



# Professional Suitability Procedure (PSP) Student Disciplinary Procedure (SDP) Guidance Notes

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Please contact the Proctors Office on 01244 511559

or email [universityproctor@chester.ac.uk](mailto:universityproctor@chester.ac.uk)

University of Chester

**Professional Suitability and Student Disciplinary Procedures  
Guidance Notes**

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Author: – R N Dawson Institutional Compliance Officer

Any queries or comments please contact either the author or:

The Proctor's Office  
University of Chester  
Parkgate Road  
Chester  
Cheshire  
CH1 4BJ

Phone: 01244 51 1559

Email: [universityproctor@chester.ac.uk](mailto:universityproctor@chester.ac.uk)

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**Professional Suitability & Student Disciplinary Procedures  
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### **Introduction**

- 1.1. These notes are designed to provide a background, context and general guidance to the Professional Suitability and Student Disciplinary Procedures.
- 1.2. Much of the guidance is based upon findings, guidance and other relevant documents from relevant external agencies, including the Office of the Independent Adjudicator for Higher Education (OIA), Universities UK (UUK) and the Nursing and Midwifery Council (NMC). The notes are for guidance only, intended to assist Panel Members in their duties and to provide further explanation of both the Student Disciplinary (SDP) and Professional Suitability Procedures (PSP).
- 1.3. The PSP and SDP are intended to be similar in approach but there are some procedural differences, such as make-up of a Panel, due to the requirements of particular Professional, Regulatory or Statutory Bodies, and the PSP also allows for consideration and action where a student's professional suitability may be affected by a health issue.
- 1.4. This guidance should therefore be read as referring to both policies, unless specific mention is made in the text or the relevant heading as follows:
  - 1.4.1. Student Disciplinary Procedure                      **SDP – Heading**
  - 1.4.2. Professional Suitability Procedure                      **PSP – Heading**
- 1.5. Neither the SDP nor the PSP are related to a student's academic performance. Academic misconduct is dealt with under the Academic Integrity Procedure and academic competence *i.e.* whether a student passes or fails, including in placement, is a matter for the examiners at the relevant Assessment Board.

## **Regulatory Context**

### **Background**

- 2.1. Under Article 3.2.7 of the University's Articles of Government, the Vice-Chancellor is responsible 'for the maintenance of student discipline and, within the rules and procedures provided for within these Articles, for suspension or expulsion of students on disciplinary grounds and for implementing decisions to expel students for academic reasons.' Article 10.2 of the Articles of Government states that 'the University Council, after consultation with the Senate and representatives of the students, shall make rules with respect to the students, including procedures for suspension and expulsion.' The Student Disciplinary and Professional Suitability Procedures fulfil these articles.
- 2.2. These procedures are not related to a student's academic performance or practical competences. Responsibility for procedures governing a student's academic progression is exercised by the Senate (Article 3.3 of the Articles of Government).

### **Scope of the Rules**

- 3.1. The University is a community whose members work and, often, live together. Consequently the University expects certain standards of behaviour. The University may owe duties of care and responsibility to members of the public and others potentially affected by its activities and the University is entitled to protect and defend its name and reputation. The University recognises the standards of behaviour set from time to time by the relevant professional body/ies whose functions include maintaining and protecting the health, well-being and confidence of the public and regulating those working in the profession, their employers and their education and training. The PDP and the SDP will extend to cover any misconduct inside and outside the University, including during a student's social life, as necessary, if that misconduct raises doubt about a student's professional suitability as required.
- 3.2. The University is also a community which relates to the City of Chester, the Borough of Warrington, the town of Shrewsbury and environs. The University recognises that it has a significant part to play in this wider community. It is therefore intended that the PDP and the SDP should both promote a high level of responsibility within the student body and further the development of good relationships between the University, the wider community and beyond.
- 3.3. The PDP and the SDP are accordingly applicable to students at all University of Chester sites. The University reserves the right to apply it also, if appropriate, to students registered on programmes of study of the University of Chester delivered by other organisations, irrespective of location, campus or site.

- 3.4. Whilst the University does not seek to control all aspects of student life, students of the University are reminded that their conduct whilst on University premises, whilst engaged in any University business or activity associated with the University including conduct that reflects on the University and/or may bring the University's name into disrepute will be dealt with as a matter of misconduct under the relevant procedure. The University has a legitimate interest in student conduct which:
- a. is related to the academic or other work of the University;
  - b. occurs on the campus or other University property or on field trips, work placements or visits elsewhere;
  - c. involves other students, staff, visitors to the University and/or members of the public;
  - d. results in complaints from local residents or others concerning noise or other inconsiderate behaviour;
  - e. jeopardizes the good name and reputation of the University;
  - f. raises questions about whether the student should remain a member of the University because he/she poses, or may in the future pose a danger to other members of the University community or its good order; or
  - g. raises any other concern about a student's conduct or professional suitability.
- 3.5. The University may take disciplinary measures against any student studying or registered with the University, if he/she fails to abide by the Student Code of Conduct or is found guilty of misconduct, as defined below. The Dean of Students may also take any appropriate action to seek to address complaints about student conduct, including advising complainants to contact their local environmental health officer regarding noise or the police regarding criminal offences, or advising students how to resolve matters amicably with neighbours.

#### **Objectives of the Procedures**

- 4.1. The objectives of the PDP and the SDP are to:
- 4.1.1. promote a high standard of student conduct, professionalism and responsibility in those members of the student body on programmes to which the procedures apply;
  - 4.1.2. protect and defend the reputations of, and public confidence in, the University and relevant professional bodies;
  - 4.1.3. develop good relationships between the University and relevant professional bodies, partner organisations and satellite sites, the wider community and beyond;

- 4.1.4. discharge the University's responsibility to ensure that all students registered on programmes of study and who are seeking either provisional or full registration with the appropriate professional body maintain the required expectations and standards of professional behaviour, character and health;
- 4.1.5. provide an impartial process for dealing swiftly and fairly with any professionally unsuitable behaviour.

**Potential Exclusions from the Disciplinary and Professional Suitability Procedures**

5.1. These Procedures do not apply to:

- 5.1.1. any decision made as part of, or which results from, the Occupational Health Assessment or Disclosure and Barring Service Enhanced Check for Regulated Activity undertaken as part of the suitability assessment for entry to a programme irrespective of when these checks are undertaken, for which separate procedures apply; or
- 5.1.2. the entry requirements for a programme of study or the admission of students for entry to a programme of study; or
- 5.1.3. any aspect of a student's academic progression including academic performance, capability and/or practical competence either in theory sessions or whilst on placement, unless concerns come to light about a student's conduct at the appropriate meeting of the examiners or in some other appropriate forum. In that event, these procedures may be initiated in respect of such concerns; or
- 5.1.4. matters which can normally be dealt with under the 'Academic Integrity Policy' as outlined in Section F of the 'University Quality and Standards Manual' where a student has gained, or sought to gain, advantage in assessment contrary to the established conditions under which students' knowledge, abilities or skills are assessed for progression towards, or the conferment of, an award. However, allegations of Academic Integrity arising by virtue of falsification of the signature of a tutor, mentor or other person may be dealt with under these procedures.
- 5.1.5. Where in the course of the Academic Integrity proceedings it becomes apparent that the student has engaged in behaviour that would normally be dealt with under either the Disciplinary or Suitability procedures, the Academic Integrity Review Panel may refer the matter to the Dean of Students for determination of an appropriate measure notwithstanding any penalty already imposed by the Awards Assessment Board in the matter of Academic Integrity.



**Dealing with Misconduct**

- 6.1. A student renders herself/himself subject to disciplinary action on the grounds of misconduct if she/he fails to abide by the Student Code of Conduct or improperly interferes, in the broadest sense, with the proper functioning or activities of the University, or with the lives of those who work or study at the University, or undertakes any action which may otherwise damage the University.
- 6.2. Each example of misconduct has been identified as either misconduct against people, property or the University. The examples have been further categorised as Serious, General or both. This latter category is designed to give an indication as to the seriousness of the misconduct.
- 6.3. Any form of misconduct against other people or committed whilst involving the (mis)use of alcohol and/or any other substances should be regarded as Serious misconduct and the Panel should consider the most severe penalty.
- 6.4. Where a student engages in general misconduct the matter may be resolved at the Informal Phase. In the case of Serious misconduct, the matter should be referred to the Formal Panel Phase of the relevant procedure. Moreover, a student who commits gross misconduct against another person and the (mis)use of alcohol and/or any other substances may be a factor should be referred to the formal phase and considered for the most severe sanction.
- 6.5. However, this does not preclude occasions where the Dean of Students or a Panel may be of the opinion that based upon the consideration of the circumstances surrounding the misconduct that the matter may be dealt with at the informal phase or a lesser measure would suffice. In such cases a full rationale for the decision made should be recorded in the outcome letter issued to the student.

## The Student Code of Conduct

### **Responsible, Reasonable and Respectful Conduct**

The University recognises that it is a community with a significant part to play in the wider communities in which it is located and that its obligations to its own staff and students extend to these wider communities. The University therefore believes that it should both promote a high level of responsibility within the student body and further the development of good relationships between the University and these wider communities and beyond. In doing so the University reminds students that in any situation, in any part of the University or when involved in any activities associated with the University including those undertaken away from University premises, students must:

- ❖ behave responsibly and with consideration, courtesy and respect towards others;
- ❖ not act in a way that could endanger, or cause harm or any form of distress to any other person;
- ❖ not engage in behaviour which causes offence or distress because of the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation;
- ❖ use the University's facilities or services with care;
- ❖ act within the law and behave in accordance with the University's rules and regulations including, but not limited to, those relating to:
  - Academic Regulations
  - Health and Safety
  - Equal Opportunities
  - Use of University facilities
  - Rules relating to residential living
  - Requirements of Professional, Regulatory or Statutory Bodies;
- ❖ not interfere with the normal working of the University or any of its facilities or services
- ❖ not bring the University into disrepute by any of their actions.

