

DISCIPLINARY PROCEDURE FOR STUDENTS

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Authorised By:	Director of Strategic Planning and Student Administration		
Implementation by:	Director of Strategic Planning and Student Administration		
Policy Reference:	PRAR1112005		
Version No:	2	Approval Committee:	Academic Board
Date approved:	October 2021	Minute no:	Chair's Action
Status:	Approved	Implementation Date:	October 2021
Period of approval:	2 years	Review Date:	July 2023
I have carried out an equality impact assessment screening to help safeguard against discrimination and promote equality.			✓
I have considered the impact of the Policy/Strategy/Procedure (delete as appropriate) on the Welsh language and Welsh language provision within the University.			✓

Disciplinary Procedure for Students

1. Scope

Under this Procedure, the University has the power to discipline students and to suspend or expel any student for good cause.

Related Procedures:

- Matters related to academic misconduct will be dealt with under the Academic Integrity Procedure.
- Matters related to suitability for practice will be dealt with under the Suitability for Practice Procedure.
- Matters related to harassment or bullying shall be dealt with under the Anti-Harassment and Anti-Bullying Policy and Procedure: Students, however any allegations upheld against a student may be referred to the Disciplinary Procedure for determination of a penalty
- Matters related to sexual misconduct and violence will be dealt with under the Sexual Misconduct and Violence Policy and Procedure: Students and Staff, however any allegations upheld against a student may be referred to the Disciplinary Procedure for determination of a penalty
- Misconduct in relation to Students' Union matters shall be dealt with under the Students' Union Code of Conduct for members.
- If there is an indication that the student may have health issues and the Fitness to Study procedure may be relevant, further advice should be taken from the Director of Strategic Planning and Student Administration or their nominee before the disciplinary procedure is implemented.

1.1 Students subject to this Procedure

The following are subject to this Procedure:

- Any student enrolled for an undergraduate or postgraduate programme of study offered by Wrexham University;
- Any student registered for a credit-bearing module at Wrexham University;
- Any student registered for a non-award-bearing programme or non-credit-bearing programme at Wrexham University.

Partner Colleges and Organisations

If a student is studying for a University award at a partner college/organisation, the disciplinary matter should be dealt with under the procedure of the college/organisation. In some instances, e.g. where the progression of the student may be impacted by the application of the procedure, it may be deemed appropriate for a student to be dealt with under the disciplinary procedure of the University. Guidance should be requested from the University when necessary.

When the case is to be dealt with by the University, opportunities will be provided for the hearing to be conducted electronically.

A student will not be subject to disciplinary action under more than one procedure.

- 1.2 The procedure shall apply regardless of any suspension/withdrawal of enrolment requested by the student.

- 1.3 Where a student suspends/withdraws in writing from the University and a disciplinary case is in progress, the Director of Strategic Planning and Student Administration¹ shall decide whether to proceed with investigation of the allegations. The purpose of continuing the investigation would be to ensure that sufficient information and witness statements would be available should the student seek to re-enter the University. Following the suspension/withdrawal of the student, the case shall be adjourned and no Disciplinary Panel shall be convened. However, should the student seek to re-enter the University, a Disciplinary Panel shall be convened and shall determine whether re-admission to the University would be appropriate, and any penalty that should be imposed if the student was re-admitted.
- 1.4 A student will be responsible for their own conduct and for the conduct of those they invite onto University premises. The University therefore shall have the right to take disciplinary action against a student for an act of misconduct committed by a person or persons, not students of the University, whom the student has invited onto University premises.

2. Definition of misconduct

An act will be regarded as misconduct if it constitutes improper interference with the functioning or activities of the University, or of those who work or study in the University; or any action which otherwise damages the University or its reputation.

In particular, the following are deemed to constitute misconduct whether occurring on University premises or elsewhere, and may be considered under this Procedure but this list is not exhaustive:

- any conduct which constitutes a criminal offence;
- failure to disclose a criminal record acquired either before or during the student's enrolment with the University;
- disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the University;
- obstruction of, or improper interference with, the functions, duties or activities of any student or member of staff of the University, or any visitor to the University;
- violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language, whether expressed orally or in writing, including electronically;
- posting to any social media of defamatory or derogatory material;
- fraud, deceit, deception or dishonesty in relation to the University or its staff, students or visitors;
- the fraudulent production of any document which is claimed to be produced by the University and which contains false information and/or the submission of such a document to a third party;
- theft, misappropriation or misuse of University property, or the property of the University's staff, students or visitors, including computer misuse;

¹ Throughout this procedure all references to the Director of Strategic Planning and Student Administration will be deemed to include their representative

- misuse or unauthorised use of University premises;
- damage to University property, or to the property of the University's staff, students or visitors, caused intentionally or recklessly;
- action likely to cause injury or impair safety on University premises;
- possession of illegal drugs on University premises;
- failure to respect the rights of others to freedom of belief and freedom of speech including any breach of the requirements of the Code of Practice on Freedom of Speech;
- incitement to violence and hatred aimed at individuals with protected characteristics under equality legislation;
- breach of the provisions of any University code, policy, rule or regulation;
- failure to disclose personal details to a member of staff in circumstances in which it is reasonable to require that such information be given;
- failure to comply with a reasonable instruction relating to discipline, issued in accordance with this Procedure.
- failure to comply with a penalty imposed under this procedure;
- any behaviour which breaches Government guidelines and/or the University Community Responsibility Agreement relating to the Covid-19 pandemic.
- any other behaviour which may reasonably be regarded as constituting misconduct or unprofessional conduct.

