

## STUDENT DISCIPLINARY PROCEDURE

### 1. Glossary of key terms

1.1 In this procedure, the following terms shall have the meanings set out below:

Completion of Procedures letter	A letter that confirms the completion of the College's internal procedures, following which a student may be able to raise a complaint with the Office of the Independent Adjudicator
Concern	The description of the behaviour causing concern, reported by the Reporting Person and submitted using a Concern Form
Tutor for Discipline	A person with responsibility for determining whether a Concern should be investigated, conducting any investigation and determining the action taken following the investigation. Where a Concern is referred to the Student Behaviour Panel, the Tutor will present the investigation findings to the Student Behaviour Panel
Student Behaviour Panel	A panel of three trained persons, which determines whether the Rules of Behaviour have been breached and, if so, has the authority to impose sanctions or measures
Statement of Effect	A written statement from a Reporting Person or Witness that describes the personal impact of an alleged breach of the Rules of Behaviour
Investigation Report	The report created by the Tutor for Discipline following an investigation
Student	Junior member of the College, both undergraduate or graduate
Reporting Person	A person who is reporting a Concern about a Student
Respondent	A student whose conduct is the subject of a Concern
College Regulations	The rules established by the College concerning the conduct of Students
Witness	A person who has witnessed the Respondent's behaviour or has witnessed a matter connected to the Respondent's behaviour as alleged in the Concern. The Witness may be someone to whom the behaviour was directed, or a third party
Appeal Committee	This shall be an extraordinary meeting of the College Council

### 2. Scope and Principles

- 2.1 This procedure enables the College to consider whether a Student has breached the College Regulations and, if it is found that the Regulations have been breached, to impose proportionate sanctions or measures. The procedure enables the College to respond appropriately to breaches of the College Regulations, to protect the College and its community. It does not exist to resolve personal disputes nor does it exist to cover the behaviour of students which does not materially touch upon the good conduct of the College Community or the safeguarding of the College's property.
- 2.2 This procedure is an internal process and does not have the same degree of formality as proceedings in a court of law. It is not normally necessary or appropriate for a Respondent or the College to be legally represented at any meetings, other than those of the College Council that form part of the procedure apart from in exceptional circumstances.
- 2.3 The procedure itself can be stressful for those involved. The Tutor for Discipline and decision-makers will take into account the potential effects upon those engaging with the procedure and, where possible, minimise these effects. All Reporting Persons, Respondents and Witnesses will receive information about how to access support during this process. The appropriate support will depend on the circumstances of the case, but may be delivered by a College, the University, the Students' Unions' Advice Service or external support organisations.
- 2.4 Reasonable adjustments shall be made to the procedure to allow fair access for students with a disability. Respondents, Reporting Persons and Witnesses are requested to make any reasonable adjustments known to the Investigating Officer so that these can be put in place. The Tutor for Discipline may seek expert opinion regarding reasonable adjustments to ensure appropriate implementation and shall keep a record of any such adjustments.
- 2.5 In order to ensure that a Respondent's views are accurately represented during the process it is preferable for the College to correspond directly with the Respondent. However, it is accepted that sometimes this will not be in the best interests of the Respondent, for example, where a Respondent is reluctant to make or receive decisions about a Concern without support, as a result of an underlying medical condition or disability. Where a Respondent would prefer correspondence to be directed through an authorized representative, permission needs to be provided by the Respondent in writing or via the Respondent's University email account. Where this is appropriate, the Respondent will be given reasonable time to arrange this support.
- 2.6 It will not normally be possible for the Reporting Person to submit a Concern anonymously, apart from in exceptional circumstances where there is a compelling case as decided by the Tutor for Discipline, supported by evidence, for the matter to be investigated. Where an anonymous Concern is accepted, the Concern will normally be accompanied by independent evidence enabling an investigation to take place without the involvement of the anonymous Reporting Person.
- 2.7 Concerns are ideally submitted in a timely manner, so that matters can be dealt with effectively. However, it is accepted that this is not always possible, for example where evidence of misconduct only becomes apparent after a significant period of time, or where a matter has significantly affected an individual and the effects have led to a delay in reporting. The timeframe may however have an impact on the investigation, decisions, and potential sanctions or measures. Concerns under these procedures can be raised by the following persons: i) any Student of the College; ii) someone who was a Student at the time of the

alleged breach of the Regulations; iii) any fellow of the College; iv) any bye-fellow of the College; v) any member of staff; vi) any member of the University who is supervising the Respondent providing that the alleged breach took place in the context of teaching. The Tutor for Discipline may also raise a Concern if he has evidence that a breach of the College Regulations may have occurred but no Concern has been raised by another person. Concerns may not be raised directly by persons not named above but can be brought to the College's attention through the Master, Senior Tutor or the Tutor for Discipline.