Under no circumstances will the University tolerate any behaviour that amounts to an offence against a person including, but not limited to, assault, sexual assault or sexual violence, domestic violence or discrimination or harassment of any kind, whether verbal or physical and in any form or medium, including in any online space or context; such misconduct will be dealt with severely.

Individual students are responsible for ensuring that they are aware of any such regulations or standards and that they comply with them. Copies of these regulations are available from the University's intranet.

Examples of behaviour that will be regarded as misconduct and the possible sanctions which are available are published in the Guidance Notes.

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### Illustrative Examples of Misconduct

The defining and grading of the misconduct in the procedures is intended to give an indication as to the severity of the measure to be imposed. Misconduct graded solely as serious misconduct and/or any misconduct involving the (mis)use of alcohol and/or any other substances or against a person should normally be considered under the Formal Phase. Moreover, any person who engages in any form of violence, assault, misconduct or sexual misconduct against another person or who is found guilty of a criminal offence will be liable to the most severe measure.

Any misconduct graded as general misconduct may be considered at the Informal Phase and progressed to the Formal Phase if or as necessary.

The examples listed below are illustrative only and are neither comprehensive nor exhaustive. Examples may be added or amended as necessary by the Vice-Chancellor:

<b>Misconduct against People</b>	<b>Serious</b>	<b>General</b>
<b>Under this procedure 'Misconduct against People' should normally be regarded as Serious misconduct in all circumstances</b>		
i. Acts of disturbance that threaten the rights and privacy of any member of the University, whilst on University premises or engaged in University activity, or resident in University owned or managed accommodation.	✓	✓
ii. Serious abusive behaviour which may be regarded as aggravated which includes acts that may be regarded as sexual, violent, disorderly, threatening, intimidating or offensive; including the use of such language (whether expressed orally or in writing, including electronically).	✓	
iii. Abusive behaviour which includes acts that may be regarded as disorderly, threatening, intimidating or offensive; including the use of such language (whether expressed orally or in writing, including electronically).		✓
iv. Any act of discrimination, or any bullying, harassment, intolerance or victimisation.	✓	
v. The sending, posting or display by any means and in any form or medium of sexual, intimate, harmful, cruel or offensive text or images.	✓	
vi. Sexual misconduct including engaging or attempting to engage in an intimate or sexual act, touching or other offence without consent, the inappropriate showing of sexual organs to another person and the making of unwanted remarks of a sexual nature (whether expressed orally or in writing, including electronically).	✓	
vii. Failure to respect the rights of others including those relating to: freedom of speech and expression, freedom of belief, thought, conscience and religion, confidentiality and privacy.	✓	✓
viii. Jeopardising the health and safety of oneself or of any other person.	✓	
ix. Conduct that may incite, fund, promote or lead to acts of violent or non-violent extremism.	✓	
x. Possession of an offensive weapon (including replica weapons) and /or ammunition on University premises or whilst engaged in any activity associated with the University. (Cont...)	✓	

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xi. Possession or use of illegal substances or New Psychotic Substances whilst on University premises or whilst engaged in any activity associated with the University.	✓	✓
xii. Inclusion on one or more of the barred lists maintained under the Safeguarding Vulnerable Groups Act 2006 or any act that would lead to investigation or deregistration by an appropriate professional body.	✓	
xiii. Conduct which constitutes a criminal offence.	✓	✓

<b><i>Misconduct against Property</i></b>	<b><i>Serious</i></b>	<b><i>General</i></b>
xiv. Failure to comply with any aspect of the Health and Safety Procedures, rules or duties of the University or of any other organisation to which a student may be subject.	✓	✓
xv. Misuse or unauthorised use of University premises or items of property, including computer misuse and the communications network.	✓	
xvi. Damage to, or defacement of, University property or the property of other members of the University community caused intentionally or recklessly, and misappropriation of such property.	✓	✓
xvii. Unauthorised taking or use of property belonging to either the University or another person without permission.	✓	✓
xviii. Unauthorised entry into, or unauthorised use of University premises and property or the premises and property of other members of the University community.	✓	✓
xix. Unauthorised publication or transmission to any third party of a University activity and/or the unauthorised use of any form of recording equipment during a University activity. (Cont...)	✓	✓

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<b><i>Misconduct against the University</i></b>	<b><i>Serious</i></b>	<b><i>General</i></b>
xx. Conduct which brings the University into disrepute.	✓	✓
xxi. Conduct which disrupts, or improperly interferes with, the academic, administrative, sporting, social, or other activities of the University, whether on University premises or elsewhere.	✓	✓
xxii. Conduct which obstructs, or improperly interferes with, the functions, duties or activities of any student, member of staff or other employee of the University, or any authorised visitor to the University, whether on University premises or elsewhere.	✓	✓
xxiii. Failure to uphold or pursue the standards expected of any relevant professional or vocational bodies, which awards qualifications to students in relation to the care, welfare or education of the public.	✓	✓
xxiv. Conduct during assessment and examination which does not constitute Unacceptable Academic Practice or Academic Misconduct, for which separate rules and procedures apply, and may constitute failure to maintain professional suitability.	✓	✓
xxv. Dishonesty or the supply of false or misleading information in relation to the University or its staff or students in connection with the holding of any office in the University, or in relation to being a student at the University, or in circumstances which the University reasonably considers affect professional suitability.	✓	
xxvi. The submission to the University of false data, documents or documents containing false information/data and/or elements, such as signatures, including for the purposes of admission, recording attendance (whether manually or electronically or using Chester-App 'Check-in'), work, assignments, timesheets or other documents including evidence to explain absence, claims for mitigating circumstances or academic appeal etc.	✓	
xxvii. The fraudulent production of, and/or the submission to a third party of, any document purporting to be issued by the University containing false or fraudulent information and/or elements; including, but not limited to, grades, marks, confirmation of student status, confirmation of attendance, or signature or any associated matter.	✓	
xxviii. Breach of the provisions of any rules or regulations of the University or of any other organisation to which a student may be subject.	✓	✓
xxix. Failure to disclose your name and other relevant details to an officer or employee of the University of Chester, in circumstances when it is reasonable to require that such Information be given.	✓	✓
xxx. Failure to comply with a previously-imposed penalty or implemented action under these rules and procedures.	✓	
xxxi. Knowingly encouraging, permitting or assisting any individual to engage in any of the above.	✓	✓
xxxii. Any other behaviour which may reasonably regarded as constituting misconduct or unprofessional conduct.	✓	✓

### Suggested Format for Hearings

#### **Formal Panel Phase**

Formal hearings held under the either procedure will normally be conducted as outlined below. The Chair will be responsible for the conduct of the hearing and will have regard to the suggested format; however the Chair may conduct the hearing as s/he believes to be appropriate so long as the format adopted provides a fair and impartial process and is outlined, so far as possible, to all parties at the beginning of the hearing. Where a student admits the misconduct, the Panel may dispense with those parts of the suggested format which in the reasonable opinion of the Chair may be superfluous.

- I The Panel will meet initially in private to examine any relevant papers submitted prior to the hearing and to decide the format or conduct of the hearing.
- II The Chair shall invite the Invoking Officer, faculty representative, student and their Companion to attend the Hearing.
- III In the presence of all parties the Chair will outline the format or conduct of the hearing to be adopted.
- IV The Chair will repeat to the student the allegations made against the student.
- V The Invoking Officer will present the case in support of the allegations, and may be questioned as follows:
  - a By the student or Companion
  - b By the Panel
- VI Witnesses may be called to support the case for the University and will be questioned as follows:
  - a By the Invoking Officer and/or faculty representative
  - b By the student or Companion, through the Chair of the Panel
  - c By the Panel
  - d By the Invoking Officer and/or faculty representative in re examination
- VII The student or Companion will present their case and the student may be questioned as follows:
  - a By the Invoking Officer and/or faculty representative
  - b By the Panel
- VIII Witnesses may be called to support the case of the student and will be questioned as follows:
  - a By the student or Companion
  - b By the Invoking Officer and/or faculty representative
  - c By the Panel
  - d By the student or Companion in re examination
- IX The Invoking Officer will summarise the case against the student.
- X The student or Companion will summarise their case.
- XI The Chair will call on both parties to withdraw; but may recall either party in the presence of the other for clarification.
- XII The Chair may adjourn the hearing before reaching a decision, if further investigation is warranted.
- XIII The Panel shall firstly determine whether to uphold the allegation or not.
  - a Where the Panel uphold the allegation they should then receive the sealed envelope, if applicable and then consider the appropriate measure or sanction.
- XIV The Chair will recall both parties and inform them of the decision including reasons for the decision and imposition of a penalty as necessary.
- XV The decision and reasons will be confirmed in writing within 10 working days.

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#### **Review Phase**

Review Hearings held under either procedure will normally be conducted as outlined below. The Chair will be responsible for the conduct of the hearing and will have regard to the suggested format; however, the Chair may conduct the hearing as s/he believes to be appropriate so long as the format adopted provides a fair and impartial process and is outlined, so far as possible, to all parties at the beginning of the hearing.

The student should be invited to present their case in person at a Review Hearing unless the Review Committee is reasonably satisfied that the case is an appropriate one to be dealt with on the basis of documentary evidence only.

Review Hearings will not take the form of a re-hearing of the case nor is the student expected to defend their actions or misconduct. Review Hearings are designed to allow a student to present their case as to why they believe that the finding of the Panel should be reconsidered based on one or more of the grounds, identified by the student, as listed below:

- The emergence of significant additional evidence not available at the time of the Panel hearing which could reasonably have affected the Panel's decision if disclosed at the Panel hearing, including
  - That the student has new material evidence that they were unable, for valid reasons, to provide earlier in the process.
- The emergence of evidence to show that there has been maladministration in the conduct of the proceedings, including
  - That the procedures were not followed properly;
  - That there is bias or a reasonable perception of bias during the procedure;
  - That the decision maker(s) reached an unreasonable decision.
- The emergence of evidence which demonstrates that the measures implemented are too severe, or disproportionate or not permitted under the procedures.