3. Allegation of misconduct

- 3.1 An allegation of misconduct should be made as appropriate to the relevant authorised person, depending upon the nature of the misconduct. An allegation of misconduct may also be made directly to the Director of Strategic Planning and Student Administration.
- 3.2 An allegation of misconduct should be made promptly, in writing, and should include the following information: the identity of the person(s) against whom the allegation is made; the nature of the misconduct; the time and location; details of any witnesses; details of any action already taken. The nature of the misconduct should be specified clearly and factually.
- 3.3 If an allegation of misconduct is reported which constitutes a possible criminal offence, the victim should be advised to bring this matter to the attention of the police. In the interests of the safety of the University community, the University may refer an alleged crime to the police contrary to the wishes of the victim. This decision will be made by the Vice Chancellor (or their nominated deputy) following relevant consultation.

There are two levels for consideration of allegations of misconduct:

Stage 1 Local Resolution

Most reports of minor misconduct can be dealt with at a local level by an Authorised Person who may investigate the reported circumstances and decide on the appropriate action to be taken.

Stage 2 Formal Disciplinary Procedure

Where it is not appropriate to deal with an allegation under the local resolution procedure, or it has been decided not to do so, the allegation of misconduct shall be referred to the Director of Strategic Planning and Student Administration who will determine the appropriate course of action.

4. Suspension

- 4.1. The relevant authorised person or the Director of Strategic Planning and Student Administration may recommend to a member of the Vice Chancellor's Board that a student against whom an allegation of misconduct has been made should be suspended from the University **for a period of up to 28 days**, while the allegation is investigated. The member of the Vice Chancellor's Board shall decide whether the student shall be suspended and the period of suspension. Such suspension shall be agreed only in exceptional circumstances, to protect a member or members of the University community, including against harm to themselves, or the property of a member or members of the University community or the reputation of the University. The decision regarding suspension can be made at any time during the period of investigation, as new evidence is gathered.
- 4.2. Suspension shall be interpreted normally as exclusion from engaging with all University services and facilities. However, suspension may be subject to qualification, such as permission to take an examination. The reasons for the suspension and terms of the suspension shall be notified in writing to the student. An order of suspension may include a requirement that the student shall have no contact with a named person or persons.
- 4.3. Where a student is engaged on a professional programme that includes professional practice, the student may in certain circumstances at the discretion of the member of Vice Chancellor's Board be permitted to continue to attend lectures and engage in academic study but be suspended from engaging in professional practice.
- 4.4. In certain circumstances, suspension may include exclusion from residential accommodation owned or managed by the University, but this action can be taken only with due regard to appropriate legal process². Where permitted by the accommodation contract in place, the member of Vice Chancellor's Board may suspend a student from residential accommodation.
- 4.5. A student who is suspended shall not normally be entitled to a refund of tuition fees for the period of the suspension.
- 4.6. When a student is suspended in accordance with this paragraph of the procedure, the allegation will be considered under the full disciplinary procedure, and not the Stage One procedure.
- 4.7. The student has the right to make representations, including oral representations, against a decision that they should be suspended (including any suspension from

² Paragraphs 34.1 and 34.2 of the Terms and Conditions of Residence apply.

residential accommodation) to the Director of Strategic Planning and Student Administration, who shall refer the matter for consideration to a member of the Vice Chancellor's Board, not previously involved in the matter. The student has the right when meeting with the Director of Strategic Planning and Student Administration to be accompanied by a friend or member of staff or a representative of the Students' Union if making the representation in person.

- 4.8. Should the disciplinary procedure not be concluded by the end of a 28 day period of suspension, then the member of Vice Chancellor's Board will decide whether the suspension should be continued and the student will be notified in writing of that decision.

5. Proceedings of external agencies

- 5.1 Where misconduct is reported to the police or another external statutory agency (ESA), normally no action shall be taken until the outcome of any proceeding by the police, court or other external agency is known, other than that the student may be suspended under the terms of section 5. However, provided that this would not prejudice any external investigation, investigation of the case may continue to clarify whether suspension is required and to ensure that statements are taken whilst recollection of events remain clear. If it is deemed necessary to continue with the investigation, contact will be made in advance with the police, court or external agency to avoid compromising their enquiries.
- 5.2 Any period of suspension while external proceedings are underway shall be determined by a member of the Vice Chancellor's Board taking into account the likely period of time that the ESA may need to conclude its proceedings. As a guide, usually a member of the Vice Chancellor's Board shall determine that the period of suspension shall be the same as the period of time required by the ESA to conclude its proceedings and to inform the student of the outcome. The student will be requested to provide the University with evidence of the outcome, and the period of suspension will continue until this evidence is provided.
- 5.3 Once the outcome of the proceedings of the ESA is known, the Director of Strategic Planning and Student Administration shall decide whether internal disciplinary action shall continue or be taken, taking into consideration the decision of the ESA.
- 5.4 When, during the period of study, a student has been convicted of a criminal offence and received a custodial sentence, studies may be suspended until the student is released, when the matter will be considered under the Disciplinary Procedure. Advice should be sought from the Director of Strategic Planning and Student Administration in the first instance and before any action is taken. This may not be appropriate if the duration of custodial sentence is significant.