- 2.8 The College shall investigate and consider Concerns in a timely manner, providing reasonable deadlines at each stage of the process for decision-makers to provide decisions and for Respondents, Reporting Persons and Witnesses to provide information. The College normally aims to complete the initial investigation and Student Behaviour Panel decision within 60 days of informing the Respondent of the Concern. However, delays may occur where the case is complex, the Reporting Person, Respondent or Witnesses are not available to attend meetings, or where the procedure has been suspended for good reason. Respondents and Reporting Persons will be provided with updates where there is a delay.
- 2.9 Witnesses are expected to engage fully with the procedure, as far as is reasonable in the circumstances.
- 2.10 Where reasonable, physical meetings can be replaced by virtual meetings, where a Respondent, Reporting Person or Witness may attend a meeting by video or telephone call at the discretion of the Tutor for Discipline or Chair of the Student Behaviour Panel.
- 2.11 All decision-makers and investigators will receive appropriate training to undertake their role and be appropriately resourced and supported. No decision-maker or investigator will have any previous involvement with the matter that they are considering, or a pastoral or teaching relationship the Respondent or Reporting Person.
- 2.12 Any reference in this procedure to a named role includes a deputy appointed by that role-holder to exercise the functions assigned to that role-holder under this procedure.
- 2.13 Some breaches of the College Regulations could also constitute criminal offences. The College will not normally investigate a matter where criminal proceedings are ongoing (including criminal investigations and appeal processes), pausing any action under this procedure until criminal proceedings are complete. Following an investigation undertaken by the police and any subsequent criminal proceedings, where it appears unlikely that criminal proceedings will take place, or where the behaviour being investigated by the College is different to the behaviour being considered through criminal proceedings, the College may take its own action under this or another procedure.
- 2.14 The College will treat relevant police fines, cautions or criminal convictions received by the Respondent as evidence that the behaviour, on which the offence was based, took place. A 'not guilty' or 'no further action' outcome from the police or criminal proceedings will not prevent the College from undertaking its own investigation as to whether a breach of the College Regulations has occurred.
- 2.15 Sometimes a Concern will be more appropriately investigated under another procedure, for example, the Fitness to Study Procedure, if the behaviour has been wholly caused by an underlying medical condition, or a University procedure. It will be at the discretion of the Tutor for Discipline, in consultation with relevant College Officers to decide which procedure

is most appropriate to investigate student behaviour. The College reserves the right to refer a matter to another procedure at any time during this procedure. Sometimes a Concern will be appropriately investigated under this procedure but nonetheless, following the outcome, it will be necessary to refer the matter to another procedure.

- 2.16 Some breaches of the College Regulations will also be in breach of the University's Statutes and Ordinances and may result in the University taking disciplinary action. The College shall take into consideration any action taken by the University to ensure that the Respondent is not punished twice for the same breach.
- 2.17 Where a Concern involves more than one Respondent, it will be at the discretion of the Tutor for Discipline to decide whether the Concern should be separated into separate investigations for some or all of the Respondents. Where an investigation includes more than one Respondent and the Tutor for Discipline has chosen to refer the matter to the Student Behaviour Panel, the Chair of the Student Behaviour Panel shall have the discretion to decide whether there shall be a single hearing for all of the Respondents, or a separate hearing for each Respondent. Where a hearing involving multiple respondents takes place, the personal mitigation of each Respondent, unless it refers to the other Respondent(s), shall not be shared with the other Respondent(s). Where multiple Respondents appeal the decision of the Student Behaviour Panel decision appeals shall usually be considered separately but by the same Appeal Committee.
- 2.18 In cases where the Tutor for Discipline assesses that there is a need to put in place precautionary action whilst an investigation is ongoing, the Tutor will liaise with the University to initiate the process outlined in the University's Statutes & Ordinances under Special Ordinance D (v): Precautionary Action (Special Ordinance under Statute D I).
- 2.19 While the procedure is ongoing, a Respondent must not contact or attempt to contact the Reporting Person or any other Respondent(s) or Witness(es) to the alleged misconduct either directly or via another person. Except where precautionary action precludes it, Respondents may continue to pursue and complete their studies, including graduating, unless informed otherwise by the Tutor for Discipline.
- 2.20 The College owes a duty of care to all members, including Reporting Persons, Witnesses and Respondents, to safeguard the interests and safety of the College.
- 2.21 Respondents, Witnesses, Reporting Persons and their supporters and representatives, as well as decision-makers and investigators, are required to communicate and act respectfully and reasonably at all times whilst using the procedure and to treat the processes with respect. Abusive behaviour will not be tolerated. If, following a warning, someone continues to behave in an unacceptable manner, that person may be subject to separate disciplinary action. The person may be required by a decision-maker to stop engaging with this procedure or engage in a limited manner, even if this impacts upon the consideration of the Concern or a subsequent appeal.
- 2.22 The standard of proof used when making determinations under this procedure is on the balance of probabilities. The burden of proof rests with the College; it is for the Tutor for Discipline to prove that a breach of the College Regulations has occurred. This means that the Tutor for Discipline will have to prove that it is more likely than not that a breach of the College Regulations occurred before any sanctions or measures can be imposed on the

Respondent. Decisions must be supported by evidence; it is not enough to simply believe that something is likely to have happened.