To this end the recommended format of a Review Hearing is as follows:

- I. The committee meets to consider the evidence including the written statement
- II. The student and or Companion present their case
- III. The committee questions the student
- IV. The Review Committee may invite to attend and question any person who in the reasonable opinion of the Chair of the Review Committee may be able to assist.
- V. The Student, Companion and any other person as invited above leave the room
- VI. The committee considers the student's submission on the grounds of the review
- VII. EITHER the Chair recalls the student and Companion to inform them of the decision which will be confirmed in a Completion of Procedures Letter OR the Panel may inform the student of the decision by letter accompanied by a Completion of Procedures Letter.

The Review Committee may:

- a. find that the grounds for a review have not been established and that the original decision of the Panel should stand, or
- b. find that the grounds for a review have been established, in which case the Review Committee will proceed with the review of the case,

Whether or not the Review Committee finds that the grounds for a review have been established, the Committee may also implement any measure or sanction as specified in either the Informal or Formal Phase of the procedure should the Committee believe it to be necessary.

The outcome and rationale for the decision of the Review Committee shall be recorded in the minutes and noted in the Completion of Procedures letter.

## Procedural Guidance

This procedural guidance provides commentary and information to assist with the administration of the procedure and covers a number of issues or questions that have arisen.

### **Procedural Fairness**

10.1. The 2018 OIA Good Practice Framework on Disciplinary Procedures states that good disciplinary procedures should align with the following key principles of fairness:

- *“No one should be a judge in their own cause” - decision makers must come to matters without bias or a reasonable perception of bias;*
- *“Hear the other side” - each party must have a fair hearing;*
- *“Justice delayed is justice denied” - the process must be completed without avoidable delay.*
- *Decision makers must make reasonable decisions, and give reasons for their decisions.*

<https://www.oiahe.org.uk/resources-and-publications/good-practice-framework/>

### **Standard and Burden of Proof**

11.1. The ‘standard of proof’ necessary for misconduct to be proved under either procedure is on the ‘balance of probabilities’ (often expressed as ‘more likely than not’), rather than ‘beyond reasonable doubt’. Decisions must be based upon evidence and the ‘burden of proof’ remains with the Invoking Officer, acting on behalf of the University, to demonstrate that the misconduct took place on the balance of probabilities. While it is not for the student to disprove the allegation, it is reasonable to expect that the student will need to demonstrate or provide evidence to support claims made as part of their statement or in proving any mitigating factors that they wish the Panel to consider.

### **Referral and Investigation Phase**

- 12.1. Under both procedures, where an allegation, referral or complaint is received by the Dean of Students regarding a matter of misconduct the issue will usually be investigated and administered by the Proctor’s Office. However, the Dean of Students may refer the matter for investigation to any other person(s) across the University as necessary.
- 12.2. The purpose of the investigation is to assist the Dean of Students to decide whether the allegation against or the referral about the student(s) requires any relevant action.
- 12.3. Where the issue raised is clearly a matter relating to health then the relevant officer in either the Student Welfare or Disability Support Offices should undertake the necessary investigation assisted by the Proctor’s Office as and when necessary.

### **PSP - Issues or Referrals Relating to Health Matters**

13.1. A matter relating to health would include the development of a health condition or disability, or a change to an existing health condition or disability, which would have a detrimental



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effect upon an Individual's ability to study without the need for an adaptation or reasonable adjustment.

- 13.2. An individual suffering from a temporary health condition where it is reasonable to expect a full recovery and return to study within a reasonable and identifiable timescale e.g. a broken limb, minor surgery or common infections/contagious diseases, would not be ordinarily expected to be considered under the PSP.
- 13.3. In all circumstances, including health matters relating to the (mis)use of alcohol and/or any other substances the student shall be referred to the University's Occupational Health Unit. In some cases it may also be necessary to refer an individual student to other appropriate professional support in order to assess suitability.

### **Investigation**

- 14.1. The purpose of the investigation is to assist the Dean of Students to decide whether the allegation against or the referral about the student(s) requires any relevant action. In line with the key principle of fairness, as detailed by the OIA, the investigation must be undertaken without bias or any reasonable perception of bias.
- 14.2. The Investigating Officer is encouraged to ensure that:
- i. referred students understand the reason for and the process of the investigation;
  - ii. that any person who is invited to an interview is given adequate notice and is fully informed of the purpose of the interview;
  - iii. that referred students are kept informed at all times as to the progress of any investigation;
  - iv. that all persons are provided with a recording/copy of both their own oral and/or written statements upon request;
  - v. that any written statements submitted as evidence are signed and dated by the witness;
  - vi. that investigations are completed as expediently as possible.
- 14.3. Information gathered as part of the investigation will be used to enable the Dean of Students to determine the appropriate course of action. It is acceptable under the procedures for the same person to act in the capacity of both Investigating Officer and Invoking Officer.

### **PSP - Faculty Representative**

- 15.1. Due to the professional nature of programmes of study covered by the PSP, any referral due to an allegation of misconduct or poor health received by Student Futures needs to be considered in accordance with any particular requirements of the relevant Professional, Regulatory and Statutory Body.
- 15.2. As part of the Investigation the representative from the faculty should assist the Investigator by providing any necessary professional perspective and context under which the referral has been made.

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- 15.3. The faculty representative performs an advisory function to aid the Dean of Students in making their decision as to what appropriate action should be taken. The representative may therefore be in attendance at any interviews, meetings or hearings, as deemed necessary. However, in order to maintain the impartiality of the investigation it may be best if the representative restricts comments to those intended to advise the investigator and does not engage in directly interviewing or questioning interviewees, including witnesses, and any student against whom an allegation or referral has been made.

**The Interview Process**

- 16.1. The purpose of the Interview is to allow the Investigating Officer to establish relevant facts and evidence so as to assist the Dean of Students in determining the relevant and appropriate course of action. Interviews should be undertaken on an informed, fair and impartial basis.
- 16.2. Prior to any proposed interview an invitation to attend should be sent to the individual. This invitation should set the scene for the interview and commencement of the procedure, and should state clearly:
- That a referral/accusation has been received.
  - The nature of the referral/accusation.
  - Which procedure is being followed.
  - A copy of the relevant procedure either enclosed, attached as a web link or sent electronically.
  - The fact that the individual is required to attend an interview/meeting.
  - That the individual may be accompanied by a 'Companion' and who that 'Companion' may be, as appropriate.
  - Where the individual may seek appropriate advice and support
  - The date and time of the Interview/meeting.
  - Who will be the conducting the interview/meeting.
  - Who else will be present at the meeting and in what capacity (including any note takers).
- 16.3. At the start of the interview, commencing with the Investigating Officer, all those in attendance should state their name and in what capacity they are attending the meeting.

*Interviewing a referred student*

- 16.4. Where the interviewee is a student against whom a referral or allegation has been made the full details of the referral/allegation should be presented so that the student understands the allegation and that the burden and standard of proof is also explained.
- 16.5. At the end of the interview the Investigating Officer should confirm that the student understands the allegation that has been made, the reason for and the extent of the investigation, and any possible action or outcomes following the investigation phase.

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#### *Interviewing a witness*

- 16.6. Where the interviewee is a potential witness, who may or may not be a member of the University, enough details of the referral/allegation should be disclosed to the interviewee to allow the interviewee to provide further details.
- 16.7. Any questions directed towards the student or witness should be asked by the Investigating Officer who should ensure that the student or witness has a fair opportunity to fully answer any questions and to make any comments as necessary.
- 16.8. A recording of the interview should be provided to the student/interviewee upon request.
- 16.9. **PSP** - Under the **Professional Suitability Procedure** where an interview is being conducted in the presence of a Faculty Representative the Investigating Officer may seek to clarify points with the Faculty Representative and vice versa as necessary. The Faculty Representative should not attempt to interview the interviewee directly.

#### **Informal Phase**

##### ***Misconduct***

- 17.1. Where possible and practicable, the Dean of Students should seek to conclude the matter at the Informal Stage of the relevant procedure. The conclusion and implementation of a measure at the Informal Phase may be considered where there has been 'general' misconduct against property or against the University or where the student readily admits the allegation.
- 17.2. Where an allegation or investigation uncovers evidence involving the (mis)use of alcohol and/or any other substances; any form of sexual misconduct, violence or physical assault; or criminal activity the matter should be referred to the Formal Panel Phase unless in the reasonable opinion of the Dean of Students the circumstances are such that referral to a Panel would not be fair or proportionate.
- 17.3. In determining whether to implement a sanction or measure at the Informal Phase of the procedure the Director of Student Future should consider the relevant guidance detailed below including aggravating or mitigating factors and should normally complete a Decision Matrix to record the reasons for the decision to implement a particular measure.
- 17.4. The decision to refer the matter to the Formal Phase is to be regarded as a measure under, and the conclusion of, the Informal Phase.

##### ***PSP – Matters Relating to Health***

- 17.5. Under the **Professional Suitability Procedure**, the default position should be that matters which relate to a health condition or emergence of a disability should normally be concluded at the informal stage following discussion with the student and any appropriate recommendations from an appropriate medical, clinical, or psychiatric professional. However, where the health condition is so severe that it is likely to have a severe effect or impact upon an individual's ability to study or undertake placement, the Dean of Students should refer the matter to a Formal Panel.

