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## **Introduction**

This document presents the policy and procedures that form the Code of Practice for Student Discipline. The Code defines conduct that is generally considered within society as a whole, and at The Open University in particular, to constitute an offence. It also defines penalties, authorities, rights to appeal, and procedural details concerning allegations of misconduct, investigations, disciplinary hearings and appeals.

Individuals and committees with responsibility for administering this Code do not have the same powers as a court of law. They work in line with the common-law principles of 'natural justice', which means that decisions will be made fairly and reasonably, and based on evidence, and that students will be given an opportunity to put forward their version of events before decisions about alleged offences are made and before any disciplinary penalty is imposed. Decisions are made "on the balance of probabilities" – the civil level of proof, rather than "beyond reasonable doubt" - the criminal level of proof.

## **Commitment to Equality, Diversity and Inclusion at The Open University**

Policies are inclusive of all Open University Students, Learners, Enquirers and Alumni, regardless of age, civil status, dependency or caring status, care experience, disability, family status, gender, gender identity, gender reassignment, marital status, marriage and civil partnerships, membership of the Traveller community, political opinion, pregnancy and maternity, race, religion or belief, socio-economic background, sex, sexual orientation or trades union membership status.

## **Safe Space Reporting**

The Open University is committed to creating a diverse and inclusive environment in which everyone feels safe and is treated with dignity and respect. Unlawful discrimination of any kind across The Open University will not be tolerated. Safe Space Reporting is available through [an online tool](#) through which staff, students, learners and visitors are encouraged to report incidents of assault, bullying, harassment, hate crime, or sexual harassment. It also provides information about what you can do if these incidents happen to you, or to someone you know, and where you can find support.

## Associated documents

The Code of Practice for Student Discipline should not be read in isolation. It is one of a group of student policy documents containing rules and regulations that apply to all students registered with The Open University. These are contained in the [Student Policy Documents](#) website. Students are also governed by qualification regulations and module rules. In addition, research students should access the policy documents contained in the [Research Degrees Student Handbook](#) website.

There are separate procedures to cover complaints by students. The [Complaints and Appeals Procedure](#) can be found in the Student Policy Documents website.

## Background

The Code fulfils a requirement of the University Charter to make sure that the University maintains academic standards and provides an appropriate learning environment. The parts of the Charter that relate to the Code are Statutes 5 and 16, which state:

The Vice-Chancellor may subject to the provisions of these Statutes and any Regulations made thereunder, suspend any person from any course or courses or from the use of certain teaching materials or services and may exclude or authorise the exclusion of any person from any part of the University or premises in use by it. He shall report any such suspension or exclusion to the Senate at its next meeting which shall then consider the matter in relation to the Code of Practice required under Statute 16(23).

(Statute 5(5))

The Senate shall, subject to the Charter and these Statutes, in addition to all other powers vested in it, have the following powers:

to regulate the discipline of the University in accordance with a Code of Practice to be approved by the Council on the recommendation of the Senate.

(Statute 16(23))

to expel any student guilty of grave misconduct after giving him an opportunity to appear personally and to be heard by the body established by the said Code of Practice which shall include the right of a student to be represented at a hearing, to call and to question witnesses and to have reasons assigned (if asked for) for any decisions that may be taken by the Senate leading to the student's expulsion.

(Statute 16(24))

## **Scope**

The Code of Practice for Student Discipline applies to all registered or formerly registered students of The Open University, as defined in the Academic Regulations. Students studying Microcredential and Vocational Qualifications are also covered within this policy. The appropriate authorities may authorise others (delegate their authority) to take action under this Code on their behalf. The Code does not apply to students in other institutions following modules that are validated by The Open University. Validated institutions will apply their own policies and regulations. Students on professional courses which require registration, in particular students of nursing and social work, are also subject to Fitness to Practise (FtP) requirements; the relationship between this Code and the FtP process are set out in the Open University [Fitness to Practise procedure](#).

## Policy

### **SD 1 Offences**

The University regards the following as disciplinary offences for which penalties may be imposed by the appropriate authority under this Code. Please note that the examples listed under each of the main disciplinary headings (in bold below) are illustrative and not exhaustive; other conduct or behaviours which fall under the broad offence categories may also be considered as disciplinary offences. Any of the offences may be considered to have been committed if they are attempted, even if unsuccessful and/or detected early. This also includes individuals who provide assistance to others to commit an offence (aiding and abetting).

#### **SD 1.1 Conduct that undermines or damages the reputation of the University including, but not limited to, the following:**

- a. revealing confidential information without permission, including:
  - i) information about the proceedings of a university body;
  - ii) personal information about applicants, other students, graduates, clients or staff.
- b. condemnation of the University in any media, including social media, where this is based on assertion or personal opinion rather than evidence or personal experience.

Note this is not intended to prevent valid “whistleblowing”, or inhibit valid comment where the performance of the University falls short of that which would be considered acceptable by regulatory bodies, in particular the Quality Assurance Agency for Higher Education (QAA) and The Office of the Independent Adjudicator for Higher Education.

#### **SD 1.2 Conduct that undermines the academic reputation and integrity of the University including, but not limited to, the following:**

- a. Conduct that breaches the Open University’s Academic Conduct policy, including:
  - i) plagiarism
  - ii) self-plagiarism
  - iii) enabling plagiarism
  - iv) collusion
  - v) contract cheating
  - vi) misconduct in an exam

b. Serious academic misconduct

Where an offence under Section 1.2 (a) above has been committed and either:

- i) a penalty has been applied on one or more previous occasions; and/or
- ii) the circumstances of the offence involve coercion, financial gain, dishonesty, damage to the reputation of The Open University or other serious misconduct.

c. Serious misconduct of research students

Conduct that breaches the Open University's academic regulations for research qualifications and/or the terms of registration.