### *Information sharing*

- 2.23 The College shall share the information and evidence related to an investigation and outcome with members of staff, the Respondent, the Reporting Person and Witnesses where it is strictly necessary to do so in order to process, investigate, and/or determine the outcome of an alleged breach of the College Regulations, or to implement any sanctions or measures following a finding. All information received from a Reporting Person, Respondent, Witness or staff member will be handled sensitively and in accordance with the College's Data Protection Policy.
- 2.24 The College shall share all evidence considered in reaching a decision (except where the decision-maker determines that there is a compelling reason not to do so), the decision itself, the reasons for the decision and any sanctions or measures, with the Respondent. The evidence considered in reaching a decision may not be shared with the Respondent where the identity of the Reporting Person, or the identity of a Witness, or personal data or special category data belonging to another has been provided, where that person does not wish that data or identity to be shared and there is a compelling case for the matter to be investigated without revealing this information to the Respondent. A compelling case may include where the information is of no relevance to the Concern and therefore it does not need to be relied upon. Any student affected by such a decision who is dissatisfied can raise a complaint under the procedures laid out in the General Handbook. Where information is unable to be shared with the Respondent, this may affect the decision-maker's ability to rely on this evidence in reaching a decision. Where evidence is not relied upon by the decision-maker, this will be specified in the reasons for the decision.
- 2.25 Where relevant, the College shall share the initiation of an investigation, the investigation findings and the reasoned determination of the Tutor for Discipline or Student Behaviour Panel, including any sanctions or measures with the University, regulatory bodies (for example, the Disclosure and Barring Service), professional bodies (for example, the General Medical Council), or other organisations with whom the student may be connected, where it is appropriate to do so (for example, where the student holds a position of responsibility for children or vulnerable adults). Where formally requested to do so, or where the College considers that someone may be at significant and immediate risk of harm, the College may disclose information received through this procedure to the police. When initiating an investigation, the Tutor for Discipline will inform the Respondent in writing of the circumstances by which the information about the case will be shared.
- 2.26 The College shall share investigation findings, the reasoned determination of the Tutor for Discipline or the Student Behaviour Panel, and sanctions or measures with the Reporting Person and Witnesses, where such information is relevant. 'Relevant' information is that which has a direct impact on the Reporting Person or Witness. The Reporting Person or Witness cannot appeal the outcome of the Student Discipline Officer or Student Behaviour Panel. However, if there are concerns about how the matter was handled or the process used in reaching an outcome then the Reporting Person or Witness may be able to make a complaint under the complaints procedure laid out in the General Handbook.
- 2.27 It is necessary that all parties feel able to engage fully with the procedure without concern for the wider sharing of information disclosed within the investigation process. Following the

conclusion of the procedure, those involved may discuss their personal experience of the procedure with others. However, regardless of the outcome, parties should not identify or provide details that might identify any individual involved in the investigation or subsequent decision-making process.

### **3. Submitting a Concern**

- 3.1 The College will normally be informed of a potential breach of the College Regulations by a Reporting Person. The Reporting Person may be a person who has been impacted by the reported behaviour, witnessed the reported behaviour or became aware of the reported behaviour through other means.
- 3.2 To submit a Concern, the Reporting Person must submit the details of the Concern, together with any evidence the Reporting Person wishes to provide, to the Tutor for Discipline.
- 3.3 The Tutor for Discipline shall communicate with the Reporting Person to acknowledge the Concern that has been received, to request further information, and to offer the Reporting Person a meeting to discuss the Procedure, though this can take place before a Concern is submitted.
- 3.4 The Tutor for Discipline will determine whether the following criteria are met:
  - a) there is an allegation that, on the face of it, would appear to breach the College Regulations;
  - b) this procedure is the most appropriate procedure to use to investigate the matter; and
  - c) the Concern has not already been investigated using this procedure.
- 3.5 Where all the criteria have been met, the Tutor for Discipline shall investigate the Concern. Where at least one of the criteria has not been met, the Tutor for Discipline shall not investigate the Concern.
- 3.6 Where part of the Concern has previously been investigated, it is at the discretion of the Tutor for Discipline to decide whether to investigate the aspect that has not yet been investigated, taking into account why the matter was not previously fully investigated, the length of time that has elapsed since the investigation, the severity of the misconduct, the impact on the Respondent of undergoing a second discipline investigation, and whether there would be repercussions for the Respondent's fitness to practise were the decision taken not to investigate the matter.
- 3.7 The Tutor for Discipline shall give written reasons for the decision about whether to commission an investigation and communicate the decision and the reasons to the Reporting Person in writing, within 7 days of making decision. Reporting Persons who are students and dissatisfied with the outcome may be able to make a complaint under the complaints procedure in the General Handbook within 28 days of being notified of the decision.
- 3.8 Where an investigation is not commissioned and any complaint relating to this decision has been completed, the Respondent shall normally be notified in writing of the Concern, the decision of the Tutor for Discipline, the reasons for the decision, and confirmation that no further action will be taken under this procedure, unless the complaint is withdrawn by the Reporting Person. This notification shall normally be provided to the Respondent within 7 days of the Student Discipline Officer's decision, or where the Reporting Person is a student, within 7 days of the deadline for raising a complaint or, if a complaint is submitted, following