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#### **Formal Panel Phase**

##### ***Membership of the Panel***

- 18.1. Both procedures detail clearly the appropriate membership of a Panel. In all cases Panels should be chaired by a member of University Staff who is at least at the level of a Manager/Head of an Administrative or Service Support Department or Head of Academic Department or Subject Area.
- 18.2. Other staff members may be chosen as necessary and all Panels should include a member or representative of the student body.
- 18.3. All Panel members should be regarded as independent decision makers who are part of an unbiased, accessible, proportionate and fair process. Consideration should therefore be given to the following when selecting potential members for a Panel. Members of Panels should:
  - have had no prior knowledge or involvement in the case
  - have had no prior knowledge of the student or any witnesses
  - not be privy to irrelevant or unnecessary information or personal data regarding the student or other persons in attendance, including academic achievement in modules of study, attendance or engagement
  - as far as possible reflect the diverse population of the University in terms of gender, sexuality, ethnicity/race, religion and disability. Single sex or single ethnic panels should be avoided so far as it is practicable to do so.
- 18.4. Neither the Invoking Officer nor the **PSP** faculty representative are considered members of the Panel and are not involved in any of the decision making or the determination by the Panel.
- 18.5. **PSP – Specific membership requirements** exist for panels under the **Professional Suitability Procedure** including the presence of a professional partner and/or an appropriate member of the same professional register and field of training as the student for trainee nurses and midwives.

##### ***Paperwork and Evidence***

- 18.6. From the commencement of the initial referral, the Dean of Students should compile a file that includes a copy of all correspondence to and from the investigating officer, file and meeting notes, recordings, evidence, panel notes/recordings, decision matrix and outcomes. This file will later form the basis of papers for a review and for information sent to the OIA as necessary.
- 18.7. In advance of the Panel Hearing copies of all the evidence relied upon and considered in making the determination to refer the matter to the formal phase should be submitted to both the Panel and to the individual student against whom a referral or allegation has been made.
- 18.8. Recordings of interviews and other notes should be retained and made available to both the Panel and student should it be deemed necessary by the Chair of the Panel. ...

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- 18.8.1. It should be noted that the recordings of interviews may include:
- 18.8.1.1. personal data relating to the witnesses or
  - 18.8.1.2. other information which is not relevant to the particular case or
  - 18.8.1.3. which may be detrimental to the student e.g. the mention of previous panels.
- 18.8.2. Careful consideration may need to be given as to whether the disclosure of personal data would be in the person's interests.
- 18.8.2.1. From a DP perspective the disclosure of the personal data may be permissible for the purposes of a task carried out in the public interest but consideration may need to be given to the rights and freedoms of data subjects prior to the disclosure of personal data.

**Panel Considerations – The Outcome**

***Determining the Outcome***

- 19.1. In determining whether an individual student has committed the alleged misconduct, Panel members need to ensure that they have received and considered all the available evidence. Panel members will receive a pack from the Dean of Students that will detail the allegation, records of statements and any relevant evidence. Recordings of interview may also be provided. Accompanying the pack will be any evidence submitted by the student. Any evidence presented to the Panel for consideration should be relevant to the allegation of misconduct, objective, based upon fact and open to challenge.
- 19.2. As part of the Hearing both the Invoking Officer and the Student will be given the opportunity to present their case to the Panel, to question any witnesses as appropriate and to challenge any evidence presented.
- 19.3. Panel members, having received and heard the presented evidence, will meet in closed session to determine the outcome. Their decision is based upon whether, on the balance of probabilities, the allegation should be upheld and if so, what would be an appropriate measure.
- 19.4. The Panel members should discuss a determination between themselves to reach a decision and in considering whether or not the student has committed the alleged misconduct. Panel members are reminded that:
- 19.4.1. the burden of proving the allegation rests with the Invoking Officer. The burden is not placed upon the student to disprove the allegation or prove innocence
  - 19.4.2. the disciplinary process is a civil matter not a criminal case. The Panel should therefore consider whether the allegation is proved on the balance of probabilities (i.e. more likely than not), rather than beyond reasonable doubt.
- 19.5. The Panel should satisfy themselves that any evidence presented by either the Invoking Officer or the student demonstrates, on the balance of probabilities, that the allegation should be either upheld or not.

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- 19.6. Panel members need to consider:
- the weight of the evidence presented
  - whether the evidence is plausible and supported by other evidence
  - whether the alleged incident was directly observed or reported by witnesses
  - whether accounts are plausibly consistent
  - the credibility of any witnesses and
  - how likely it is and to what extent the person giving the evidence may be mistaken.

- 19.7. In considering the weight of any evidence presented the Nursing and Midwifery Council advises its Fitness to Practice Committee members that

*When considering how disputes of fact are decided by the Panel, a useful analogy is a set of weighing scales. Into one pan of the scales goes all the evidence that's supportive of a fact, and into the other goes all the evidence that's unsupportive. When we talk about the 'weight' of evidence, we mean how far a piece of evidence moves the scales.<sup>1</sup>*

- 19.8. The Panel should, by referring to the relevant evidence in the report, be able to explain clearly and in detail, why the allegation was upheld or not; in effect what evidence held more weight and why. The reasons for any decision and the decisions made should also be included in the written report of the Hearing and reflected in the outcome letter sent to the student.
- 19.9. Where the Invoking Officer has presented more than one allegation, each allegation must be considered in turn and a separate decision made.
- 19.10. If the Panel determine, on the balance of probabilities, that the student has not committed the alleged misconduct; the panel should dismiss the case and inform the student of the same.
- 19.11. If the Panel determine, on the balance of probabilities, that the student has committed the alleged misconduct; the panel should then move on to consider an appropriate measure.

### **Panel Considerations – The Measure**

#### ***Guidance on Measures***

- 20.1. The University has published a Student Code of Conduct which not only sets standards of behaviour expected of students but also includes illustrative examples of what would be regarded as misconduct. In line with UUK guidance for HEIs dated October 2016 these examples are described as either misconduct against people, property or the University. Each example is graded as either general misconduct and/or serious misconduct.

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<sup>1</sup> <https://www.nmc.org.uk/ftp-library/ftpc-decision-making/evidence/>

***Serious or general misconduct***

- 20.2. Whilst the decision on the imposition of any particular measure is that of the relevant decision maker at the appropriate phase as follows:
- Informal Phase      Dean of Students
  - Formal Phase        Panel
  - Review Phase        Review Committee
- 20.3. The defining and grading of the misconduct in the procedure is intended to give an indication as to the severity of the measure to be imposed.
- 20.4. Misconduct graded solely as serious misconduct and/or any misconduct involving the (mis)use of alcohol and/or any other substances or against a person should normally be considered under the Formal Phase. Moreover, any person who engages in any form of violence, assault, misconduct or sexual misconduct against another person or who is found guilty of a criminal offence will be liable to the most severe measure.
- 20.5. Any misconduct graded as general misconduct may be considered at the Informal Phase and progressed to the Formal Phase if or as necessary.
- 20.6. However, the grading is not absolute, the Dean of Students may use appropriate discretion.

***Consideration of the measure***

- 20.7. The NMC in their guidance to NMC FTP Panel members states that a panel's determination should be proportionate:
- Being proportionate means finding a fair balance between the nurse or midwife's rights and our overarching objective of public protection. 1 - We need to choose a sanction that doesn't go further than we need to meet this objective. This reflects the idea of right-touch regulation 2 - where the right amount of 'regulatory force' is applied to deal with the target risk, but no more.<sup>2</sup>*
- 20.8. In deciding which measure to implement decision makers and Panel members should consider the full range of the appropriate measures available to them. However, panels should, where possible, avoid those measures appropriate for (mis)conduct where the issues to be considered relate to health.
- 20.9. In choosing the appropriate measure panels should start with the least severe measure available. If the Panel believes that this measure is inappropriate the Panel should explain clearly, and in detail, why that measure is inappropriate. The Panel should then go on to consider the next available measure, and so on. However, the procedure provides that any person who engages in any form of sexual misconduct, violence, or assault will be liable to the most severe sanction if the allegation is upheld.

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<sup>2</sup> <https://www.nmc.org.uk/ftp-library/sanctions/decision-making-factors/#>

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- 20.10. At the point where the appropriate level of measure is reached the Panel/decision maker should explain, clearly and in detail, the rationale for choosing the measure in the outcome letter and report.

***Aggravating and Mitigating Factors***

- 20.11. In considering each measure the Panel should be cognisant of any aggravating or mitigating factors such as the following illustrative issues and questions:

- The number of allegations presented and upheld.
- Did the student admit the misconduct when first confronted?
- Did the student express or demonstrate remorse?
- Is there evidence that the student has learnt from the situation/incident?
- Has there been any previous incident(s) or pattern of misconduct?
- Was the (mis)use of alcohol and/or any other substances involved in the misconduct?
- Did the student act alone?
- Did the conduct pose an abuse of trust or risk of harm?
- Did the student engage in any form of misconduct against another person?
- Did the misconduct include any form of, or any attempt at, sexual misconduct, verbal or physical violence or assault?
- Did the misconduct constitute or potentially constitute a criminal offence?
- Other than the (mis)use of alcohol and/or any other substances were or are there any compelling personal circumstances that may reasonably have affected judgement?

- 20.12. If the (mis)use of alcohol and/or any other substances is involved, this should be regarded as an aggravating factor.

- 20.13. Any pertinent factors considered should be referred to in the report of the hearing and outcome letter.

***Previous Misconduct – Sealed Envelope***

- 20.14. Whilst the procedures require that if a student has previously engaged in misconduct, the Chair of the Panel is supplied with any relevant information in a sealed envelope detailing the previous case including misconduct, determination and the outcome; it is recognised that the presence of the envelope may be regarded as an influencing factor in the decision making of the panel.

- 20.15. In order to ensure any perception of bias etc is minimised the enveloped shall be held and retained by the Secretary to the Panel throughout the hearing and shall only be passed to the Chair of the Panel at the point where the Panel have determined that the student has committed the misconduct.

- 20.16. Any pertinent factors considered should be referred to in the report of the hearing and outcome letter.