**SD 1.3 Conduct that disrupts or interferes with the teaching, learning, research or administration of The Open University, whether on University premises, elsewhere, or in virtual environments such as forums, social networks or electronic correspondence including, but not limited to, the following:**

a. conduct that obstructs or improperly interferes with the functions, duties or activities of any student, member of staff or other employee of The Open University, agent or associate acting on behalf of The Open University, or any authorised visitor to The Open University and which is:

- i) contrary to Principle 1 of the Student Charter "treating each other with dignity and respect" or;
- ii) violent, indecent, disorderly, discriminatory or threatening, or involves behaviour or language that is intended to or has the effect of creating an intimidating or hostile environment for others during any Open University activity or on Open University premises or;
- iii) likely to cause injury or jeopardise safety during any Open University activity or on Open University premises.

b. conduct that breaches the Open University's policy on Safeguarding and Protecting Children and Young People at The Open University or that breaches the Open University's duty to provide a safe environment for vulnerable adults, including grooming and/or sexual exploitation. This also includes conduct that amounts to bullying or harassment.

- c. conduct that involves misuse or abuse of equipment, materials or services that The Open University has provided to students, including:
  - i) conduct that contravenes instructions relating to use of this equipment or these materials or services.
  - ii) conduct that breaks a software licensing agreement signed by the student.
  - iii) conduct that involves unauthorised use of the Open University's computing or network resources.
  - iv) abusing copyright: this specifically includes, but is not limited to, any breach or infringement of copyright or licence, whether owned or controlled by The Open University or by a third party, by copying, distributing or offering for sale module or assessment materials.
- d. conduct on premises provided by another institution for the use of Open University students that breaks the regulations of that institution, including health and safety matters. These premises include any that are used for a tutorial, residential or day school, or as a study or examination centre, or as the location for a graduation ceremony. They also include any library, laboratory, research or other facility.

**SD 1.4 Conduct that is dishonest either through act or omission and which is intended to secure a benefit, service or facility to which a student is not entitled. The offence may be committed if a student provides false information or fails to correct information that they know to be wrong and as a result they receive something they would not otherwise have been entitled to. This may include, but is not limited to:**

- a. any financial benefit, such as a grant, discount, refund or expenses payment;
- b. any exceptional treatment such as exemption, deferral, extension of time or special arrangements;
- c. registration for, progression through, deferral or completion of modules or qualifications, or the award of credit or qualifications;
- d. conduct that breaches the Open University's policy on anti-bribery and corruption.

**SD 1.5 Conduct that indicates a failure to accept and comply with any penalty imposed by a disciplinary authority.**

## **SD 2 Cautions and Penalties**

A student may receive an **informal caution** if the disciplinary authority (including Central Disciplinary Committee) considers that an offence has been committed but it is not sufficiently serious to warrant a disciplinary or an academic penalty as set out below. An informal caution is not a penalty under this Code of Practice however a record of the correspondence in relation to the informal caution will be kept on the student's record and further misconduct may result in disciplinary action being taken.

Penalties would not normally be disclosed to anyone outside The Open University, except for Apprentices, those studying through a partner institution for example, FutureLearn, learners on Vocational Qualifications, or as part of a Fitness to Practise disclosure. The student will be informed if this needs to happen. Penalties are not visible to most Open University staff, including tutors. The student record relating to disciplinary action is only available to staff who need access to it as part of their role, for example, some disciplinary authorities and the Student Casework Office.

In line with the conditions of this Code and any other guidelines approved by the Open University Senate and the Council that may apply, one or more of the penalties listed in Sections SD 2.1 to SD 2.6 may be imposed. Key principles in determining penalties are that they should be:

- a. proportionate (a first offence from an inexperienced student is unlikely to command the same penalty as a repeat offence by an experienced student);
- b. consistent (regard should be given to the penalty applied to similar students in similar situations);
- c. appropriate (academic penalties should only be used for academic offences, for example, penalties under Section [SD 2.2](#) should only be used for offences under Section [SD 1.2](#)).

There will be no entitlement to any reimbursement of the Open University fees if a student is expelled or subjected to any other disciplinary penalty under this Code other than any entitlement that a student has under law.

Details of the allocation of powers to impose penalties are given in Section SD 3 of this Code.



## **SD 2.1 Formal Cautions**

A **formal caution** is a penalty under this Code of Practice and may be delivered in writing, electronically or orally in the presence of at least one witness, but will always be confirmed in writing to the student. **Formal cautions can only be issued by disciplinary authorities and are permanently recorded on the student's electronic record for as long as that record is held.**

## **SD 2.2 Academic Penalties**

Where an academic offence under Section SD 1.2 has been committed the following academic penalties may be applied:

- a. disallowing, in part or whole, any piece of assessed work; or
- b. awarding any piece of assessed work a 'capped' mark ('capped' means that an upper limit is imposed on the mark); or
- c. disallowing all of a piece of work and removing the opportunity for resubmission.

For the avoidance of doubt, an academic decision to exclude text or other material that has been plagiarised from consideration for assessment is **not** a disciplinary penalty, as it is normal academic practice.

Substitution will not be allowed for any assessed work to which an academic penalty has been applied.