the completion of the complaint. However, where sharing this information with the Respondent may impact upon an investigation being undertaken under a different procedure or by an external body, a delay to informing the Respondent may be necessary.

#### **4. Investigating a Concern**

- 4.1 Where an investigation is undertaken, the Tutor for Discipline shall write to the Respondent to confirm that a Concern naming the Respondent has been received, the nature of the alleged behaviour, the relevant College Regulations that have allegedly been breached and that an investigation shall be conducted. The Tutor of Discipline will provide a brief summary of the Concern, name the Reporting Person (unless, exceptionally, an anonymous Concern has been accepted), and describe the investigation process, the possible outcomes, including referral to other procedures, for example fitness to practise, and who may need to be informed of these outcomes. The Tutor for Discipline will inform the Respondent of the avenues of support available to them and the potential consequences if the Concern relates to alleged misconduct that may constitute a criminal offence.
- 4.2 The Tutor for Discipline shall conduct an investigation which may require written statements, meetings and evidence relevant to the investigation. Written notes shall be taken of all investigative meetings. Any person required to attend an investigative meeting will be able to bring a supporter of their choosing to the meeting and will be directed to appropriate sources of support. At the meeting they can present written information, evidence and the names of any Witnesses and shall have the opportunity to comment on the Tutor for Discipline's written notes of any meeting that they have attended.
- 4.3 The Tutor for Discipline shall normally meet with the Reporting Person and with the Respondent to receive an oral account. The Tutor for Discipline may meet with any Witnesses or instead collect information through written statements. The Tutor for Discipline shall give anyone affected by the alleged behaviour being investigated the opportunity to provide a Statement of Effect.
- 4.4 In addition to investigating the Concern itself, the investigation shall include gathering information about and investigating the seriousness of the Concern, any mitigation provided by the Respondent and any relevant previous breaches of the College Regulations by the Respondent. During the investigation, it may be necessary to request further information and responses from those who have already provided oral or written accounts. Information the Tutor for Discipline may consider collecting, where relevant and available, includes validating information that has been provided by others, records of correspondence, CCTV evidence, medical evidence from qualified medical practitioners, and records of online activity. This is a non-exhaustive list and the Tutor for Discipline may request any other material that the Tutor considers will provide value to the investigation. The College does not have the resources to undertake its own forensic investigation and therefore, unless this type of information already exists, the Tutor for Discipline shall not normally seek it.

#### **5. Tutor for Discipline Decision**

- 5.1 The Tutor for Discipline shall produce an Investigation Report, outlining the findings of the investigation.
- 5.2 Following the investigation, the Tutor for Discipline shall reach one of the following decisions:

- a) To impose a minor sanction or measure where a breach of the College Regulations has occurred and where it is considered that a minor sanction or measure is appropriate;
- b) To refer the case to the Student Behaviour Panel where it appears that a breach of the College Regulations may have taken place and a minor sanction or measure may not be an appropriate action;
- c) Where neither a) nor b) is appropriate: (i) to take no further action; (ii) to refer the matter for decision under another procedure.

5.3 In considering whether to impose a minor sanction or measure, or refer the case to the Student Behaviour Committee, the Tutor for Discipline shall give consideration to the following aggravating or mitigating factors:

*Aggravating:*

- a) The seriousness of the breach;
- b) The harm or damage caused;
- c) The breach took place under the influence of alcohol or illicit substances
- d) The breach was motivated by the protected characteristics or perceived protected characteristics of another;<sup>1</sup>
- e) The advantage gained or the advantage that could have been gained by the Respondent as a result of the breach;
- f) The intent and planning involved in the breach;
- g) The Respondent has previously been found to have breached any College Regulation on a previous occasion;
- h) The Respondent has breached precautionary action measures whilst the Student Disciplinary Procedure has been ongoing
- i) The effect on the Collegiate University Community, including the content of any Statement of Effect;
- j) The Respondent has not provided the College with reasonable information upon request so that it can assess the risk the Respondent may pose to the College community
- k) The Respondent has attempted to conceal or destroy evidence, or coerce or intimidate officers, Reporting Persons or Witnesses, in relation to the breach;
- l) The Respondent has abused a position of power or trust.

*Mitigating:*

- m) Whether the Respondent has admitted to the breach and when such an admission took place;
- n) Whether the Respondent has expressed remorse and/or shown insight into the impact of the breach;
- o) The evidenced personal circumstances of the Respondent.