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***A Reasoned and Reasonable Rationale***

- 20.17. As stated above the Panel will meet in closed session to determine the outcome, based upon whether, on the balance of probabilities, the allegation should be upheld and if so, what would be an appropriate measure.
- 20.18. Any decisions made must be based upon the presented evidence and should be both reasoned and reasonable.
- **Reasoned Panel decisions** will be clear on the reasons for, and the evidence used to reach, the decision made.
  - **Reasonable Panel decisions** will be proportionate, based upon sound judgement, deliberation and discussion, taking into consideration all relevant factors and based upon the procedure so that any decisions can be seen to be justified.
- 20.19. Both the report of the Panel and the outcome letter should detail clearly: ...
- Whether the allegations were upheld or not
  - What evidence presented led the Panel to uphold or not uphold the allegation(s)
  - What measure(s) were recommended and why
  - What and why particular measures were considered and rejected
  - What aggravating or mitigating circumstances were considered and why.
- 20.20. In detailing the above the student is provided with a clear explanation of and the reasons for decisions made.
- 20.21. As part of this discussion, the Panel may seek points of clarification of fact from either the Invoking Officer or the student in the presence of all parties as necessary.

***Decision Matrix***

- 20.22. The Decision Matrix is intended to assist and guide Panel members in their deliberations as to the outcome and the appropriate penalty.
- 20.23. Panel members are advised to complete the matrix during their deliberation as a way of weighing the evidence, noting and considering any aggravating or mitigating factors.
- 20.24. Once Panel Members have come to a decision, the Chair of the Panel should complete, sign and date a final Decision Matrix which will, in turn, be used to form the basis of the outcome statement and outcome letter.
- 20.25. The Dean of Students may also use the Decision Matrix to detail any penalty or measure implemented at the Informal Phase.

### **Assessment and Enrolment Matters**

#### ***Where a referred student seeks to withdraw from the University***

- 21.1. There may be occasions where a student, when faced with an allegation, states that they intend to withdraw from studies. The act of withdrawing from studies will not necessarily mean that an investigation will still not proceed.
- 21.2. Under certain circumstances the University will have a statutory or common law duty to refer certain matters to particular competent authorities including: the Disclosure and Barring Service, the Police, and/or Security Services, Local Safeguarding Boards and Social Services, amongst others.
- 21.3. The University cannot prevent an individual from completing a withdrawal form, choosing not to attend sessions, meetings or panels. As such where a student indicates a desire to withdraw from their studies whilst a disciplinary or suitability case is in progress this withdrawal should be processed in the usual way. However, the initial investigation resulting from the referral may continue until such time as the Dean of Students has determined whether or not a case to answer exists and, based upon that case, whether a duty to refer the matter to a competent authority exists. The following scenarios shall apply:
- 21.3.1. Where it is determined there is no case to answer there will be no further action. The student's profile as presented to an Awards Board for an outcome will be recorded as "Withdrawn".
- 21.3.2. Where it is determined that there is a case to answer, but a subsequent finding of a Panel would not lead to a referral to a competent body. The process will stop but any confidential references subsequently provided may state that 'the student withdrew from the programme during the course of a professional suitability investigation.'
- If in these circumstances the student disputes the allegation they will be permitted to ask that the professional suitability process continues to its conclusion.
- The student's profile as presented to an Awards Board for an outcome will be recorded as "Withdrawn".
- 21.3.3. Where it is determined that, or in the opinion of the Director of Legal Services, the duty to refer would exist if the allegations were proven. In these most serious but rare instances, the professional suitability process will continue following the student's withdrawal.
- The student will be invited to take part and defend their position but should they choose not to do so the case will still proceed to its conclusion.
- The student's profile as presented to an Awards Board for an outcome will be recorded as "Terminate Studies - Professional Suitability".

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***Where a referred student is facing termination of studies due to academic failure***

- 21.4. There may be occasions where a student who is faced with an allegation may also be liable to have their studies terminated due to academic failure.
- 21.5. Under certain circumstances the University will have a statutory or common law duty to refer certain matters to particular competent authorities including: the Disclosure and Barring Service, the Police, and/or Security Services, Local Safeguarding Boards and Social Services, amongst others.
- 21.6. In the majority of cases such a student would be likely to be suspended from studies whilst an investigation under the Professional Suitability Procedure was underway. However, where a student who is not suspended is due to have studies terminated due to academic failure the relevant Programme/Awards Assessment Board should continue with the decision but the initial investigation resulting from the referral may also continue until such time as the Dean of Students has determined whether or not a case to answer exists and, based upon that case, whether a duty to refer the matter to a competent authority exists. The following scenarios shall apply.
- 21.6.1. Where it is determined there is no case to answer there will be no further action. The student's profile as presented to an Awards Board for an outcome will be recorded as "Terminate Studies - Academic Failure".
- 21.6.2. Where it is determined that there may have been a case to answer, but a subsequent finding of a Panel would not lead to a referral to a competent body. The student's profile as presented to an Awards Board for an outcome will be recorded as "Terminate Studies - Academic Failure".
- 21.6.3. Where it is determined that, or in the opinion of the Director of Legal Services, the duty to refer would exist if the allegations were proven. The termination of studies due to academic failure and the professional suitability process will continue to the extent that sufficient evidence is collected to refer the individual student to the competent authority.
- The student will be invited to take part and defend their position, but should they choose not to do so the case will still proceed to its conclusion.

## Supplementary Notes

### **Supplementary Notes Context**

- 22.1. The following supplementary notes were drafted in response to the Government restrictions implemented due to the Covid 19 outbreak. These restrictions included measures relating to non-essential travel, social distancing and changes in working practices, including remote working, whereby employees were based at home and not in University buildings.
- 22.2. In order to accommodate these restrictions the following reasonable variations to the practical working of the procedures may be necessary.

### **Remote Working (RW)**

- 23.1. Both the SDP and PSP detail expectations and good practice with regard to the conduct of interviews and panel meetings and also to the membership of the panel. However, there may be occasions where, due to limitations arising from remote working, variance from the suggested format or membership may be required.
- 23.2. The following seeks to provide supplementary guidance where, for any reason, it is necessary to vary or adapt the procedure due to remote working.

### ***RW Interviews***

- 23.3. As stated in the section entitled **The Interview Process**<sup>3</sup>, interviews should be undertaken on an informed, fair and impartial basis. However, neither the procedures nor the guidance above detail where the interview should be conducted or that all persons involved need to be physically present. Interviews may therefore be conducted remotely or on-line using appropriate software, including by telephone.
- 23.3.1. Where an interview takes place remotely a recording should be made. The use of a recording will negate the need for the witness statements to be signed. Or
- 23.3.2. Where it is not possible to record the interview then a written record of the interview in the form of a statement should be prepared and sent to the interviewee for agreement and 'signature'. An audit trail of the communications regarding the drafting, agreement and 'signing' of the statement should be attached.
- 23.4. Arrangements for a remote or on-line interview, including the sending of an invitation to the interview, should be made in the normal way, with the addition that the interview will be conducted remotely and identifying the appropriate method or software to be used.

### ***RW Hearings***

- 23.5. As for Interviews, neither the PSP or SDP nor the guidance detail the exact location for a Hearing or that all participants have to be physically present. As such any Hearing at any phase can be undertaken remotely or on-line using appropriate software, including by telephone.

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<sup>3</sup> Section in the Guidance Notes

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- 23.6. The Dean of Students shall ensure that all necessary administrative arrangements for the Panel are made in line with the relevant section of either the SDP or PSP procedure relating to the *Conduct of the Panel Hearing*.<sup>4</sup>
- 23.7. The Dean of Students shall also ensure that any student against whom a referral has been made does not suffer any detriment in relation to their *Student Entitlements*<sup>5</sup> as outlined in the relevant section of either the SDP or PSP procedure.
- 23.8. The Chair of the Panel will be responsible for the conduct of the hearing and will have regard to the suggested format. However the Chair may conduct the hearing as s/he believes to be appropriate so long as the format adopted provides a fair and impartial process and is outlined, so far as possible, to all parties at the beginning of the hearing.
- 23.8.1. This will include where the Invoking Officer, Faculty Representative, Student and any witnesses shall not be 'present' prior to the commencement of the hearing, during any initial private meeting of the Panel and during any deliberations of the Panel, except where the Panel seek clarification of matters of fact in which case all parties shall be present.
- 23.8.2. The Chair of the panel should, so far as they are able, satisfy themselves that third parties who are not involved in the hearings are not privy to the hearings. Moreover, the panel should not accept or receive submissions, statements or interjections from third parties who are not involved in the hearing during the hearing.
- 23.8.3. The Chair may suspend the proceedings where third parties, interjections and/or interruptions impede the process.

***RW PSP Membership of Panels***

- 23.9. The PSP details that the membership of a Panel under the Formal Phase or a Review Committee should include "one senior member of an appropriate professional partnership organisation who is either a member or registrant of, or lay adviser to the same profession as the Student". These external members of the Panel bring a wealth of professional experience and expertise alongside providing an employment and independent perspective.
- 23.10. Wherever possible the inclusion of an external member of the suitability panel should be maintained.
- 23.11. However, it is recognised that the use of an external member may not be possible. If this is the case an alternative member of University staff who is a member of the same profession as the intended external may sit on the panel in substitution for an external member.
- 23.11.1. The criteria stipulated in Section 18.3 of the Guidance Notes must also apply to this alternative member.

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<sup>4</sup> See relevant section in the procedure being SDP-Sec 48 and/or PSP-Sec 65.

<sup>5</sup> See relevant section in the procedure being SDP-Sec 49 and/or PSP-Sec 66.

## Template Statements and Letters

### Invitation to Interview -

Dear NAME

**Invitation to an Investigatory Meeting under the Student Disciplinary / Professional Suitability Procedure.**

I have received an allegation / referral regarding your conduct/ health under the procedure detailed above.