STAGE ONE PROCEDURE (sections 7 & 8)

5.5 Authorised persons

The following members of staff are authorised to deal with matters of misconduct within their area of responsibility under the Stage One procedure (referred to hereafter as authorised persons):

Deans of Faculties

Associate Deans of Faculties or staff with appropriate seniority, nominated by Deans

Head of Estates and Campus Management

Executive Director of Operations

Residential and Campus Life Manager

Student Support Manager

5.6 These staff members are authorised to deal with matters of misconduct within their area of responsibility under the Stage One procedure, if it is considered that one or more of the following penalties would be appropriate:

- a formal oral warning;
- a written warning;
- a final written warning where the student has received a previous warning, or where the Panel considers the misconduct to merit a final written warning, and notification of the disciplinary action to be taken if the student commits a further act of misconduct;
- the student be required to apologise in person (in the presence of a facilitator) or in writing;
- the student be required to undertake a reflective essay which should be submitted to the authorised person within a specified timeframe;
- the student be required to attend awareness classes and to provide proof of that attendance
- community service for the University, for a specified number of hours;
- a compensation payment up to but not exceeding the direct cost occasioned by the misconduct or a level determined by Academic Board from time to time³, whichever is the lower;
- seizure and retention of items for a specified period provided that the sanction is reasonable and proportionate;
- a fine up to a level determined by Academic Board from time to time⁴;
- suspension from the use of a service provided by the University or from the use of specified facilities.
- where the student has been temporarily suspended (under paragraph 5 above);
- where the outcome of the disciplinary procedure may be expulsion from University residences; suspension; exclusion; or expulsion from the University;
- where it may prove necessary to advise the relevant professional and statutory body and/or the Disclosure and Barring Service of the outcome of the disciplinary procedure
- where the authorised person or the Director of Strategic Planning and Student Administration considers that it would not be appropriate to follow the Stage One procedure.

³ £250.

⁴ £250

5.7 The following procedure shall apply when an allegation of misconduct is considered under the Stage One procedure:

- The authorised person or the Director of Strategic Planning and Student Administration shall determine whether or not there is a case to answer;
- The student will be asked to attend an interview, stating the allegation of misconduct under the Disciplinary Procedure and how their behaviour is considered to have breached expected standards. The student should be given any available supporting evidence;
- The student will be given the option to present their case in Welsh or English and prior notice should be given of their preferred language.
- The student shall be given adequate time, and **no less than two days**, to prepare to answer the allegation;
- The student shall be informed of their right to be accompanied by a friend or member of staff or a representative of the Students' Union. In some circumstances it will be appropriate to allow a student to be accompanied by a carer and/or translator (e.g. for sign language);
- The student shall be given an opportunity to request any reasonable adjustments necessary to allow them to engage with the procedure;
- Legal representation is not normally required if the Stage One procedure is to be followed.
- There shall be a second member of staff present at the interview as a witness to proceedings, this may be a Procedural Officer from Student Planning and Student Administration;
- The authorised member of staff shall consider written or oral evidence as they consider appropriate, including submissions from the student against whom the allegation has been made and from any other persons appropriate to the case;
- The authorised member of staff shall find the student guilty only if satisfied on the balance of probabilities;
- One or more of the penalties outlined in section 7.1 may be imposed.

5.8 In determining the penalty, the authorised member of staff shall have regard to the outcome of any proceedings by an ESA and whether or not it would be appropriate for the University to impose an additional penalty.

5.9 Following the interview, the authorised member of staff shall produce a short report including the misconduct alleged, a brief summary of the evidence received, the grounds for the finding (guilty or not guilty) or finding the allegation not proven, the penalty imposed (if any), and the factors taken into account in deciding any penalty.

5.10 An outcome letter and a copy of the report (if appropriate) will be sent to the student **within five working days**, and shall be sent also to the Director of Strategic Planning and Student Administration for filing on the student's record.

6. Appeal Process following Stage One Procedure

6.1 The student may appeal against a finding of guilt or the penalty imposed or both. The appeal shall be submitted in writing to the Director of Strategic Planning and Student

Administration **within ten working days** of the student being notified formally in writing of the outcome of the Stage One procedure. An appeal may be made on the following grounds:

- that fresh material evidence is available which, for good reason, was not brought to the attention of the authorised person and which the student believes had a bearing on the matters under consideration;
- that there was material irregularity in the Stage One procedure;
- that the decision reached was unreasonable in the light of the available evidence;
- that the penalty was disproportionate in the circumstances;
- in respect of an appeal against the penalty imposed, that matters of mitigation exist which, for good reason, were not brought to the attention of the authorised person.

6.2 Should an appeal be submitted on grounds of new evidence that was not available for good reason during the Stage One procedure, the Director of Strategic Planning and Student Administration may request that the authorised person reconsider the case.

6.3 Except where the case is referred back to the authorised person, the Director of Strategic Planning and Student Administration shall convene a panel to consider the appeal. The Appeal Panel shall comprise:

- A Dean of Faculty or a member of the Vice Chancellor's Board (Chair);
- One other member of academic or operational staff deemed to be appropriate by the Director of Strategic Planning and Student Administration;
- The President of the Students' Union or their nominee, who will be a member of the Students' Union's executive.

No member of the Appeal Panel shall have been involved previously with the case.

The Director of Strategic Planning and Student Administration or their nominee shall attend to provide regulatory guidance, and the Director of Strategic Planning and Student Administration shall appoint a Secretary to the Appeal Panel.

6.4 The Secretary shall send all documentation to be considered by the Appeal Panel to the student **at least five working days** before the hearing.

6.5 The student will be given the option to present their case in Welsh or English and prior notice should be given of their preferred language.