## **SD 2.3 Withholding or withdrawing qualification, credit or withdrawing registration**

Where a serious offence under Section [SD 1.2](#) or [SD 1.4](#) has been committed the following disciplinary penalties may be applied:

- a. withholding credit for a module or modules the student has taken, but for which credit has not yet been awarded;
- b. withdrawing registration;
- c. withdrawing any academic qualification or module credit that has already been awarded, but which is judged to have been wrongly awarded (for example due to plagiarism being detected retrospectively);
- d. withdrawing any credit exemption, transferred credit or credit that is equal to any period of study or examination that has already been awarded, but which is judged to have been wrongly awarded.

## **SD 2.4 Exclusion and expulsion**

### **SD 2.4.1 Exclusion**

Where a serious and/or repeated offence has been committed, and the disciplinary authority decides that restrictions should be placed upon a student the following disciplinary penalties may be applied:

- a. temporary exclusion from any module, qualification, facilities, premises or services that are available to students of The Open University;
- b. permanent exclusion from any module, qualification, facilities, premises or services that are available to students of The Open University;
- c. exclusion from a residential school, day school, online school, tutorial, examination or other event (this penalty will not in itself prevent a student from being awarded a module credit).

### **SD 2.4.2 Expulsion**

Where a serious and/or repeated offence has been committed, and the disciplinary authority decides that a student should not continue to attend The Open University, the following disciplinary penalties may be imposed:

- a. temporary expulsion from The Open University;
- b. permanent expulsion from The Open University.

Note that exclusion and expulsion are not the same as Suspension (see Section [SD 4](#)).

Exclusion and expulsion are a result of a confirmed offence and they are disciplinary penalties. Suspension is not a disciplinary penalty. It is an urgent and necessary action whilst the investigation takes place.

## **SD 2.5 Compensation**

Where appropriate, the Central Disciplinary Committee may order a student to pay costs or compensation in order to recover money paid or loaned by The Open University or a third party to a student or to cover all or part of the cost of damage to or replacement of property.

## **SD 2.6 Any other**

Any other disciplinary penalty decided by the Central Disciplinary Committee, which is appropriate and proportionate to the offence.

### **SD 3 Authorities**

Suspected infringements of the Open University regulations are dealt with by a range of authorities. These authorities do not have the same powers as a court of law and they work under different procedures. Decisions will be made fairly and reasonably and be based on evidence. Students will have an opportunity to put forward their version of events before any decisions are made and before any formal disciplinary penalty is imposed. Students will have the right to appeal against formal disciplinary decisions subject to there being admissible grounds.

The detailed regulations that make up this Code of Practice are administered by individuals or committees who have specific responsibilities and remits as executive authorities, disciplinary authorities or appeal authorities. Allocation of power to deal with alleged offences is determined by the nature and circumstances of the event or situation in question. Where immediate action is required, for example, the senior member of the Open University staff present or online at the time takes on the role of the executive authority if no disciplinary authority is present. Other circumstances are addressed by disciplinary authorities listed below.

University committees who have collective roles as disciplinary authorities, and whose responsibilities can involve investigations, hearings, imposition of penalties and appeals, are:

- the Academic Misconduct Appeals Committee;
- the Senate Academic Appeals Review Panel;
- the Central Disciplinary Committee;
- the Special Appeals Committee of the Senate

#### **SD 3.1 The Vice-Chancellor**

The Vice-Chancellor has delegated responsibility for student discipline to the Director, Academic Policy and Governance, the Vice-Chancellor's Delegate, and the Pro-Vice-Chancellor (Research and Academic Strategy).

The Vice-Chancellor's Delegate is the person/s appointed by the Vice-Chancellor and their appointment has been reported to the Open University Senate.

The Vice-Chancellor's Delegate or the Secretary to the Central Disciplinary Committee will report annually to the Senate on the number, nature and outcomes of cases referred to the Central Disciplinary Committee. The report will include details of disciplinary matters investigated by other disciplinary authorities and cases referred to the Office of the Independent Adjudicator for Higher Education.

### **SD 3.2 Executive authorities**

An executive authority is the senior Open University representative who is present at the event or who is providing the service in relation to which the disciplinary offence occurs. Individuals granted executive authority under this Code include those in the following roles:

- Senior Open University representative at a tutorial, day school or research event;
- Moderator of an electronic forum;
- School Director of a residential school or online school;
- Senior Invigilator;
- Examination Panel Chair (for research students);
- Other staff may be deemed to be executive authorities when circumstances necessitate.

#### **SD 3.2.1 Terms of reference**

The powers of executive authorities are restricted. Executive authorities act on the delegated authority of disciplinary authorities who have greater powers to initiate disciplinary action and to impose penalties.

Individual executive authorities may act in relation to specific offences as shown in Table 1 below. Offences 1.2b, 1.4a, 1.4b, 1.4c, 1.4d are not included in Table 1 as they should be referred to the appropriate disciplinary authority (see Section [SD 3.2.3](#)).

**Table 1 Executive authority specific offences**

<b>Executive authority</b>	<b>Offences (SD 1)</b>
Senior University representative at a tutorial or day school	1.1a, 1.1b, 1.2a, 1.3a, 1.3b, 1.3c, 1.3d, 1.5
Moderator of an electronic forum	1.1a, 1.1b, 1.3a
School Director of a residential school or online school	1.1a, 1.1b, 1.2a, 1.3a, 1.3b, 1.3c, 1.3d, 1.5
Senior Invigilator	1.2a, 1.3a, 1.3b, 1.3c, 1.3d
Director of Graduate School	1.1a, 1.1b, 1.2a, 1.2c, 1.3a, 1.3b, 1.3c, 1.3d, 1.5
Research supervisors	1.3a, 1.3b, 1.3c, 1.3d

Executive authorities must report all their disciplinary actions to disciplinary authorities. They can, however, decide to take certain disciplinary action. They may:

- a. informally caution the student (this is not a disciplinary penalty and the student cannot appeal against it);
- b. initiate a formal caution ([SD 2.1](#)) that will be applied by the appropriate disciplinary authority;
- c. temporarily exclude the student from a module, qualification, facilities, premises or services ([SD 2.4](#));
- d. exclude the student from a residential school, day school, online school, tutorial, examination or other event ([SD 2.4](#)).