5.4 Where the Tutor for Discipline or the Student Behaviour Panel decides to impose a minor sanction or measure, one or more of the following sanctions or measures are available:

- (a) Reprimand and warning to be placed on the student's file for such period up to two years as shall be specified;
- (b) A fine of up to £150;

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<sup>1</sup> These are listed in the Equality Act 2010 and are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

- (c) A requirement to make a formal apology, either in writing or orally, to the complainant or any other person or persons affected by the misconduct in such terms as may be prescribed and if so ordered subject to the approval of the Tutor or Panel as the case may be;
- (d) Attendance at a relevant training session or course;
- (e) Payment of compensation in respect of damage to property or physical injury to the person up to a maximum of £1000; and
- (f) exclusion from prescribed College facilities or activities, other than lectures, supervisions, classes, seminars and similar academic activities, for up to three terms.
- (g) Community service of proportionate duration and to be determined by the Tutor for Discipline.

- 5.5. An award of compensation under Section 5.4 (e) above shall be separate from the obligation to pay in full for any damage to College property, including the costs of cleaning, redecoration, repair or replacement.
- 5.6 The Tutor for Discipline shall provide the decision and the reasons for the decision in writing within 7 days of reaching a decision alongside a copy of the Investigation Report and evidence in line with 2.24-2.27 of this procedure. Where a minor sanction or measure is imposed, the Respondent will have 7 days from receiving the decision to confirm whether to accept this outcome or have the case referred to the Student Behaviour Panel.
- 5.7 The Tutor for Discipline shall refer the case to the Student Behaviour Panel for consideration where the Respondent does not agree with the decision to impose a minor sanction or measure; or where the Respondent does not comply with the minor sanction or measure; or where the Student Discipline Officer considers that a minor sanction or measure is not appropriate.

## **6. Student Behaviour Panel consideration**

- 6.1 Where the Tutor for Discipline refers any case to the Student Behaviour Panel, the Tutorial Office Manager shall act as Secretary to the Student Behaviour Panel and shall assign by lot two members to the Student Behaviour Panel from among College Lecturers who have not had prior knowledge of the case and have neither a pastoral nor teaching relationship with the Respondent or the Reporting Person.
- 6.2 The Student Behaviour Panel shall consist of:
  - a) The Senior Tutor, who will act as Chair
  - b) Two College Lecturers from the list in Section 6.1.
- 6.3 The Secretary of the Student Behaviour Panel shall organise a meeting of the Student Behaviour Panel and will communicate the membership of the Committee, date, time and location of the meeting to the Student Behaviour Panel members, the Tutor for Discipline, the Respondent and the Respondent's Tutor. If one or more members of the Student Behaviour Panel chosen by lot is unable to attend, another lot shall be drawn to find a qualifying member who is available on the date of the meeting.
- 6.4 The Respondent shall be provided with a copy of the Investigation Report and evidence, have an opportunity to provide a written response and be invited to attend the Student Behaviour Panel meeting with a supporter and/or representative of their choice. Any response or request to call witnesses from the Respondent must be provided at least 5 days before the date of the

Student Behaviour Panel meeting. A request to call a Witness will be considered by the Chair, who shall determine whether to permit the Witness to attend or provide evidence in an alternative format as outlined at paragraph 7.8. Where the Respondent is dissatisfied with the Chair's decision, the Respondent can appeal this decision following the Student Behaviour Panel's decision on the Concern to the College Council as part of the Appeals Process. A Respondent who wishes to admit the alleged misconduct in advance of the Student Behaviour Panel meeting may do so as part of the written response, in which case the meeting may focus only on what, if any, sanction or measure to apply.