6.6 The student may be accompanied at the hearing for support by another student, friend, relative, member of staff of the University or of a partner college/organisation, an adviser of the Students' Union or any other person who is needed to support them because of individual needs e.g. a carer or translator. However, that person may not speak on behalf of the student unless the Chair gives express permission. If the student intends to be accompanied, they must advise the Secretary of the name of the accompanying person in advance of the hearing. The student will be responsible for ensuring that the date, time and venue and the necessary documentation is provided to the person accompanying them. The student is entitled to seek support from relevant Student and Campus Life departments in preparation of the hearing.

It should be noted that no person will be allowed to accompany the student if it can be demonstrated that the person could potentially gain personal advantage through

attendance e.g. a student who is subject to a similar breach of the University's procedures.

- 6.7 Legal representation is not normally permissible under the Stage One procedure, but may be permissible if it can be demonstrated that the penalty imposed could have serious consequences for the student in terms of their potential future academic progress or chosen career.
- 6.8 If a student advises that they will attend the hearing but subsequently, does not attend and no reason or apologies are provided, the hearing will continue in their absence. If reasons are provided, the Chair will decide whether or not to grant a postponement.
- If the student requests a postponement, evidence of mitigation will be requested and presented to the Chair for approval. If approved by the Chair, a postponement will be granted but on one occasion only.
- If a student advises that they will not be attending the hearing or no reply is received, the hearing will proceed in their absence.
- 6.9 There will be no entitlement to a rehearing of the case, this will be allowed only in exceptional circumstances.
- 6.10 The Appeal Panel may overturn a finding in the light of new evidence; or where it is considered that the original hearing was not conducted fairly; or where the finding of guilt is considered unreasonable in the light of the findings of fact.
- 6.11 The Appeal Panel may impose a lesser or greater penalty, having considered whether the original penalty was fair and reasonable in the light of all the circumstances of the case, and the student's means and general circumstances.

STAGE TWO FORMAL DISCIPLINARY PROCEDURE SECTIONS 9 & 10

- 6.12 Where it is not appropriate to deal with an allegation under the Stage One procedure, or it has been decided not to do so, the allegation of misconduct shall be referred to the Director of Strategic Planning and Student Administration. An allegation of misconduct may be referred directly to the Director of Strategic Planning and Student Administration.
- 6.13 The Director of Strategic Planning and Student Administration shall determine:
- whether the allegation is not significant and should be dismissed;
 - whether the allegation is vexatious and should be dismissed;
 - whether the allegation should be referred to be dealt with through the Stage One procedure (if it has not been referred through that route);
 - whether the allegation should be referred for consideration under the Suitability for Practice Procedure, the Anti-Harassment and Anti-Bullying Policy and Procedure: Students or the Fitness to Study Procedure;
 - whether there is a prima facie case to proceed with the formal disciplinary procedure.
- 6.14 Where it is decided to proceed with the formal disciplinary procedure, the Director of Strategic Planning and Student Administration (or nominee) shall appoint a member of academic or operational staff (Investigating Officer) to investigate the case and to present the case against the student at the Panel hearing. The Director of Strategic Planning and Student Administration may decide to undertake this role personally.
- Where a case has been referred from another procedure, e.g. Anti-Harassment and Anti-Bullying or Sexual Misconduct and Violence, any investigation undertaken will be referred to the Disciplinary Panel without the need for further investigation.
- 6.15 Every effort will be made to safeguard the academic position of the student pending the outcome of the Disciplinary Panel hearing
- 6.16 The Investigating Officer shall conduct an investigation of the allegation and shall endeavour to complete the investigation **within 15 working days** of their appointment as Investigating Officer. Where this timescale is not feasible, the Investigating Officer, where the role is being undertaken by someone other than the Director of Strategic Planning and Student Administration, shall notify the Director of Strategic Planning and Student Administration who shall keep the student, and the individual who has made the allegation, informed of progress with the investigation.
- 6.17 Where the offence is a criminal matter and the police, court or other external agency is involved, the University investigation may only extend to a risk assessment of whether suspension is required pending the outcome of the ESA procedures. Further investigation by the University will not be undertaken without first liaising with the relevant ESA (see paragraph 6.1 in this respect). The student will, however, be made aware of the initiation of the University Disciplinary procedure and provided with a copy of the procedure but the full University investigation may be postponed until the outcome of the official investigation by the ESA is known.
- 6.18 The Investigation
- 6.18.1 The Investigating Officer appointed to present the case against the student shall seek to establish the facts associated with the allegations of misconduct promptly, before recollections fade. The Investigating Officer shall seek to interview, and if necessary, re-interview all persons whom they believe, on reasonable grounds, possess information relevant to the allegations of

misconduct. The Investigating Officer shall interview the student against whom the allegation has been made. The student may be accompanied for support by another student, friend, relative, member of staff of the University or of a partner college/organisation, an adviser of the Students' Union or any other person who is needed to support them because of individual needs e.g. a carer or translator.