In addition, the School Director of a residential school or online school may decide that the student has caused loss of or wilful damage to property, and initiate an order for the student to pay appropriate compensation ([SD 2.5](#)).

Electronic forums provided by the Open University Students' Association are covered by the Open University Students' Association's Code of Conduct for Conferencing. The Open University Students' Association also has the right to refer any case of suspected misconduct arising in an Open University Students' Association electronic forum to the appropriate executive or disciplinary authority as described in this Code.

### **SD 3.2.2 Executive University officers as disciplinary authorities**

University officers who have individual roles as disciplinary authorities are:

- a. Director, Academic Policy and Governance;
- b. Vice-Chancellor's Delegate;
- c. Pro-Vice-Chancellor (Research and Academic Strategy);
- d. Director, Academic Services;
- e. Director, Access, Careers and Teaching Support;
- f. Director, Student Support;
- g. Director of Assessment, Credit and Qualifications, Academic Services;
- h. Director of Operations, Student Recruitment & Fees, Academic Services;
- i. National Directors;
- j. Assistant or Depute Directors, Academic Services;
- k. Academic Conduct Officers;
- l. Anyone who has been given authority in writing beforehand by a Chair of the Central Disciplinary Committee or by any of the other Open University officers above.

### SD 3.2.3 Remit

Table 2 specifies the offences in relation to which each may act and the penalties they may impose.

Disciplinary authority	Offences (SD 1)	Penalties (SD 2)
Director, Academic Policy and Governance Vice-Chancellor's Delegate	1.1a, 1.1b, 1.3a, 1.3b, 1.3c, 1.3d, 1.4a, 1.4b, 1.4c, 1.4d, 1.5	2.1, 2.4a, 2.4c
Pro-Vice-Chancellor (Research and Academic Strategy)	1.1a, 1.1b, 1.2c, 1.3a, 1.3b, 1.3c, 1.3d, 1.4a, 1.4b, 1.4c, 1.4d, 1.5	2.1, 2.4a, 2.4c
Director, Academic Services Director, Access, Careers and Teaching Support Director, Student Support Director of Assessment, Credit and Qualifications, Academic Services Director of Operations, Student Recruitment & Fees, Academic Services National Directors Assistant or Depute Directors, Academic Services	1.1a, 1.1b, 1.3a, 1.3b, 1.3c, 1.3d, 1.4a, 1.4b, 1.4c, 1.4d	2.1, 2.4a, 2.4c
Academic Conduct Officers**	1.2a	2.1, 2.2a, 2.2b, 2.2c

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\* An Academic Conduct Officer may identify a case of serious academic misconduct ([SD 1.2b](#) i and ii) but must refer the case to the Central Disciplinary Committee for a hearing and, where appropriate, for a disciplinary penalty to be imposed (see Section [SD 5.3](#)).

In addition to the penalties listed above, these disciplinary authorities may refer the case to the Central Disciplinary Committee for a hearing and, where appropriate, for a penalty to be imposed.

Where an offence is not listed, the only authority that can impose a penalty is the Central Disciplinary Committee.

## **SD 4 Suspension**

**For the purpose of this Code ‘suspension’ is defined as a temporary exclusion of any person from a particular module/s, or from a qualification, or from the use of certain teaching materials or services.**

Note that suspension is not a penalty. Where a student is suspended, for example to allow an investigation to take place, or until their case is heard by the Central Disciplinary Committee, this is “without prejudice” to the outcome of the investigation or hearing, does not appear on a student’s record, and there is no appeal against it.

### **SD 4.1 Complaints of serious misconduct**

Students involved in a complaint of serious misconduct may be suspended by the Director, Academic Policy and Governance or the Vice-Chancellor’s Delegate until the outcome of a disciplinary hearing. In the case of research students the power of suspension extends to the Pro-Vice-Chancellor (Research and Academic Strategy).

### **SD 4.2 Police investigations or criminal charges**

If a student is the subject of a police investigation, or if a criminal charge has been made against them, they may be suspended by the Director, Academic Policy and Governance, the Vice-Chancellor’s Delegate or, in the case of research students, the Pro-Vice-Chancellor (Research and Academic Strategy) until the outcome of the investigation or trial. No action will be taken under this Code (other than suspension) for an offence relating to the police investigation or charge until the outcome of the investigation or trial is known, at which time the Director, Academic Policy and Governance, the Vice-Chancellor’s Delegate or, in the case of research students, the Pro-Vice-Chancellor (Research and Academic Strategy) will decide whether or not disciplinary action should be taken under this Code.

### **SD 4.3 In the event of a guilty verdict at trial**

If a student is suspended until the outcome of a trial and a guilty verdict is given against them, the Central Disciplinary Committee will then review the case and decide whether or not to impose a disciplinary penalty on the student.



#### **SD 4.4 Urgent and necessary action**

The Director, Academic Policy and Governance, the Vice-Chancellor's Delegate or, in the case of research students, the Pro-Vice-Chancellor (Research and Academic Strategy) may suspend a student immediately when the matter is urgent, for example when there are safeguarding issues or there is an alleged breach of Fitness to Practice Procedure. The suspected misconduct will then be forwarded to the secretary of the Central Disciplinary Committee for full consideration.