- 6.5 Respondents should attend the Student Behaviour Panel in person, where possible. However, where this is impractical, for example, where the Respondent is in another country, the Respondent may attend by video link. If the Respondent is unable to attend the Student Behaviour Panel meeting and wishes to do so, it shall be at the Chair's discretion as to whether the Respondent has provided a sufficient reason for absence, in which case the meeting date should be re-arranged. The Student Behaviour Panel meeting may proceed in the Respondent's absence.
- 6.6 The Student Behaviour Panel, the Respondent and the Investigator shall receive a copy of the Student Behaviour Panel papers; the Investigation Report and evidence, and any response provided by the Respondent, at least 7 days before the Student Behaviour Panel hearing.
- 6.7 During the Student Behaviour Panel meeting, there shall be the opportunity for the Committee members to ask questions of the Tutor for Discipline and, if in attendance, the Respondent. The Respondent (or the Respondent's representative) and the Tutor for Discipline will also have the opportunity to ask questions of each other. The Respondent shall have the opportunity to make a final statement.
- 6.8 It will not normally be necessary for the Reporting Person(s) and/or Witness(es) to attend the meeting as their evidence will be provided in the Student Behaviour Panel papers. Where the Respondent wishes to challenge the evidence of a Reporting Person or a Witness, the Chair of the Student Behaviour Panel will determine the most appropriate format for this. Appropriate formats may include the Reporting Person or Witness attending the Student Behaviour Panel meeting in person or by video link, or questions being directed through the Chair. Alternatively, the Respondent may be asked to explain the precise challenges and, where the Chair of the Student Behaviour Panel considers those challenges material to the Panel's decision, a further written response will be sought from the Reporting Person or Witness. The Student Behaviour Panel may pause the meeting to request further information where the Chair deems it appropriate to do so.
- 6.9 Once the Student Behaviour Panel is satisfied that it has received all of the information, all persons except for the members, Secretary and note taker of the Student Behaviour Panel shall withdraw.
- 6.10 The Student Behaviour Panel shall consider all the information that has been provided and reach one of the following decisions:
  - a) To dismiss the case;
  - b) To find that there has been a breach of the College Regulations.
- 6.11 Where the Student Behaviour Panel has found that the College Regulations have been breached, the Secretary shall inform the Student Behaviour Panel of any previous breaches of the same Rule. The Respondent (and any supporter or representative) and the Tutor for

Discipline will be invited back into the meeting and the Respondent (or the Respondent's representative) will have an opportunity to make a further statement in relation to mitigation regarding the breach of the College Regulations and any previous breaches of College Regulations. The Tutor for Discipline may provide further information including in relation to any Statement of Effect and the Committee may ask questions. The Respondent (or the Respondent's representative) shall have the opportunity to make a final statement.

- 6.12 The Student Behaviour Panel will then consider whether a sanction or measure should be imposed. Consideration shall be given to the factors outlined paragraph 5.3 of this procedure. The Student Behaviour Panel can consider whether a minor sanction or measure, as outlined in paragraph 5.4, should be imposed. Where a minor sanction or measure is not considered to be appropriate, or in addition to a minor sanction or measure, the Student Behaviour Panel can choose from the following further sanctions and measures:
- a) Restrictions or conditions on the right to use College premises, facilities or services;
  - b) A fine of up to £500.
  - b) Temporary exclusion from membership of the College for a period of up to one term or the remainder of the Academic year, whichever shall be longer.
  - c) Recommendation to the College Council under College Statute 24 permanent exclusion from membership of the College;
  - d) Any penalty considered by the Student Behaviour Panel to be lighter and which does not come under the sanctions laid out in College Statute 24.
- 6.13 In deciding upon the appropriate sanction(s) or measure(s), the Student Behaviour Panel shall consider each sanction or measure in turn and record the reasons for the sanctions or measures imposed.
- 6.14 The Secretary of the Student Behaviour Panel, within 7 days of the Student Behaviour Panel reaching a decision, shall provide to the Respondent a written document explaining the Student Behaviour Panel's decision, reasons for the decision, any sanction or measure applied and the right of appeal. The notes of the Student Behaviour Panel meeting will be shared with the Respondent within 14 days of the Student Behaviour Panel meeting. The outcome will be shared with others in line with 2.25-2.27 of this procedure.
- 6.15 Where a Respondent subsequently fails to comply with any sanctions or measures imposed by the Student Behaviour Panel, the Respondent will be subject to any action specified by the Student Behaviour Panel to be imposed in this circumstance; or, where other action has not been specified, further disciplinary action may be taken under Regulation 1(a) of the Rules of Behaviour.

## **7. The Appeal Committee**

- 7.1 The Respondent shall have the right to appeal the decision of the Student Behaviour Panel within 14 days of receiving the written decision. The Registry shall act as Secretary to the Appeal Committee. The Secretary to the Appeal Committee has the authority to extend the appeal deadline, where there is a compelling reason to do so.
- 7.2 An appeal can be submitted on the following grounds, that:
- a) The procedures were not followed properly;
  - b) The Student Behaviour Panel reached an unreasonable decision;
  - c) The Respondent has new material evidence that the Respondent was unable, for valid reasons, to provide earlier in the process;