The referral/allegation is that you BRIEFLY DESCRIBE ALLEGATION

I have responsibility for investigating these matters which will be carried out in compliance with the above procedure, a copy of which is available from ...

You are required to attend a meeting with me at TIME on DATE in VENUE. Also present at the meeting will be NAME AND POSITION

This meeting forms part of the investigation phase of the procedure and it is very important that you attend.

You may bring a Companion to the meeting, who may be a fellow student, Students' Union representative or a member of staff at the University. Your Companion will not be able to answer any questions on your behalf. You should ensure that your Companion is not an individual who may have had any prior involvement in the case or who is likely to be or has been interviewed as part of the investigation or any subsequent hearing. Please note that family members, partners or representatives from any other body will not be permitted to act as your Companion for this purpose.

I would be grateful if you could inform me of the name and status of your Companion in advance of the interview.

You are advised to make contact with the Students' Union for help and advice on csuadvice@chester.ac.uk.

If you need this email in an alternative format, please contact me.

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**Invitation to Panel Hearing**

**PRIVATE & CONFIDENTIAL**

Dear **NAME**

As you are aware, the University has been investigating an incident where it is alleged that you **BRIEFLY DESCRIBE ALLEGATION**.

Following an investigation into the circumstances of this incident, a decision has been made to invoke the University's Formal Disciplinary Procedures and establish a Formal Panel to consider your case.

The Panel will consider the following allegation:

It is alleged that **ALLEGATION**.

Contrary to: University of Chester Student Code of Conduct – **Example ( )**

**DETAIL MISCONDUCT**

The arrangements for the Hearing are as follows:

- Time / Date: **DATE & TIME**
- Venue: **VENUE**
- Chair of Panel: **CHAIR - NAME & POSITION**
- Panel Members: **PANEL MEMBER - NAME & POSITION**  
**PANEL MEMBER - NAME & POSITION**  
**PANEL MEMBER - NAME & POSITION**  
**PANEL MEMBER - NAME & POSITION**

The Invoking Officer whilst not a member of the Panel will be in attendance at the hearing to present the case on behalf of the Dean of Students, also present will be the following:

- Invoking Officer: **IO- NAME & POSITION**
- Present: **NAME & POSITION**

A copy of the memo sent by the Dean of Students outlining the case against you, a copy of the evidence in this case and a copy of the relevant procedure is enclosed. You are advised to read these documents carefully.

Under the procedure you are entitled to be accompanied or assisted at the Hearing by a Companion who shall be a fellow student, Students' Union representative or member of staff at the University. Please note that your Companion will not be permitted to answer questions on your behalf. The name and status of the Companion should be notified to the Dean of Students no later than two days before the date of the hearing.

Please confirm your attendance, the name(s) of any witnesses that you intend to call to give evidence on your behalf, and any documents you will be presenting at the Hearing, copies of which should be received by **NAME and DATE**.

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You are advised to seek advice from Chester Students' Union regarding this matter. Their advisors may be contacted via their website at <https://www.chestersu.com/advice/contact/> or emailing [csuadvice@chester.ac.uk](mailto:csuadvice@chester.ac.uk).

Yours sincerely

cc: CHAIR - NAME & POSITION

PANEL MEMBER - NAME & POSITION

PANEL MEMBER - NAME & POSITION

PANEL MEMBER - NAME & POSITION

PANEL MEMBER - NAME & POSITION

Enc.: Copy of memo from Dr Sean de B Dunkin outlining the case against you, together with a copy of the evidence in this case.

Copy of the University of Chester Student Disciplinary Procedures.



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**Decision Matrix**

<b>STUDENT NAME:</b>		<b>STUDENT No:</b>	
<b>PROGRAMME OF STUDY:</b>		<b>LEVEL/COHORT</b>	
<b>TYPE OF MISCONDUCT</b>		<b>USE OF</b>	
PEOPLE*	PROPERTY*	UNIVERSITY*	MAJOR ISSUES <sup>6</sup>
		ALCOHOL*	OTHER SUBSTANCES
		SEXUAL MISCONDUCT*	VIOLENCE ASSAULT*
<b>LIST MISCONDUCT</b>			
1)  2)  3)  4)			
<b>LIST EVIDENCE IN SUPPORT OF ALLEGATION</b>		<b>LIST EVIDENCE IN SUPPORT OF STUDENT</b>	
1)  2)  3)  4)		1)  2)  3)  4)	
<b>LIST AGGRAVATING FACTORS</b>		<b>LIST MITIGATING FACTORS</b>	
1)  2)  3)  4)		1)  2)  3)  4)	
<b>AGREED OUTCOME</b>		<b>AGREED MEASURE</b>	
UPHELD*	DISMISSED*		
<b>CHAIR OF PANEL:</b>			
<b>SIGNED:</b>		<b>DATE:</b>	

\* Delete as appropriate

<sup>6</sup> If 'proven misconduct' includes the Major Issues box penalties 'a - Expulsion' and 'b - Termination' **must** be considered.

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**Panel Chair's Outcome Statement**

Following deliberation by the Panel the Chair will recall both the student and Invoking Officer to inform them of the Panel's decision. The Chair should read as follows:

"Having received, heard and discussed all the evidence presented, including that which you submitted, the Panel considered the allegation(s) that you have failed to maintain the required expectations and standards of professional behaviour, character and/or health.

Contrary to paragraph .... (*state the paragraph number and example of misconduct, list each allegation in turn & finding*) .... as detailed in the student code of conduct the allegation should be .... **UPHELD/DISMISSED** .... on the balance of probability.

The Panel in arriving at this decision found the following evidence .... (*list the relevant evidence 1, 2, 3,etc*) .... to be of relevance.

Having **UPHELD** the allegation the Panel moved to recommend an appropriate measure. Taking in to account the procedural guidance and the following aggravating factors ... (*list any aggravating factors*) ... balanced against the following mitigating factors ... (*list any mitigating factors*) ... The Panel considered the full range of the measures available to it and determined that the following measures were NOT appropriate .... (*List inappropriate measures with reference to the relevant paragraph of the procedure*) ... for the following reasons ... (*List reasons*)

Due to the seriousness of the allegation, together with the evidence and factors presented **and the professional nature of the programme**, the Panel recommends the following measures be implemented .... (*List the relevant measures with reference to the relevant paragraph of the procedure*)

OR

Having **DISMISSED** the allegation I am pleased to inform you that you may return to your studies and that any temporary removal from placements, precautionary suspension or exclusion, is now lifted with immediate effect.

This outcome and the reasons for this decision will be confirmed to you in writing within the next 10 working days. This outcome letter will also detail your right to request a review and the grounds upon which a request may be made. You should note that any such request must be submitted within the time limits as detailed in the outcome letter.

This concludes this panel hearing. On behalf of the University I wish to thank all for their attendance, contributions and deliberations."

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**Panel Hearing Outcome Letter**

Dear

**Student Disciplinary/Professional Suitability Panel Hearing held on DATE**

Following the meeting of the above Panel which you attended, I am writing to confirm the outcome of the hearing.

The Panel considered all the evidence presented to them, including the evidence which you submitted and concluded, on the balance of probability, that the allegation(s) brought against you, namely;

**ALLEGATION**

should be **upheld/dismissed**.

In reaching this decision the Panel found that the following evidence to be relevant:

- **List Evidence**

The Panel moved to recommend an appropriate measure and having balanced the following aggravating and mitigating factors:

- **List Factors**

In considering all of the available measures starting with the least severe, the Panel were of the view that several available measures were unsuitable for the following reasons:

- **List Reasons**

Due to the seriousness of the allegation and considering all of the above evidence, factors and unsuitability of the remaining measures the decision of the Panel as communicated to you verbally at the hearing is that the following measure should be implemented:

- **List Measure**

You may request a review against the decision of the Panel. A review shall not take the form of a re-hearing of the case and may only be made on one or more of the grounds listed below.

1. The emergence of significant additional evidence not available at the time of the Panel hearing which could reasonably have affected the Panel's decision if disclosed at the Panel hearing, including
  - a. That the student has new material evidence that they were unable, for valid reasons, to provide earlier in the process.
2. The emergence of evidence to show that there has been maladministration in the conduct of the proceedings, including
  - a. That the procedures were not followed properly;
  - b. That there was bias or a reasonable perception of bias during the procedure;
  - c. That the decision maker(s) reached an unreasonable decision.

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3. The emergence of evidence which demonstrates that the measures implemented are too severe, or disproportionate or not permitted under the procedures.

You must give notice of intention to request a review in writing to the Dean of Students within ten (10) working days of being informed of the decision of the Panel, stating clearly which of the above grounds will form the basis for the review.

Within a further five (5) working days you must submit a written statement of the review to the Dean of Students, setting out a full response to the Panel's decision, together with all additional evidence relied upon to establish the grounds for review.

If you need this in an alternative format please contact me.

Yours sincerely

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**Receipt of Request for Review**

***Review Acknowledge letter (1<sup>st</sup> Letter)***

Dear **STUDENT**

**Review against the Professional Suitability/Disciplinary Panel Hearing of DATE**

I formally acknowledge receipt of your correspondence dated **DATE** in which you give notice that you intend to request a review of the decision of the above Panel hearing.

You have identified that you wish the review to be made on the following grounds:

**STATE GROUNDS**

In order for your request to progress you are now required to provide further details, in writing, of the grounds upon which a Review is sought, setting out a full response to the Panel's decision, and providing evidence which you rely upon to establish the grounds for review cited above.

To comply with the timelines set for Review within the Procedures, I would ask you to provide me with this evidence by **DATE**.