The power to suspend protects individual members of The Open University as well as the Open University community in general, and must only be used if the Director, Academic Policy and Governance, the Vice-Chancellor's Delegate or, in the case of research students, the Pro-Vice-Chancellor (Research and Academic Strategy) believes that it is urgent and necessary to take such an action. Written reasons for the decision must be recorded and made available to the student.

#### **SD 4.5 The student's opportunity to give their account of the case**

A suspension is not a disciplinary penalty and therefore the student cannot appeal against it. However, the student will have an opportunity to question whether their suspension was reasonable at the disciplinary hearing at which their alleged misconduct is considered.

### **Procedure**

#### **SD 5 Suspected misconduct and investigations**

##### **SD 5.1 Investigations by an executive authority**

When dealing with a situation in an Open University context that requires immediate intervention, such as a student creating a disturbance in a tutorial, day or residential school, or a student using offensive language or intimidating another student or member of staff in a forum, the senior member of the Open University staff present or online at the time may take action to exclude the student from using that service, if they consider the situation to be unacceptable, using the powers of executive authority delegated by this Code.

If appropriate the student should first receive a warning.

Any action taken by an executive authority must be reported as soon as possible and in any event within 3 working days to the appropriate disciplinary authority, who must either approve the action, arrange for the matter to be considered further under this Code or take other appropriate action.

## **SD 5.2 Investigations by an Open University officer acting as a disciplinary authority**

When dealing with suspected misconduct or a report from an executive authority, a disciplinary authority will take one or more of the following actions:

- a. usually within 10 working days of receiving notice of the suspected misconduct the disciplinary authority will interview or ask for a signed statement from any person who might know the circumstances of the alleged offence;
- b. decide whether or not there is evidence for a case against the student and whether or not further action should be taken;
- c. if further action is to be taken, write to the student to explain the issue that is of concern, providing evidence of the alleged offence, explain the disciplinary process and the potential outcome, and ask for the student's comments. The student's comments must be received within 10 working days of the date of the letter from the disciplinary authority;
- d. on receipt of the student's response, or after the 10 working days, inform the student if no further action is to be taken. This may include confirming the action taken by an executive authority; or
- e. either inform the student that a penalty is to be imposed and of their right of appeal against the penalty to the Central Disciplinary Committee; or refer the matter to the Central Disciplinary Committee for the Committee to hear the case and decide whether or not the student has offended under the Code and, if so, what penalty should be imposed.

### **SD 5.3 Investigations by an Academic Conduct Officer**

When dealing with an allegation of conduct that breaches the University's Academic Conduct policy under [SD 1.2](#) a, and/or b, an Academic Conduct Officer will take the following actions:

- a. decide on the evidence before them whether or not further action is to be taken;
- b. if further action is to be taken, write to the student to explain the issue that is of concern, the disciplinary process and the potential outcome, and ask for the student's comments on the reports of the case. The student's comments must be received within 10 working days of the date of the letter from the disciplinary authority;
- c. if, after receiving the comments from the student or after the 10 working days have passed, they decide that no further action should be taken, they must inform the student;
- d. if, after receiving the comments from the student, or after the 10 working days have passed, they decide that a penalty should be imposed:
  - i) in the case of an offence under Section SD 1.2a they must either inform the student of the penalty and tell the student of their right to appeal or, in the most serious cases, refer the case to the Central Disciplinary Committee to hear the case.
  - ii) if, having imposed an academic penalty, they consider that due to the seriousness of the matter and/or the repetition of an offence of academic misconduct, a serious offence under Section SD 1.2b has been committed, they should refer the matter to the Central Disciplinary Committee for the Committee to hear the case and decide whether or not the student has committed an offence under that Section and, if so, what penalty should be imposed.
  - iii) If both an academic and a disciplinary penalty have been imposed, and the student decides to appeal, the academic appeal will be determined first by the Academic Misconduct Appeals Committee, and only then will the case be heard by the Central Disciplinary Committee and/or the Special Appeals Committee.

Offences that fall under section SD 1.2 c are investigated by the Pro Vice Chancellor Research and Academic Strategy, or their delegate, and would follow the procedure set out in [SD 5.2](#), above.

## **SD 5.4 Investigations by the Central Disciplinary Committee**

### **SD 5.4.1 Informing the student of the investigation**

Usually within 10 working days of receiving notice of the suspected misconduct, the secretary of the Central Disciplinary Committee will, on behalf of the Central Disciplinary Committee:

- a. send to the student an account of the alleged misconduct;
- b. inform the student that they are investigating and that, if there is sufficient evidence of misconduct, the case will be referred to the Central Disciplinary Committee;
- c. tell the student the date of the next meeting of the Central Disciplinary Committee that could deal with the case;
- d. send the student a copy of the current Code of Practice for Student Discipline;
- e. ask the student for their comments on the allegation;
- f. invite the student to provide the details of any witnesses The Open University should contact, the name of any friend or representative they would like to be accompanied by (see Sections [SD 7](#) and [SD 8](#) below); and
- g. advise the student that they need to respond within 15 working days of the date of the letter from the Secretary of the Central Disciplinary Committee.

### **SD 5.4.2 Before the hearing**

On receipt of the student's response, or after the time for responding has passed, the Secretary to the Central Disciplinary Committee will:

- a. Consult with the Chair of the Central Disciplinary Committee as to whether or not the case should go forward to a hearing;
- b. Send a letter to the student to confirm the Chair's decision. If the case is proceeding to a hearing, the Secretary will:
  - i) provide the student with a copy of all the documentation which will be shared with the Committee;
  - ii) give notice of any witnesses that will be in attendance;
  - iii) remind the student of their right to attend the meeting in person or remotely and to be accompanied by a friend or representative.