- d) There is bias or reasonable perception of bias during the procedure;
  - e) The penalty imposed was disproportionate, or not permitted under the procedures.
- 7.3 In order to appeal the Student Behaviour Panel's decision, the Respondent will need to provide details of the appeal to the Secretary of the Appeal Committee, which includes all evidence the Respondent wishes to be considered as part of the appeal. The College will normally aim to make a decision regarding an appeal within 30 days of the Respondent making the appeal.
- 7.4 If the appeal has been made on the specified grounds and within the timeframe, as determined by the Secretary of the Appeal Committee, the Master shall convene an extraordinary meeting of the College Council as under the procedures laid out in College Statute 4 (6).
- 7.5 The Appeal Committee shall consist of: the College Council, chaired by the Master. Those who have no prior involvement in the case and who have no pastoral or teaching relationship with the Respondent or the Reporting Person will recuse themselves from the item of business.
- 7.6 The Registry shall organise a meeting of the College Council either physically or virtually and communicate the date, time and location for the meeting to members of the Committee. The Respondent will be informed of the members of Council.
- 7.7 The Appeal Committee shall receive the details of the Respondent's appeal and evidence, the Student Behaviour Panel outcome, the notes of the Student Behaviour Panel and the material considered by the Student Behaviour Panel at least 4 days before the Appeal Committee meeting.
- 7.8 The Appeal Committee shall normally consider an appeal in private based on the written materials, but has the discretion to request further information; where this happens the Respondent shall be sent a copy of any further information and be given an opportunity to provide a written response.
- 7.9 The Appeal Committee shall consider all the information that has been provided and reach one of the following decisions:
  - a) To dismiss the appeal;
  - b) To uphold the appeal.
- 7.10 Where the Appeal Committee has upheld an appeal, it can choose to send the matter back for re-consideration by a Student Behaviour Panel, or alternatively it has the power to impose its own decision, including sanctions or measures. Where the Appeal Committee considers a breach of the College Regulations has taken place, it can impose any sanction or measure outlined in paragraphs 5.4 and 6.12 of this procedure, including more or less significant sanctions or measures than were imposed by the Student Behaviour Panel for the same breach.
- 7.11 The Secretary of the Appeal Committee, within 7 days of the Appeal Committee reaching a decision, shall provide to the Respondent a written copy of the Appeal Committee's decision, reasons for the decision, and any substituted decision. This is the final stage of the internal process and therefore the Respondent will be issued with a Completion of Procedures letter.

- 7.12 Where the Student Behaviour Panel has imposed a sanction or measure and the Respondent has appealed, the sanction or measure will not normally be implemented while the appeal is being considered. Following the Appeal Committee's decision, any sanctions or measures shall be implemented, even if the Respondent intends to raise a complaint with an external body.
- 7.13 Where a Respondent subsequently fails to comply with any sanctions or measures imposed by the Appeal Committee, the Respondent will be subject to any action specified by the Appeal Committee to be imposed in this circumstance; or, where other action has not been specified, further disciplinary action may be taken under Regulation 1(a) of the Rules of Behaviour.

## **8 Reporting and Monitoring**

- 8.1 The College shall monitor all Concerns reported made using this procedure and shall produce an annual report summarizing the anonymised decisions made by the Tutor for Discipline, the Student Behaviour Panel and the Appeal Committee. The annual report shall be submitted to the College Council.
- 8.2 The purpose of this monitoring shall be to ensure that decisions are made consistently and at the appropriate level; that appropriate action is taken on issues identified and that information gathered is used to improve guidance and support for students and staff involved in the procedure.

## **9 Excluded Offences**

9.1 Some criminal offences are so serious, difficult and challenging that they are beyond the scope of the College to deal with them. These crimes are termed "excluded offences" and are removed from the Procedure other than for the purposes of section 2.18 (Interim precautionary measures), where the student admits responsibility, and taking consequential action in the event of a conviction in the criminal courts.

9.2 An excluded offence for the purposes of this Procedure is any offence of misconduct under Section 12 of the College Regulations which falls within one of the following categories:

- (a) Amounts to an offence which is triable only on indictment;
- (b) Amounts to a criminal offence which is designed to facilitate or lead to an offence against the person (including a sexual offence) which is triable only on indictment;
- (c) Amounts to a criminal offence contrary to section 3 of the Sexual Offences Act 2003, unless the Tutor for Discipline is satisfied of the following:
  - (i) That there are no aggravating features;
  - (ii) that the case if prosecuted in the criminal courts would be regarded as suitable for summary trial in the magistrates' court and on conviction would be unlikely to result in a custodial sentence; and
  - (iii) That the complaint is in all the circumstances appropriate to be handled under this Procedure and would not exceed the resources, powers or capacity of the College;
- (d) Amounts to any other criminal offence punishable by imprisonment where the Tutor, having regard to all the circumstances and in particular to the seriousness, difficulty or complexity of the matter, at any stage reasonably considers that the investigation or hearing of the alleged offence would exceed the resources, powers or capacity of the College such that justice could not be done; or
- (e) Constitutes any misconduct which by agreement or otherwise the College has yielded to the exclusive or primary jurisdiction of the University.

9.3. Subject to paragraph 9.6 below, it shall be for the Tutor for Discipline, having taken such legal advice as is deemed appropriate, to determine whether any alleged misconduct constitutes an excluded offence; and alleged misconduct which appears to the Tutor to amount to a criminal offence triable only on indictment shall be so treated, and any lesser offence or offences included within that offence shall not be pursued under this Procedure as an alternative to the excluded offence.