Yours sincerely

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***Receipt of Papers letter (2<sup>nd</sup> Letter)***

Dear **STUDENT**

**Review against the Professional Suitability/Disciplinary Panel Hearing of DATE**

I am writing to confirm that I am now in receipt of the papers which you submitted in support of your request for a review into the recent decision of a Disciplinary Panel. I would refer you to Review Phase of the procedure detailing the review process.

You have identified that you wish the review to be made on the following grounds:

**STATE GROUNDS**

I am in the process of asking a senior colleague, as Chair of the Review Committee, to begin the review process. Should the Chair determine that you have identified possible grounds for a review a Review Committee will further consider the case. You will note under the Review Phase the Chair of a Review Committee may seek to deal with the case on the basis of the documentary evidence or may at their discretion, ask you to attend a meeting of the Review Committee.

I will write to you in due course to inform you of the next step; in the meantime you should address and mark all correspondence in relation to this matter for my attention. Please do not hesitate to contact me as necessary but be assured that this matter is receiving my attention and thank you for your patience.

I understand that you may not have a personal email address other than that supplied by the University, I will therefore correspond with you by post.

Yours sincerely

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**Completion of Procedures Letter including Review Decision**

This template is for complaints closed on or after 9 July 2015.

Please note - the format may be adjusted to meet the individual circumstances of a complaint provided that the key points below are included.

Dear [Name *of complainant*],

**Completion of Procedures Letter**

This letter confirms that the internal procedures of University of Chester in relation to your request for a review regarding the **Suitability/Disciplinary** matter which upheld the allegation that you had engaged in **state mis-conduct** have been completed.

However, under the University procedure you failed to request a Review against the decision of the Panel within the required 15 days and therefore the internal procedure has been exhausted by default.<sup>7</sup>

The issues that you raised in your request were that (**state grounds cited**)

The issue(s) that were considered in relation to your request for a review are detailed below.

The final decision of the University of Chester is: (a or b)

- a. **that you failed to present valid grounds, meaning that the review will not progress further and the original unanimous decision of the panel hearing held on (DATE) that the allegation should be upheld with the appropriate penalty being (MEASURE/SANCTION).**

The nominated Chair of the Review Committee has, based upon the documents received, considered whether or not you have identified possible grounds for a review of the case. The determination and rationale for this decision is as follows:

(Full determination including reasons etc for rejecting request)

- b. That **following** the meeting of the Review Committee held on (DATE) that the allegation should be (Dismissed/Upheld) and that the original sanction should be removed/varied to (List Sanction).

The determination and rationale for this decision is as follows:

(Full determination including reasons etc for upholding request)

The procedures applied were\*: the Student Disciplinary Procedures/Professional Suitability Procedures (date).

The University of Chester subscribes to the independent scheme for the review of student complaints. If you are dissatisfied with the outcome you may be able to apply for a review of your request for a review to the Office of the Independent Adjudicator for Higher Education (OIA) provided that the complaint you take to the OIA is eligible under its Rules.

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<sup>7</sup> This paragraph should only be used where a COP is issued where the appeal times out and following a request by the student.

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Should you decide to make a complaint to the OIA, your OIA Complaint Form **must be received by the OIA** within **12 months** of the date of this letter, that is, it must be received by the OIA **on or before** (Date of COP + 12 Months)

You can fill in the OIA's complaint form online or download a copy from the OIA website. <http://oiahe.org.uk/making-a-complaint-to-the-oia/oia-complaint-form.aspx>. The OIA also publishes *An Introduction to the OIA Scheme for Students*, which can be downloaded from <http://www.oiahe.org.uk/media/122228/intrototheoia-students-april2018.pdf>. Alternatively, you can telephone or write to the OIA for a form. **You should send a copy of this letter to the OIA with your OIA Complaint Form.**

Guidance on submitting a complaint to the OIA and the OIA Complaint Form can also be found on the OIA's website <http://www.oiahe.org.uk/making-a-complaint-to-the-oia/how-to-make-a-complaint.aspx>. You may also wish to seek advice from the Students' Union about taking your complaint to the OIA. Please note that the OIA will normally only review issues that have been dealt with through the provider's internal procedures.

Yours sincerely,

[Authorised signatory]



## Disclosure and Barring Service and the Duty to Refer

### General DBS Matters

The Safeguarding Vulnerable Groups Act 2006 provides the legislative framework for a vetting and barring scheme for people who work with children and vulnerable adults. The purpose of the new scheme is to minimise the risk of harm posed to children and vulnerable adults by those that might seek to harm them through their work (paid or unpaid) (whether they fall into the category of “regulated activity”, or “controlled activity”). It seeks to do this by barring unsuitable individuals not just on the basis of referrals but also at the earliest possible opportunity as part of a centralised vetting process that all those working closely with children and/or vulnerable adults will need to go through.

There will be two barred lists - one for those who are barred from engaging in regulated activity with children (the “children’s barred list”), and one for those who are barred from engaging in regulated activity with vulnerable adults (the “adults’ barred list”). These lists will be maintained by the Disclosure and Barring Service who will also make decisions about whether an individual should be included in one or both barred lists. It will be a criminal offence for an individual who is included in either list to engage in regulated activity in relation the respective vulnerable group.

There will be four routes to inclusion on one or both of the barred lists:

- Automatic inclusion on one or both of the barred lists as a result of receiving a caution or conviction for specified offences, or other criteria which may be specified (such as orders, foreign orders or directions, and inclusion on a foreign barred list). There will be no right for the individual to make representations nor a right of appeal to the DBS in these cases.
- Automatic inclusion on one or both of the barred lists as a result of receiving a caution or conviction for certain other specified offences or as a result of having met some certain other specified criteria. There will be a right to make representations and a right of appeal to the DBS following inclusion.
- Specified behaviour (the term “relevant conduct” is used in the Act) that leads to consideration for inclusion on one or both of the barred lists. This includes, for example, conduct which harms a child in the case of the children’s barred list, or conduct which harms a vulnerable adult in the case of the adults’ barred list, or conduct involving child pornography for both lists.
- Risk of harm: where evidence suggests that an individual may present a risk of harm to children or vulnerable adults, this will lead to consideration for inclusion on the appropriate list.

A number of definitions are given in the Act, these are as follows:

- **Regulated Activity:** - Any activity which involves frequent or intensive contact with children or vulnerable adults and is of a specified nature (e.g. teaching, training, care, supervision, advice, treatment or transport) and/or any activity allowing frequent or intensive contact with children or vulnerable adults and is in a specified place (e.g. schools, care homes, etc). This will include any placement undertaken by an individual student registered on a programme of study leading to professional registration.

## Suitability & Disciplinary Procedures DBS Matters

- **Regulated Activity Provider:** - An employer who employs a person to work (paid or unpaid) in a regulated activity. This will include any partner organisation who provides a placement for a registered student.
- **Relevant Conduct:** - Behaviour or conduct which endangers or is likely to endanger a child or vulnerable adult including possession of sexual material relating to children or sexually explicit images depicting violence against others. More over relevant conduct includes any conduct that may harm; cause to be harmed; put at risk of harm or incite another to harm a child or vulnerable adult.
- **Personnel Supplier:** - Includes an educational institution which supplies to another person a student who is following a course at the institution, for the purpose of enabling the student to obtain experience of engaging in regulated or controlled activity. This undoubtedly includes HEI's and the University of Chester.

A number of offences and duties are also detailed in the Act:

- A Regulated Activity Provider must not engage in regulated activity a barred person or a person who is not a member of the Scheme. Any RAP taking on a person in a regulated activity will commit a criminal offence if they fail to check the status of an applicant, employee, or volunteer unless the RAP receives verification from the University that the individual is a member of the scheme.
- It will also be an offence for RAP's or the University to permit a barred person, or a person who has not yet had a vetting and barring check, to work for any length of time (no matter how infrequent) in regulated activity.
- Regulated Activity Providers and the University have a statutory duty to refer any person who has engaged in relevant conduct and a duty to provide information to the Independent Barring Board upon request. The University must refer information to the DBS when they have dismissed an individual, or an individual resigns, because they harmed, or may harm, a child or vulnerable adult; or they think the DBS may consider it appropriate to bar the individual.
- Relevant information should be referred to the DBS as soon as it becomes available.

## Suitability & Disciplinary Procedures DBS Matters

### **The Duty to Refer**

Further details regarding the duty to refer may be found at <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>. The following is taken from the website.

The University, as a personnel supplier, should refer an individual to the DBS where the following two conditions are met:

#### *Condition 1*

- you withdraw permission for a person to engage in regulated activity with children and/or vulnerable adults. Or you move the person to another area of work that isn't regulated activity.

This includes situations when you would have taken the above action, but the person was re-deployed, resigned, retired, or left. For example, a teacher resigns when an allegation of harm to a student is first made.

#### *Condition 2*

You think the person has carried out 1 of the following:

- engaged in relevant conduct in relation to children and/or adults. An action or inaction has harmed a child or vulnerable adult or put them at risk or harm or;
- satisfied the harm test in relation to children and / or vulnerable adults. eg there has been no relevant conduct but a risk of harm to a child or vulnerable still exists.or
- been cautioned or convicted of a relevant (automatic barring either with or without the right to make representations) offence

### ***Relevant conduct in relation to children***

A child is a person under 18 years of age.

Relevant conduct is:

- endangers a child or is likely to endanger a child
- if repeated against or in relation to a child would endanger the child or be likely to endanger the child
- involves sexual material relating to children (including possession of such material)
- involves sexually explicit images depicting violence against human beings (including possession of such images)
- is of a sexual nature involving a child

A person's conduct endangers a child if they:

- harm a child
- cause a child to be harmed
- put a child at risk of harm
- attempt to harm a child
- incite another to harm a child

Look at a list of [examples of harm to children](#) (PDF, 57.6KB, 2 pages) .

## Suitability & Disciplinary Procedures DBS Matters

### ***Relevant conduct in relation to adults:***

A vulnerable adult is a person aged 18 years or over who is being provided with, or getting a service or assistance which is classed as regulated activity for adults.