- c. If no reply has been received within 15 working days of the date of the letter inviting the student to a disciplinary hearing, the hearing will proceed on the basis that the student denies the alleged misconduct;
- d. If a mutually convenient date for a hearing cannot be arranged within 60 days of notification to the student that a hearing is needed, the Central Disciplinary Committee may hear a case or an appeal and make a finding in the student's absence;
- e. Subject to the student's agreement the Committee may proceed with a hearing in the presence of the student's nominated friend or representative but in the absence of the student.

### **SD 6 The student's attendance at hearings**

Subject to prior agreement, attendance at disciplinary and appeal hearings by students, witnesses, nominated friends or representatives may be in person and/or by telephone and/or by any reasonable electronic medium. Written testimony may be presented instead of, or in addition to, attendance at a hearing.

### **SD 7 Nominated friend or representative**

The student may nominate a friend or representative to attend a disciplinary or appeal hearing either to accompany them or to attend in their place. The person nominated may not attend in their role as a solicitor or a barrister. The Open University reserves the right to defer the hearing and to ask the student to nominate an alternative friend or representative if it considers that the person originally nominated is obstructing the proceedings.

### **SD 8 Witnesses**

The Central Disciplinary Committee, the Special Appeals Committee and students may request witnesses who have direct knowledge of the alleged misconduct to attend disciplinary and appeal hearings and to question any witness called.

However, The Open University does not have the power to order any person called as a witness to attend either a disciplinary or an appeal hearing.

The Chair of the relevant Committee has the authority to decide whether or not witnesses are relevant to the case.

## **SD 9 Hearings by the Central Disciplinary Committee**

Note that the Central Disciplinary Committee has a dual role. It acts as a disciplinary authority and as an appeal authority. 'Hearing' relates to the disciplinary role of the Central Disciplinary Committee's whereas 'appeal' relates to its role as an appeal authority.

### **SD 9.1 At the hearing**

The student or their nominated friend or representative will be given the chance to present their case at the hearing in person and/or by any of the means listed in Section [SD 6](#), subject to prior agreement. The student (but not their nominated friend or representative unless permission has been given by the student) may be asked questions by the Central Disciplinary Committee.

Both the student and the Central Disciplinary Committee have the right to question any witness called. Witnesses may present their evidence in person and/or by any of the means listed in Section [SD 6](#), subject to prior agreement.

The Central Disciplinary Committee may set time limits on oral statements and on the time spent questioning any witnesses.

The Central Disciplinary Committee may postpone the hearing to another date if it decides that this is necessary.

The student (if present) and any nominated friend or representative must withdraw while the Central Disciplinary Committee considers its findings and the appropriate penalty, if any.

When considering any penalty, the Central Disciplinary Committee may use any information from the student's record that it considers relevant.

The decision of the Central Disciplinary Committee is by a simple majority. If there are equal votes the decision will be in the student's favour.

The Central Disciplinary Committee's decision must be sent to the student in writing. The student will be informed of any right to appeal at the same time.

## **SD 10 Rights to appeal**

Students who have received an academic penalty from an Academic Conduct Officer should appeal to the Academic Misconduct Appeals Committee as set out in the Student Complaints and Appeals Procedure.

Students who have received a disciplinary penalty can appeal to the Central Disciplinary Committee.

Students who have received a disciplinary penalty from the Central Disciplinary Committee can appeal to the Special Appeals Committee.

### **SD 10.1 Right to appeal to the Central Disciplinary Committee or the Special Appeals Committee of the Open University Senate**

- a. The student has a right to appeal to the Central Disciplinary Committee against:
  - i) the findings of an executive authority;
  - ii) the findings of another disciplinary authority other than an Academic Conduct Officer for an offence under Section [SD 1.2a](#);
  - iii) any other penalty imposed.
- b. The student has a right to appeal to the Special Appeals Committee of the Senate against:
  - i) A decision of the Central Disciplinary Committee other than those made when the Committee is acting as an appeal body.
- c. The Chairs of the Central Disciplinary Committee and the Special Appeals Committee have the power to determine whether or not an appeal is admissible;
- d. The student may appeal only once against the findings or the penalty.

### **SD 10.2 Decisions that cannot be appealed against**

The student cannot appeal against the following decisions:

- a. decisions of the Central Disciplinary Committee acting as an appeal body relating to the findings of another disciplinary authority;
- b. decisions of the Special Appeals Committee;
- c. Academic judgement.

## **SD 11 Lodging an appeal**

### **SD 11.1 Lodging an appeal to the Central Disciplinary Committee or the Special Appeals Committee**

The student should lodge an appeal by writing to the secretary of the Central Disciplinary Committee or the Special Appeals Committee (as directed in the appropriate correspondence) within 15 working days of the date of the letter informing them of a disciplinary decision. The penalty will apply until the hearing of the appeal.

Admissible grounds for appeal are:

- a. procedural errors;
- b. new evidence not previously available to the disciplinary authority;
- c. the unreasonable nature of the penalty.

The student cannot appeal just because they disagree with the decision already made.

The student must present their appeal to the Secretary of the Committee as a written statement in which they give the reason/s for their appeal. If a student gives no reason for appealing, their appeal will not be accepted.

When the student presents their written statement giving the reason/s for their appeal they should send to the secretary of the Committee the names of any witnesses they expect to call.