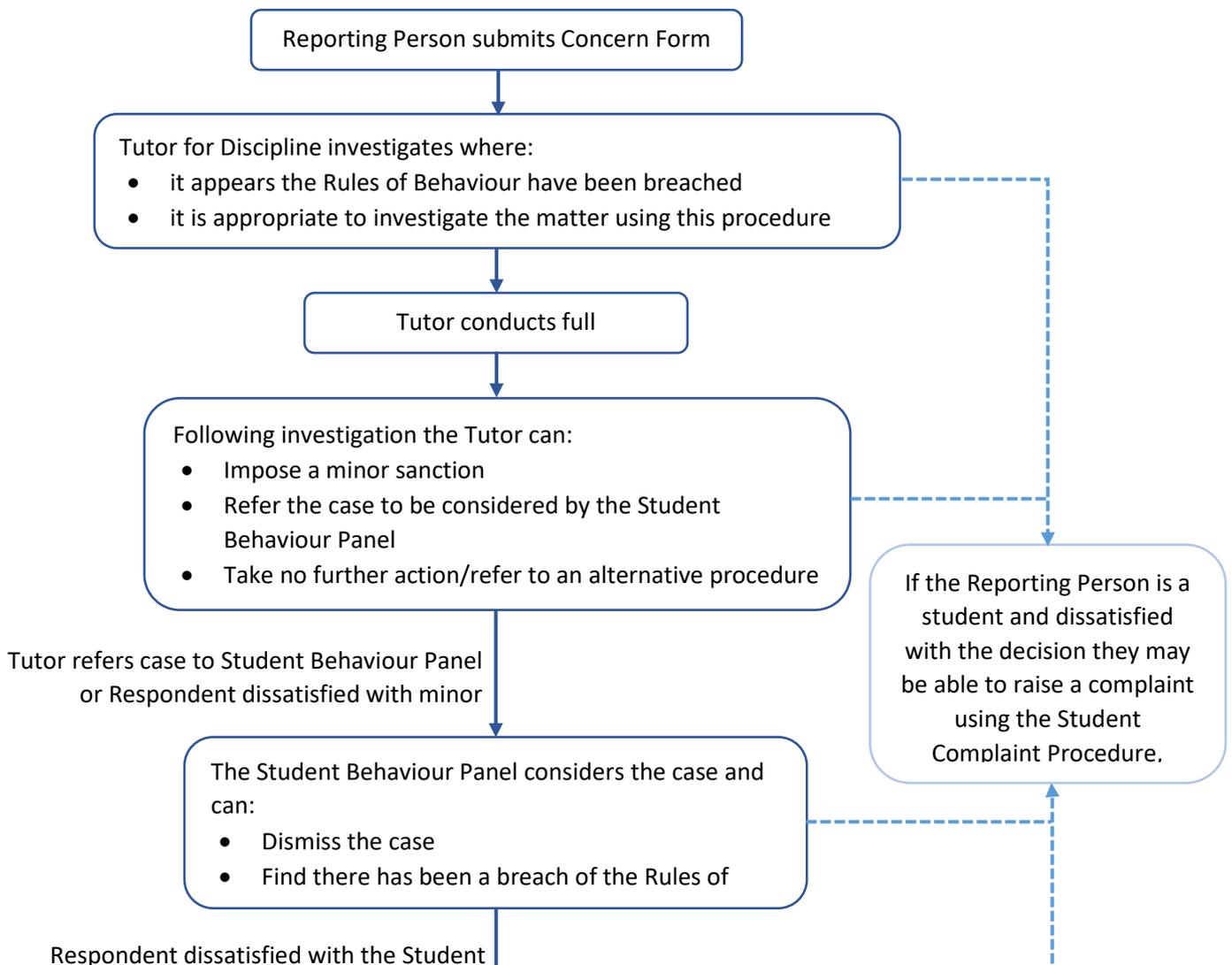
9.4. In all circumstances under paragraph 9.2 above, where the Reporting Person wishes to raise a Concern, the Tutor for Discipline, having taken into account paragraph 9.3, will advise the student to access the University’s Disciplinary Procedure or other appropriate options for pursuing the matter.

9.5. A complaint of misconduct within the terms of paragraph 9.2 above shall not be pursued under this Procedure unless there has first been a conviction for that offence in a criminal court or University proceedings, as the case may be, or the student against whom the complaint has been made accepts full responsibility and does not substantially dispute the facts alleged.

9.6. A Reporting Person may appeal to the Student Behaviour Panel against the Tutor for Discipline’s determination that the Concern involves an excluded offence by giving notice to the Tutor for Discipline within 7 days, and the Student Behaviour Panel shall either confirm the Tutor’s determination or declare that the complaint does not fall within paragraph 9.2 above.

## Appendix A

### Flow chart of the template College Student Discipline Procedure



The Appeal Committee considers the case and can:

- Dismiss the appeal;
- Uphold the appeal; and
- Substitute its own decision or refer it for consideration by the Student Behaviour Panel



If the Respondent remains dissatisfied, they can raise a complaint with the external ombudsman, the Office of the Independent Adjudicator