- 6.18.2 Wherever practicable, all prospective witnesses and the student should be interviewed by the Investigating Officer in the presence of an independent person. The Investigating Officer will be responsible for taking detailed notes of the interview and transcribing those notes into a statement which the witness will have an opportunity to review before signing as an assurance that they are not being misrepresented in the statement. Where a witness or the student who is the subject of the disciplinary case is unable for good cause to meet with the Investigating Officer, within a reasonable timescale, the witness or student can submit a written statement to the Investigating Officer who may refer to the statement in their report.
- 6.18.3 The Investigating Officer shall prepare a report specifying the allegations against the student with reference to this Procedure and outlining the evidence pertaining to the investigation, a copy of which shall be delivered to the Director of Strategic Planning and Student Administration. The report shall include copies of witness statements (or in some circumstances an outline of witness evidence) and other documentary evidence. The report will be provided to the student as part of the documentation to be considered by the Panel.
- 6.18.4 Following the completion of the investigation, the Investigating Officer will consult with the Director of Strategic Planning and Student Administration and determine one of the following outcomes:
- (i) That the case should proceed to be considered by a Panel in accordance with paragraph 9.8 below;
 - (ii) When the student has admitted they are guilty of the offence, the matter will be passed to the Director of Strategic Planning and Student Administration who will determine an appropriate penalty. However, if it is determined that the appropriate penalty would be exclusion or expulsion, the matter will continue to be dealt with in accordance with (i) above;
 - (iii) That a prima facie case has not been established by the facts gathered and the case should be dismissed. This outcome will only be implemented with the agreement of the Director of Strategic Planning and Student Administration.
- 6.18.5 If the case is to proceed to be considered by a Panel, the Investigating Officer will decide which of the persons interviewed during the investigation will be required to attend the Disciplinary Hearing as witnesses to assist in presenting the evidence. The Investigating Officer will notify those witnesses accordingly, and inform the Secretary to the Panel.
- 6.18.6 If the case is to be dealt with in line with (ii) of 9.7.4 above and the Director of Strategic Planning and Student Administration has determined the penalty, the student will have the right to appeal against the penalty imposed on the following grounds only:
- That the penalty is disproportionate in the circumstances;

- That extenuating circumstances exist, which, for good reason, were not brought to the attention of the Director of Strategic Planning and Student Administration previously.

If grounds for appeal are established, the appeal will be dealt with in accordance with the process detailed in paragraph 10 below.

6.19 Convening the Disciplinary Panel

6.19.1 The Director of Strategic Planning and Student Administration shall appoint a Secretary to the Disciplinary Panel, who shall be responsible for convening a Disciplinary Panel comprising:

- A Chair (from the pool of Chairs of Panels approved by Academic Board, from a Department other than that in which the student is studying);
- One other member of academic or operational staff deemed to be appropriate by the Director of Strategic Planning and Student Administration;
- The Students' Union President or their nominee, who will be a member of the Students' Union Executive.

The Chair may elect either to appoint additional members to the Panel, to a maximum of five members in total, or to appoint specialist advisors to the Panel. One member of the Panel and the specialist advisors may be external to the University.

- No member of the Panel shall have been involved previously with the case.
- The Director of Strategic Planning and Student Administration or their nominee shall attend to provide regulatory guidance. The Director of Strategic Planning and Student Administration shall not act in this capacity if they are acting as Investigating Officer.

6.19.2 If two or more students are accused of related offences, it is likely to be helpful to deal with their cases together, although the students should be given the opportunity to argue that the cases should be heard separately.

6.19.3 The Secretary will send the student notification of the date of the disciplinary hearing, **providing 10 working days'** notice. The Secretary shall also notify the Investigating Officer's witnesses of the date of the disciplinary hearing.

The student will be given the option to present their case in Welsh or English and prior notice should be given of their preferred language.

6.19.4 The student may be accompanied at the hearing for support by another student, friend, relative, member of staff of the University or of a partner college/organisation, an adviser of the Students' Union or any other person who is needed to support them because of individual needs e.g. a carer or translator. However, that person may not act in a legal capacity and may not speak on behalf of the student unless the Chair gives express permission, unless advance notice has been given that the student will be represented (see below regarding legally qualified or professional body representation). If the student intends to be accompanied, they must advise the Secretary of the name of the accompanying person in advance of the hearing and state whether or not that person has legal qualifications. The student will be responsible for ensuring that the date, time and venue and the necessary documentation is provided to the person accompanying them.

The student is entitled to seek support from relevant Student and Campus Life departments in preparation for the hearing.

A student may request to be accompanied to a hearing under this procedure. It is recognised that in limited circumstances the student may wish to request legal accompaniment at an investigatory meeting or panel hearing. In such limited circumstances a written request should be submitted **at least 5 working days** prior to the meeting/hearing, including the name of the individual being invited and the reason for the request. Requests will be considered on a case by case basis by the Director of Strategic Planning and Student Administration (or nominee).

- 6.19.5 If the request is permitted, the University reserves the right to have its own legal accompaniment. Each party will bear its own legal costs and will be responsible for ensuring that the meeting arrangements and necessary documentation are provided to those accompanying them.

If a student advises that they will attend the hearing but subsequently, does not attend and no reason or apologies are provided, the hearing will continue in their absence. If reasons are provided, the Chair will decide whether or not to grant a postponement.

If the student requests a postponement, evidence of mitigation will be requested and presented to the Chair for approval. If approved by the Chair, a postponement will be granted but on one occasion only.

If a student advises that they will not be attending the hearing or no reply is received, the hearing will proceed in their absence.

- 6.19.6 The Secretary shall send the Investigating Officer's report and all other documentation to be considered by the Panel to the student **at least seven working days** before the hearing.

- 6.19.7 The student shall be entitled to submit a statement for consideration by the Panel. This should be submitted to the Director of Strategic Planning and Student Administration **at least three working days** before the hearing. Exceptionally, the Chair of the Panel may agree to accept a statement at a later stage.

- 6.19.8 The student shall notify the Director of Strategic Planning and Student Administration **at least three working days** before the hearing if they wish to call witnesses to attend the Panel. Where a student wishes to call witnesses, they shall list the names of the persons. The Chair of the Panel shall determine whether it would be relevant for the witnesses to attend. It shall be the responsibility of the student to notify their witnesses of the details of the hearing.