Following relevant consultation and having reviewed the student's grounds for appeal, the Chair of the Committee has the right to decide if the final reasons the student has given for lodging an appeal are admissible and should be allowed to progress to an appeal hearing.



The Chair of the Committee has the power to dismiss an appeal before it is presented to the Committee if:

- a. the grounds are inadmissible;
- b. there is no evidence presented on procedural error; or
- c. there is no new evidence relevant to the case.

If the appeal is not accepted, the Secretary of the Committee will advise the student the reason why this is the case and issue a Completion of Procedures letter.

Once determined as admissible by the Chair of the Committee an appeal will be heard within 30 working days of the Secretary of the Committee receiving the student's appeal, unless a later date is agreed by the student and the Committee or the student is considered to have abandoned the appeal. The Committee must, unless otherwise agreed with the student, follow the procedures in Sections [SD 12.1](#) and [SD 12.2](#).

## **SD 12 Appeal hearings by the Central Disciplinary Committee**

### **SD 12.1 Before the appeal hearing**

The Secretary of the Committee will notify the student in writing of the date of the appeal hearing arranged in accordance with [SD 11.1](#), giving notice of the student's right to present their side of the case and to call witnesses, and informing them when they can expect to receive the following (usually 10 working days before the date of the appeal hearing):

- a. copies of the documents that will be presented to the Committee;
- b. a list of any witnesses that The Open University expects to call, who have a direct knowledge of the alleged misconduct;
- c. any information and guidance requested by the student that The Open University considers to be reasonable.

The student will send to the Secretary of the Committee (not less than 10 working days before the scheduled date of the appeal hearing):

- a. the names of any relevant witnesses they wish to call;
- b. the names of any nominated friend or representative they wish to attend.

## **SD 12.2 At the appeal hearing**

The student has the right to attend the appeal hearing and to nominate a friend or representative. Subject to prior agreement, attendance at appeal hearings by students and nominated friends or representatives may be in person, remotely or in writing. If the student decides not to attend, the appeal hearing may take place in their absence or with only their nominated friend or representative attending (in line with Section [SD 6](#)).

The student or their nominated friend or representative will be given the chance to present their case at the appeal hearing. The student (but not their nominated friend or representative unless permission has been given by the student) may be asked questions by the Committee.

Both the student and the Committee have the right to question any witness called. Witnesses may present their evidence in person and/or by any of the means listed in Section [SD 8](#), subject to prior agreement.

The Committee may set time limits on oral statements and on the time spent questioning any witnesses.

The Committee may postpone the appeal to another date if it decides that this is necessary.

The Committee may also ask for, or take account of, any other evidence that has emerged since the first hearing of the case or that the Committee considers to be relevant to the appeal.

The student (if present) and any nominated friend or representative must withdraw while the Committee decides the outcome of the appeal.

When considering any penalty the Committee may use any information from the student's record that it considers relevant.

The decision of the Committee is by a simple majority. If there are equal votes the decision will be in the student's favour.

The Committee's decision must be sent to the student in writing. If the student is present, they may also be told the decision after the hearing.

The Committee must tell the student about their right to refer their case to the Office of the Independent Adjudicator for Higher Education.

## **SD 13 Recording and reporting penalties**

All disciplinary offences and penalties imposed by the Central Disciplinary Committee or Disciplinary Authorities will be recorded on the student's electronic record. The Secretary to the Central Disciplinary Committee and the Secretary of the Special Appeals Committee will report, in writing, to the Open University Senate or other authorised person on the penalties imposed in each 12 month period.

### **SD 13.1 Right to complain to the Office of the Independent Adjudicator for Higher Education (OIA)**

All higher education institutions in England and Wales are required to comply with the rules of the OIA, whose role is to review individual complaints by students against universities. The OIA website contains information for both students and universities.

The Open University students under special arrangements can submit their complaints to the OIA regardless of their location. This also applies to international students.

In line with the OIA requirements, once a student has completed the Open University's internal procedures, The Open University will issue a Completion of Procedures Letter to the student. The letter will set out clearly what has been considered and the Open University's final decision. The student will also be advised of their right to refer to the OIA.

## **Appendix**

### **Central Disciplinary Committee**

Secretary of the Central Disciplinary Committee  
Academic Policy and Governance Unit  
The Open University  
Walton Hall  
Milton Keynes  
MK7 6AA

### **Special Appeals Committee of the Senate**

Secretary of the Special Appeals Committee  
Academic Policy and Governance Unit  
The Open University  
Walton Hall  
Milton Keynes  
MK7 6AA

### **Academic Misconduct Appeals Committee**

Policy Exceptions and Academic Conduct Centre  
The Open University  
Joe Clinch Building  
Walton Hall  
Milton Keynes  
MK7 6AA

### **Senate Academic Appeals Review Panel**

Secretary of the Senate Academic Appeals Review Panel  
Academic Policy and Governance Unit  
The Open University  
Walton Hall  
Milton Keynes  
MK7 6AA

**Student policy documents**

<https://help.open.ac.uk/documents/policies>

**Research Degrees Student Handbook**

<https://help.open.ac.uk/documents/policies/research-degrees-handbook>

**Complaints and Appeals, guidance for Students**

<https://help.open.ac.uk/how-to-make-a-complaint-or-appeal>

**Research Degrees website**

<http://www.open.ac.uk/research/>

## Central Disciplinary Committee

This committee has two roles. It acts as a disciplinary authority and as an appeal authority.

