise to concerns about harm or the risk of harm to children or vulnerable adults.