- 6.19.9 In the event that a witness for either party is unable, for a good reason, to attend the disciplinary hearing, the Panel may, in exceptional circumstances, agree to consider the written evidence of that absent witness where the Panel is of the view that that is in the interests of natural justice. Before agreeing to do so, the Panel may need to adjourn to consider whether it should do so.

- 6.20 Exceptionally, the Chair of the Panel may agree that a witness may present evidence anonymously. In this instance, the witness will submit a written statement.

6.21 The Disciplinary Hearing

The disciplinary hearing will be conducted in accordance with the following procedure:

- 6.21.1 At the outset of the hearing, there shall be an introduction of all individuals present and a brief description of their role in the proceedings.
- 6.21.2 There shall be a description of the outline procedure for the hearing, including a clear statement of the purpose of the hearing, the possible outcomes and the means by which the outcome will be communicated to parties involved.
- 6.21.3 The student and their representative or person accompanying them shall be present throughout the hearing until the Panel begins its deliberation.
- 6.21.4 The Investigating Officer shall present the case of the alleged misconduct to the Panel in the presence of the student and their representative or person accompanying them, unless it has been agreed under the terms of 9.7.5 that the hearing should proceed in the absence of the student.
- 6.21.5 The person accompanying the student may act as their representative and may respond on the student's behalf if the express permission of the Chair is given (see paragraph 9.8.4 above).
- 6.21.6 The student or their representative shall be given the opportunity to provide an account of the incident and any other information or explanation they wish the Panel to consider.
- 6.21.7 The Panel may invite the Investigating Officer to call witnesses, or the Panel may elect to undertake this responsibility itself.
- 6.21.8 The Panel members shall have the opportunity to ask questions of the Investigating Officer and of witnesses and of the student.
- 6.21.9 The student or their representative shall have the opportunity to ask questions of the Investigating Officer and of witnesses and of the Panel and to call their own witnesses. The Chair shall have the authority to require the student to withdraw any question that they consider to be irrelevant to the case.
- 6.21.10 The witnesses shall be present at the hearing normally only to present their own evidence and to answer questions. Witnesses normally will withdraw after giving evidence but may be re-called.
- 6.21.11 The student's personal tutor or counsellor, if invited and present may be requested to present a statement to the Panel.
- 6.21.12 The student or their representative shall be given the opportunity to respond to any of the information provided and to present a summary statement at the end of the proceedings.
- 6.21.13 The Panel shall have the discretion to adjourn the hearing for good reason, for example, to seek additional information or because of the unavailability of a witness due to illness. The student has a right to request an adjournment, providing their reason for the request; the Panel has the right to decline the request, without giving a reason.
- 6.21.14 The Investigating Officer, the student and their representative and the student's personal tutor or counsellor shall withdraw when the Panel begins its deliberation.
- 6.21.15 The Panel shall deliberate in private only calling the Investigating Officer and the student (and their representative or person accompanying them) to clarify points of uncertainty on facts already given. If recall is necessary, both parties are to return notwithstanding whether only one is required to clarify the point in question.

6.21.16 Any professional advisers appointed by the Panel (appointed in addition to members of the Panel) may be retained whilst the Panel deliberates in private but only to the extent that it may be necessary to call on them to provide further specialist advice requested by the Panel.

6.21.17 If the student has previously been the subject of the Disciplinary Procedure, the details of the previous outcome will be shared with the panel members once the final decision has been made, the allegations have been upheld and the panel members are ready to impose sanctions. The sharing of previous outcomes will enable the cumulative impact of repeat behaviours to be considered, when such behaviours are relevant to the current case.

6.22 The Finding

6.22.1 The Panel will find a student guilty of misconduct only if, on the evidence before it, it is satisfied on the balance of probabilities, of the student's guilt. Should the members of the Panel be unable to agree, then the decision shall be that of the majority of the members. In the event of a split decision the Chair of the Panel will have a casting vote.

6.22.2 The Panel may find that the student has not been guilty of misconduct.

6.22.3 One or more of the following penalties may be imposed:

- The student may be found guilty but no penalty imposed;
- A formal oral warning;
- A written warning;
- A final written warning where the student has received a previous warning or where the Panel considers the misconduct to merit a final written warning, and notification of the disciplinary action to be taken if the student commits a further act of misconduct;
- The student be required to apologise in person (in the presence of a facilitator) or in writing;
- the student be required to undertake a reflective essay which should be submitted to the Chair of the Panel within a specified timeframe;
- the student be required to attend awareness classes and to provide proof of that attendance
- Community service for the University, for a specified number of hours.
- a compensation payment up to but not exceeding the direct cost occasioned by the misconduct or a level determined by Academic Board from time to time, whichever is the lower⁵;
- Seizure and retention of items for a specified period provided that the sanction is reasonable and proportionate;
- A fine up to a level determined by Academic Board from time to time⁶;
- Suspension from the use of a service provided by the University or from the use of specified facilities;

⁵ £500

⁶ £500

- Exclusion from the University for a fixed period of time, up to a maximum of twelve months;
- Expulsion from the University. Expulsion from the University means the permanent withdrawal of the student from the University and the loss of all rights and privileges of a member of the University.

Where the decision is to expel a student from the University, the Panel shall decide whether to recommend to the Assessment Board that the student receives any final or exit award for which they have gained appropriate credits. The Panel is not authorised to recommend that academic credit be withheld or withdrawn.

The Panel may recommend that the student shall be removed from residential accommodation owned or managed by the University, but this action can be taken only with due regard to appropriate legal process in the light of the accommodation contract with the student.⁷

6.22.4 In determining the penalty, the Panel shall have regard to the outcome of any proceeding by an External Statutory Authority and whether or not it would be appropriate for the University to impose an additional penalty.