### Terms of reference

1. As a disciplinary authority to consider all alleged offences arising from or involving those matters set out under [SD 1](#) of the Code, other than offences under [SD 1.2a](#) (plagiarism).
2. As a disciplinary authority to impose any penalty allowed under the Code of Practice for Student Discipline.
3. As an appeal authority, to consider and hear appeals against decisions of other disciplinary authorities other than those relating to offences under [SD 1.2a](#) (plagiarism).
4. As an appeal authority to:
  - a. set aside or confirm the original finding;
  - b. dismiss the appeal;
  - c. set aside, reduce, confirm or substitute the penalty, but not to increase the penalty.

### Membership

1. The University Secretary or a senior member of the academic or academic-related staff drawn from a panel approved by the Vice-Chancellor, to act as Chair.
2. A member of staff of an academic unit of senior lecturer level or above, drawn from a panel approved by the Vice-Chancellor.
3. A National Director, Assistant Director or Depute Director drawn from a panel nominated for this Committee by the University Secretary. This member must not have been involved previously in the case to be heard.
4. Three registered students appointed for each case by the Secretary from a panel of at least thirteen students appointed by The Open University Students' Association (OUSA). These students must not have been involved previously in a case to be heard.

**Mode of operation**

1. The Committee will meet when necessary and will report its decisions to the Senate every year.
2. Four members of the Committee, including at least one, but not more than two student members and one member of staff, will make up a quorum.
3. The principles, procedure and rules for the Committee that are set out in the Code of Practice for Student Discipline will be followed at all times.
4. The Committee will receive regular reports from the members considering appeals against the decisions of Academic Conduct Officers.

## **Special Appeals Committee of the Senate**

### **Terms of reference**

1. To consider and hear appeals against decisions of the Central Disciplinary Committee made other than in its role as an appeal authority.
2. To:
  - set aside or confirm the original finding
  - dismiss the appeal
  - set aside, reduce, confirm or substitute the penalty, but not to increase the penalty
  - in exceptional circumstances, refer the case back to the Central Disciplinary Committee.

### **Membership**

1. A senior member of the academic or academic-related staff drawn from a panel approved by the Vice-Chancellor, to act as Chair.
2. Two members of the Senate appointed for each appeal by the Vice-Chancellor from a panel of eight Senate members appointed on behalf of the Senate by its Chair, the Vice-Chancellor. These members must not have previously been involved in the case to be heard.
3. Two registered students, appointed for each appeal by the Secretary from the panel set up by The Open University Students' Association (OUSA) to provide nominees for the Central Disciplinary Committee. These students must not have been involved previously in the case to be heard.

### **Mode of operation**

1. The Committee will meet whenever necessary and will report its decisions to the Senate every year.
2. Four members of the Committee, including at least one student and one member of staff, will make up a quorum.
3. The principles, procedures and rules for the Committee that are set out in the Code of Practice for Student Discipline will be followed at all times.



# **Code of Practice for Student Discipline**

## **Summary of Changes**

### **1 October 2015**

- SD1.8 (b) to create an offence of serious academic misconduct
- SD2.1 definition of academic penalties for an offence under SD1.8(a)
- SD3 to remove the power of disciplinary authorities other than academic misconduct officers to act on offences under SD 1.8a
- SD4 notice penalty and right of appeal for an offence under SD 1.8a to Academic Misconduct Appeals Committee to be given to student and, where appropriate, notice of referral of a serious or repeated offence to the Central Disciplinary Committee as an offence under SD 1.8b
- SD10 transfer or right of appeal for an offence under SD 1.8a to Academic Misconduct Appeals Committee and, where appropriate, to the Senate Academic Appeals Review Panel.

### **February 2016**

- The list of associated documents that should be read in conjunction with the Code of Practice for Student Discipline has been updated to reflect the publication of the Academic Regulations (Taught Courses) and the withdrawal of the Student Regulations and General Qualification Regulations
- Updated disciplinary authorities list.

### **July 2017**

- Separation of policy from procedures
- Re-ordering of certain sections of the Code
- Revision of the offences to reduce the number and simplify the list of offences
- Consequential changes to offences referred to in other parts of the Code
- Revision of the penalties to clarify how they relate to one another

- Change of title from Director, Students, to Director, Academic Policy and Governance, and from PVC (Research) to PVC (Research and Academic Strategy)
- Amendment to reflect that informal caution will be recorded on student records
- Clarification of exclusion of text not being a disciplinary or academic penalty but a normal academic practice
- Clarification of the Vice Chancellor's delegation of power to suspend a student and the reporting of cases to the Senate
- Amendments to executive authorities responsible for which offences and which penalties they can impose
- Reduction of timescales for Executive Authorities to refer to Disciplinary Authorities
- Amendments to Disciplinary Authorities responsible for which offences and which penalties they can impose
- Reduction of timescales for Disciplinary Authorities to investigate an alleged offence
- Reduction of timescales for the Central Disciplinary Committee (CDC) secretary informing student of investigation
- Introduction of timescales for students to respond to Disciplinary Authorities and CDC investigation
- Clarification of process of informing student of outcome of initial CDC investigation
- Clarification of process before, during and after CDC hearing
- Amalgamation of policy and procedures for appeals to CDC and Special Appeals Committee (SAC)
- Reduction of timescale for student to lodge an appeal
- Amalgamation of policy and procedures before, during and after appeal
- Move Terms of Reference for CDC and SAC to the Appendix.

### **October 2019**

- Addition of students studying Microcredential and Vocational Qualifications into the Scope section
- Clarification under SD 2 that Penalties would only be disclosed outside The Open University under specific circumstances.

### **January 2022**

- Amendments to reflect the replacement of the Plagiarism Policy by the Academic Conduct Policy
- Amendments to reflect current institutional terminology (replacement of 'Alternative Learning Experience (ALE)' with 'online school').