Relevant conduct is:

- endangers a vulnerable adult or is likely to endanger a vulnerable adult
- if repeated against or in relation to a vulnerable adult would endanger the vulnerable adult or be likely to endanger the vulnerable adult
- involves sexual material relating to children (including possession of such material)
- involves sexually explicit images depicting violence against human beings (including possession of such images)
- is of a sexual nature involving a vulnerable adult

A person's conduct endangers a vulnerable adult if they:

- harm a vulnerable adult
- cause a vulnerable adult to be harmed
- put a vulnerable adult at risk of harm
- attempt to harm a vulnerable adult
- incite another to harm a vulnerable adult

A person satisfies the harm test if they may:

- harm a vulnerable adult
- cause a vulnerable adult to be harmed
- put a vulnerable adult at risk of harm
- attempt to harm a vulnerable adult
- incite another to harm a vulnerable adult

Look at a list of [examples of harm to vulnerable adults](#) (PDF, 56.3KB, 1 page).

### ***What is harm?***

This is not defined in legislation. DBS view harm as its common understanding or the definition you may find in a dictionary.

Harm is considered in its widest context and may include:

- sexual harm
- physical harm
- financial harm
- neglect
- emotional harm
- psychological harm
- verbal harm

This is not a fully comprehensive list, harm can take many different forms.

## Suitability & Disciplinary Procedures DBS Matters

### ***What is the harm test?***

A person satisfies the harm test if they may harm a child or vulnerable adult or put them at risk of harm. It is something a person may do to cause harm or pose a risk of harm to a child or vulnerable adult. Illustrative examples of harm may be found below:

<b>Type of harm to children</b>	<b>Meaning</b>	<b>Example</b>
Emotional/ Psychological	Action or inaction by others that causes mental anguish	<ul style="list-style-type: none"> <li>Emotional harm is the emotional ill-treatment of a child such as to cause severe and persistent adverse effects on the child's emotional development.</li> <li>It may involve conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person.</li> <li>It may feature age or developmentally inappropriate expectations being imposed on children.</li> <li>It may involve causing children frequently to feel frightened or in danger, or the exploitation or corruption of children.</li> <li>It may involve children witnessing aggressive, violent or harmful behaviour such as domestic violence.</li> <li>Some level of emotional harm is involved in all types of ill-treatment of a child (grooming, harassment, inappropriate emotional involvement), though it may occur alone.</li> </ul>
Physical	Any physical contact that results in discomfort, pain or injury	<ul style="list-style-type: none"> <li>Physical harm may involve assaults including hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child.</li> <li>Physical harm may also be caused when a parent or carer feigns the symptoms of, or deliberately causes ill health to a child whom they are looking after.</li> <li>This situation is commonly described using terms such as factitious illness by proxy or Munchausen syndrome by proxy.</li> <li>Supply drugs to children.</li> <li>Inappropriate / unauthorised methods of restraint</li> </ul>
Sexual	Any form of sexual activity with a child under the age of consent	<ul style="list-style-type: none"> <li>Sexual harm involves forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening.</li> <li>The activities may involve physical contact, including penetrative (e.g. rape or buggery) or non-penetrative acts.</li> <li>They may include non-contact activities, such as involving children in looking at, or in the production of, pornographic material or watching sexual activities, or encouraging children to behave in sexually inappropriate ways.</li> <li>Downloading child pornography.</li> <li>Taking indecent photographs of children.</li> <li>Sexualised texting.</li> </ul>

**Suitability & Disciplinary Procedures**  
**DBS Matters**

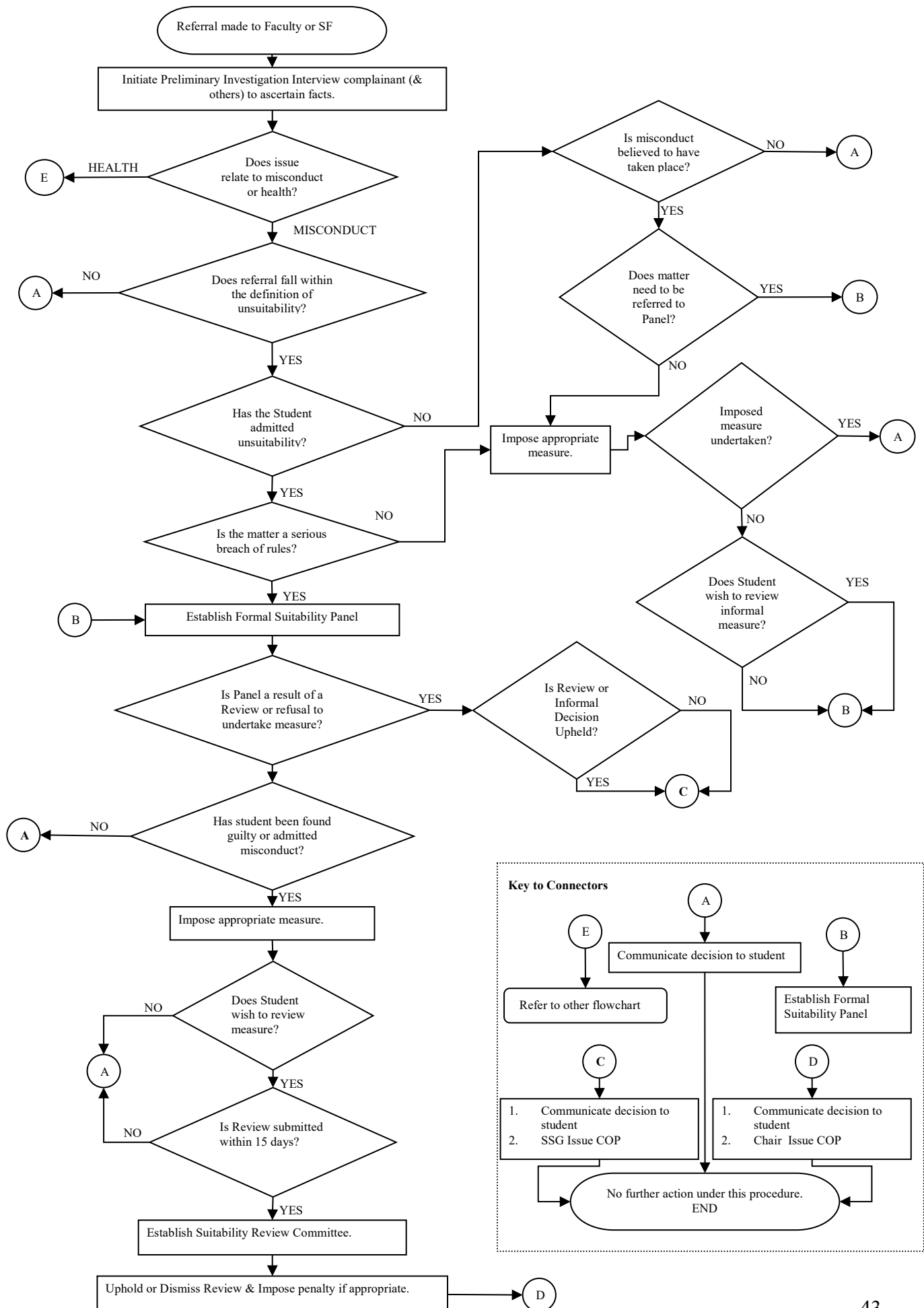
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/500135/Examples\\_of\\_harm\\_in\\_relation\\_to\\_children.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/500135/Examples_of_harm_in_relation_to_children.pdf)

<b>Type of harm to vulnerable adult</b>	<b>Meaning</b>	<b>Example</b>
Emotional/ Psychological	Action or inaction by others that causes mental anguish	<ul style="list-style-type: none"> <li>• Inflexible regimes and lack of choice.</li> <li>• Mocking,</li> <li>• coercing, denying privacy, threatening behaviour, bullying, intimidation, harassment, deliberate isolation, deprivation.</li> </ul>
Financial	Usually associated with the misuse of money, valuables or property.	<ul style="list-style-type: none"> <li>• Unauthorised withdrawals from vulnerable adult's account, theft, fraud, exploitation, pressure in connection with wills or inheritance.</li> </ul>
Physical	Any physical contact that results in discomfort, pain or injury	<ul style="list-style-type: none"> <li>• Hitting, slapping, pushing, shaking, bruising, failing to treat sores or wounds, under or overuse of medication, un-prescribed or inappropriate medication, use of restraint or inappropriate restraint, inappropriate sanctions.</li> </ul>
Sexual	Coercion or force to take part in sexual acts	<ul style="list-style-type: none"> <li>• Inappropriate touching.</li> <li>• Causing bruising or injury to the anal, genital or abdominal area, forcing an individual to watch sexual acts.</li> <li>• Transmission of STD.</li> </ul>
Neglect	Failure to identify and/or meet care needs	<ul style="list-style-type: none"> <li>• Untreated weight loss, failing to administer</li> <li>• reasonable care resulting in pressure sores or</li> <li>• uncharacteristic problems with continence.</li> <li>• Poor hygiene, soiled clothes not changed, insufficient food or drink, ignoring resident's requests, unmet social or care needs.</li> </ul>
Verbal	Any remark or comment by others that causes distress	<ul style="list-style-type: none"> <li>• Demeaning, disrespectful, humiliating, racist, sexist or sarcastic comments.</li> <li>• Excessive or unwanted familiarity, shouting, swearing, name-calling.</li> </ul>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/500137/Examples\\_of\\_harm\\_in\\_relation\\_to\\_adults.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/500137/Examples_of_harm_in_relation_to_adults.pdf)

# Suitability & Disciplinary Procedures Flowcharts

## Flowchart showing process in a matter of misconduct.



## Suitability & Disciplinary Procedures Flowcharts

**Flowchart showing process to consider suitability arising from a health condition.**