6.22.5 In exceptional circumstances, the decision as to disciplinary actions may be postponed until further information or advice is available.

Actions Necessary following the Finding

- 6.23 All the parties will be informed of the decision and the disciplinary actions to be taken. If the student is in receipt of a student loan or a bursary, the Student Loan Company or the body awarding the bursary will be informed where the penalty imposed is either exclusion for a fixed period or expulsion.
- 6.24 The decision will be confirmed in writing to the student **within five working days**. If a decision as to the penalty is delayed, it will be confirmed in writing **within a further 15 working days**.
- 6.25 A report of the proceedings shall be made and retained on file. The report should include the misconduct alleged, and, where this is the case, a statement that the student has not been found guilty of misconduct. Where there is a finding of guilt, the statement should give a brief summary of the evidence received, the grounds for the finding, the penalty imposed, and the factors taken into account in deciding the penalty. Where there is a recommendation that a final or exit award should be withheld, this recommendation should be communicated to the Chair of the relevant assessment board using the appropriate form.
- 6.26 Where the allegation of misconduct is found to be proven, the relevant professional and statutory body and/or the Disclosure and Barring Service may be informed of the outcome of the disciplinary hearing. Where discretion exists this will be a joint decision of the Director of Strategic Planning and Student Administration and the Dean of Faculty in which the student is studying or, in their absence, a member of the Vice Chancellor's Board.

The Safeguarding Vulnerable Groups Act (2006) places a legal duty on the University to make a referral to the Disclosure and Barring Service (DBS) in certain circumstances. This would normally be when the University had removed a student

⁷ Paragraph 40.1 of the Terms and Conditions of Residence applies.

from regulated activity because the student had caused harm or posed a future risk of harm to children or vulnerable adults.

A referral should be made when a student has:

1. Been cautioned or convicted of a relevant offence; or
2. Engaged in relevant conduct in relation to children and/or vulnerable adults (i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk of harm); or
3. Satisfied the Harm Test in relation to children and/or vulnerable adults (i.e. there has been no relevant conduct but a risk of harm to a child or vulnerable adult still exists).

(Refer to Policy on Referral to the DBS; Students)

- 6.27 Where the allegation of misconduct is found to be not proven, the University shall consider meeting the reasonable costs of the student.

PROCESS FOR APPEAL AGAINST THE DECISION OF THE DISCIPLINARY HEARING

7. Appeal against the decision of a Disciplinary Hearing

- 7.1 A student wishing to appeal against a decision of a Disciplinary Hearing Panel should submit a statement of appeal in writing, **within 10 working days** of receiving notification of the decision of the Disciplinary Hearing Panel.

- 7.2 The written statement should outline all matters which they require the University to consider in support of the appeal,, the grounds for the appeal and provide any supporting evidence..

- 7.3 An appeal may be made on the following grounds:

- That fresh material evidence is available which, for good reason, was not brought to the attention of the Panel and which the student believes had a bearing on the matters under consideration;
- That there was material irregularity in the proceedings of the Disciplinary Hearing Panel;
- That the decision reached was unreasonable in the light of the available evidence;
- That the penalty was disproportionate in the circumstances;
- In respect of an appeal against the penalty imposed, that extenuating circumstances exist, which, for good reason, were not brought to the attention of the Panel;

- 7.4 The Director of Strategic Planning and Student Administration will pass the Statement of Appeal to a member of the Vice Chancellor's Board not previously involved in the case who will consider the Statement of Appeal and determine if there is a prima facie case. Where the member of the Vice Chancellor's Board considers there is a prima facie case then the appeal will be heard by an Appeal Panel, unless it is deemed appropriate to reconvene the Disciplinary Hearing Panel to review its decision. This option will be deemed appropriate where, in particular, new evidence has come to light which was not made available to the original meeting of the Disciplinary Hearing Panel. In such circumstances, the student must be invited to attend together with the Investigating Officer and any new witnesses cited by the student or deemed by the

Chair of the Disciplinary hearing to be relevant to the effective and fair consideration of the appeal. The student may be accompanied by a chosen representative (conditions specified in paragraph 10.6 and 10.7 below will apply).

7.5 Except where the case is referred back to the Disciplinary Panel, an Appeal Panel will be convened to consider the appeal. The Appeal Panel shall comprise:

- A Chair who will be a member of the Vice Chancellor's Board not previously involved in the case;
- the President of the Students' Union, or nominee who is a member of the Students' Union's executive and not previously involved in the case;
- One other academic or operational member of staff deemed to be appropriate by the Chair and not previously involved in the case.

The Chair may elect either to appoint additional members to the Panel, to a maximum of five members in total, or to appoint specialist advisors to the Panel. Where the appeal is against a penalty of expulsion, an independent member of the Board of Governors will become part of the Appeal Panel. One member of the Panel and the specialist advisors may be external to the University. No member of the Appeal Panel shall have been involved previously with the case.

The Director of Strategic Planning and Student Administration or their nominee shall attend to provide regulatory guidance, and the Director of Strategic Planning and Student Administration shall appoint a Secretary to the Appeal Panel. The Director of Strategic Planning and Student Administration or their nominee shall not act in this capacity if they have acted as Investigating Officer.

7.6 The student may be accompanied at the hearing for support by another student, friend, relative, member of staff of the University or of a partner college/organisation, a sabbatical officer of the Student Union or any other person who is needed to support them because of individual needs e.g. a carer or translator. However, that person may not act in a legal capacity and may not speak on behalf of the student unless the Chair gives express permission, unless advance notice has been given that the student will be represented (see below regarding legally qualified or professional body representation). If the student intends to be accompanied, they must advise the Secretary of the name of the accompanying person in advance of the hearing and state whether or not that person has legal qualifications. The student will be responsible for ensuring that the date, time and venue and the necessary documentation is provided to the person accompanying them. The student is entitled to seek support from relevant Student and Campus Life departments in preparation of the hearing.

The student will be given the option to present their case in Welsh or English and prior notice should be given of their preferred language.

A student may request to be accompanied to a hearing under this procedure. It is recognised that in limited circumstances the student may wish to request legal accompaniment at an investigatory meeting or panel hearing. In such limited circumstances a written request should be submitted **at least 5 working days** prior to the meeting/hearing, including the name of the individual being invited and the reason for the request. Requests will be considered on a case by case basis by the Director of Strategic Planning and Student Administration (or nominee).

7.7 If the request is permitted, the University reserves the right to have its own legal accompaniment. Each party will bear its own legal costs and will be responsible for ensuring that the meeting arrangements and necessary documentation are provided to those accompanying them. If a student advises that they will attend the hearing but

subsequently, does not attend and no reason or apologies are provided, the hearing will continue in their absence. If reasons are provided, the Chair will decide whether or not to grant a postponement.

If the student requests a postponement, evidence of mitigation will be requested and presented to the Chair for approval. If approved by the Chair, a postponement will be granted but on one occasion only.

If a student advises that they will not be attending the hearing or no reply is received, the hearing will proceed in their absence.

- 7.8 The Appeal Panel shall have the same discretion to consider evidence of absent witnesses as afforded to the Disciplinary Panel (see paragraph 9.7.9).
- 7.9 The documentation submitted to the Appeal Panel may include (in addition to the Statement of Appeal and the Report of the Disciplinary Panel Hearing) the documentation presented to the Disciplinary Panel, any details of outcomes of previous Disciplinary Procedure hearings that were considered in relation to sanctions imposed by the Disciplinary Panel and any other documentation which either party considers relevant to the appeal. Any new witness statements or new documents should be provided **at least three working days** before the agreed date of the appeal hearing.
- 7.10 The Secretary shall send all documentation to be considered by the Appeal Panel to the student **at least seven working days** before the hearing.
- 7.11 The appeal shall be conducted in the same way as the Disciplinary Panel (see paragraphs 9.8 et seq). However, the student shall open the appeal hearing by way of representations in support of their appeal, which should be restricted to matters previously set out in the Statement of Appeal and they shall be entitled to call witnesses whose evidence is relevant to the grounds of appeal.
- 7.12 The Chair of the original Disciplinary Panel shall, if requested by the Appeal Panel, be available to attend the Appeal hearing. The Appeal Panel may require other members of staff to attend as deemed appropriate.

The Investigating Officer who attended the original Disciplinary Panel shall if requested by the Appeal Panel, be available to attend the hearing.

- 7.13 The Appeal Panel shall consider the documentation before it and representations put to it. The Appeal Panel shall adjourn to consider its decision and may seek legal, or other expert advice if it considers this appropriate. Where the Appeal Panel is satisfied that the disciplinary decision and penalty imposed by the Disciplinary Panel was within the band of reasonable responses which the Appeal Panel could have selected, the original decision shall be upheld. In other cases, the Appeal Panel may substitute a different decision which may include dismissal of the allegations, imposition of some other penalty whether of greater or lesser severity or, in exceptional circumstances, may decide to remit the case for re-hearing by a differently constituted Disciplinary Panel. If the members of the Panel are unable to agree, then the decision shall be that of the majority of the members. In the event of a split decision the Chair of the Panel will have a casting vote.

The decision shall, whenever possible, be communicated to all parties **within five working days** of the appeal hearing.

Partner Colleges and Organisations

If the procedure of the partner/college organisation has been implemented, the partner college/organisation will be responsible for issuing the Completion of Procedures

letter.

8. Training, Monitoring and Review

Training will be provided to all staff involved in the implementation of the procedure. Monitoring of the process will be undertaken through the recording of individual cases and the preparation of an anonymised Annual Report for consideration by the University Academic Board or appropriate committee of the Academic Board. This report will analyse case data and include recommendations for enhancement, including identification of further training opportunities.

9. Confidentiality

- 9.1 Any information relating to cases dealt with under this procedure will be treated in the strictest confidence and in accordance with the provisions of the Data Protection Act 1998 and GDPR 2018. Any information relating to third parties will also be treated in confidence and in accordance with the Act. Information relating to the case may be shared with relevant staff, such as programme team members. Such information will only be shared when deemed necessary, will be proportionate and will be handled with the strictest of confidence.

10. Office of the Independent Adjudicator for Higher Education (OIA)

- 10.1 The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review internal processes relating to student procedures. Wrexham University is a member of this scheme. If you are unhappy with the outcome of this procedure you may be able to ask the OIA to review your complaint. You can find more information about making a complaint to the OIA, what it can and can't look at and what it can do to put things right if something has gone wrong here: <https://www.oiahe.org.uk/students>
- 10.2 You normally need to have completed this procedure before you complain to the OIA. The University will send you a letter called a "Completion of Procedures Letter" when you have reached the end of our processes and there are no further steps you can take internally. If your appeal is not upheld, the University will issue you with a Completion of Procedures Letter automatically. You can find more information about Completion of Procedures Letters and when you should expect to receive one here: <https://www.oiahe.org.uk/providers/completion-of-procedures-letters>

DISCIPLINARY PROCEDURE FOR STUDENTS

