

London Contemporary Dance School (The Place)

Non-Academic Misconduct Policy

February 2022

Name of Policy Writer	Lead Post Holder	Date approved	Approved by	Review Date
B Holdaway	Quality and Compliance Manager	Feb 2022	Academic Board	June 2023

1. Introduction

- 1.1. London Contemporary Dance School (LCDS), which is part of The Place, seeks to maintain an environment which is safe and conducive for all members of staff and students, and which supports the wellbeing of all such individuals. LCDS therefore expects all students to read and be familiar with this policy, and maintain good conduct whilst on The Place premises, or engaged in any course-related activities including in external environments. Students must comply with instructions given by LCDS and these rules apply during and outside term-time, throughout the whole of the student's registration at LCDS and LCDS's jurisdiction under this policy and procedures is not limited to its own premises.
- 1.2. This policy and procedures applies to all students registered for course of Higher Education at LCDS, irrespective of their mode or place of study. This policy shall apply at all times during the student's registration with LCDS and are not restricted to conduct or other issues arising during term time on The Place premises, or in respect to LCDS or The Place or course related activities.
- 1.3. The policy has been drafted in accordance with the UUK's Guidance¹ for Higher Education Institutions on How to Handle Alleged Student Misconduct Which May Also Constitute a Criminal Offence, and the OIA's Good Practice Framework for Handling Student Complaints and Academic Appeals².
- 1.4. LCDS recognise that many concerns regarding student conduct can and should, where appropriate, be dealt with informally by members of staff. This policy sets out the formal processes by which matters of non-academic misconduct cannot be dealt with informally and will normally be investigated and appropriate outcomes determined.

2. Scope and Definitions of Student Misconduct

- 2.1. There is a distinction between non-academic matters (for example, misconduct involving damage to The Place property or reputation) and academic matters (for example, allegations of plagiarism). Academic Misconduct matters are subject to the validating universities Academic Misconduct Policy.
- 2.2. In the event that a concern may relate to both the academic and non-academic conduct of a student, the Chief Executive (CE) or their nominee, in consultation with the validating university as appropriate, shall determine the appropriate procedure(s) for its investigation and consideration. In some cases, it may be necessary for separate procedures to be followed simultaneously in handling allegations relating to both academic and non-academic misconduct regarding the same student.
- 2.3. Misconduct may also include the breach of expected standards of professionalism in the performing arts, as set out in the Student Code of Conduct.

¹ [UUK Guidance for HEIs Student Misconduct](#)

² <http://www.oiahe.org.uk/media/96361/oia-good-practice-framework.pdf>

2.4. Where a student appears to demonstrate misconduct as described in this policy whilst undertaking LCDS activities off-site, the matter, including any reports and/or supporting evidence, will be referred to LCDS.

Non-Academic Misconduct Definitions

2.5. In general terms, LCDS define non-academic misconduct in the following ways:

- a) Physical Misconduct
- b) Sexual Misconduct
- c) Harassment / Abusive behaviour / Related Behaviours
- d) Damage to property
- e) Unauthorised taking or use of property
- f) Causing a health and/or safety concern
- g) Operational Obstruction
- h) Reputational Damage (action which damaged, or brings LCDS / The Place into disrepute)
- i) Action which deviated from accepted institutional, professional, academic or ethical standards

2.6. Students are subject to all LCDS rules, policies and procedures and the information contained in the Student Handbook from time to time in force, including but not limited to those policies listed in 2.9 of this policy. Infringements of such policies or rules may render the student liable to action and/or penalty under this Policy. In appropriate cases, students may also be liable to action and/or penalty set down elsewhere in LCDS policies and therefore should familiarise themselves with the allied regulations and policies. The Place Freedom of Speech policy should also be read in conjunction with this policy.

2.7. The following is a non-exhaustive list of examples of non-academic misconduct which would fall under one or more of the definitions above.

2.8. No student shall engage in conduct either on or off The Place premises which:

- a) Is in breach of any rule, regulation, code of conduct or policy which LCDS make for students from time to time, or which are established by the validating university which are applicable to students. Example of such policies include, but are not limited to:
 - Student Code of Conduct
 - Attendance Policy
 - Emergency Powers of Exclusion or Suspension
 - Support Through Studies
 - IT Policy
 - Prevention of Bullying, Harassment and Sexual Misconduct Policy
 - Criminal Records Policy
 - Student Complaints Procedure
- b) Constitutes sexual misconduct, harassment or related behaviours as defined in the Prevention of Bullying, Harassment and Sexual Misconduct Policy
- c) Causes, or is intended to cause, physical harm to another individual(s)

- d) Causes, or is intended to cause, psychological harm to another individual(s)
- e) Threatens, harasses, intimidates, discriminates, abuses, or constitutes an assault or attempted assault of any kind on a member of staff, student, or visitor at The Place
- f) Constitutes hostile, threatening or intimidating behaviour (including inappropriate language, and repeatedly contacting another person by phone, email, text or on social networking sites against the wishes of the recipient)
- g) Prevents, or is intended to prevent, any person exercising or intending to exercise their right to freedom of speech or freedom of belief within the law on The Place premises
- h) Constitutes acts, omissions or statements intended to deceive LCDS
- i) Causes damage to The Place property, or the property of students, staff or visitors
- j) Misuses, wilfully damages, defaces, steals or converts to improper use of property of LCDS
- k) Does not follow safe practice or is otherwise in breach of LCDS and The Place Health and Safety policies
- l) Constitutes anti-social behaviour, including but not limited to anti-social behaviour as a result of intoxication through alcohol and drugs
- m) Involves the unlawful possession, use or supply of drugs or weapons
- n) Is at variance with appropriate standards of conduct of published codes governing conduct whilst engaged in professional practice, training, employment, or whilst on placement forming part of the course of study
- o) Constitutes unauthorised entry onto The Place property
- p) Disrupts, obstructs or interferes, or attempts to, with the activities of LCDS on The Place premises or elsewhere
- q) Causes damage, or could cause damage, to the reputation of LCDS and The Place
- r) Failure to disclose relevant criminal convictions, or where directed to do so, cautions or other warnings or sanctions imposed by the police or other law enforcement agencies in accordance with the relevant policies and guidance, including criminal convictions obtained subsequent to registering with LCDS.

2.9. Any reported / alleged behaviour such as is described above will be investigated in accordance with this policy and procedures, to determine whether misconduct has occurred (and any appropriate resulting action subject to whether the misconduct is deemed to be minor or major). This also includes:

- Misconduct committed by any means or medium including via the internet
- Any offence against the Criminal Law committed by a student whilst on The Place premises or whilst engaged in LCDS related activity.

2.10. The internal disciplinary process is a civil matter. It is based upon an allegation that a student has breached LCDS policies and rules. The allegation has to be proven in external courts 'beyond reasonable doubt' and the most serious sanction that can be applied is imprisonment. LCDS cannot make a finding of a criminal offence, however it can consider whether a breach of discipline appears to have occurred and, if so, refer the matter for consideration under this policy.

Professional Conduct

2.11. All students at LCDS embark on a course to train to a professional standard. Professional conduct is concerned with the standards of behaviour, which may include standards of attendance, required to be attained and demonstrated by an individual at any given stage in order to train safely and effectively. LCDS makes a distinction between academic and professional competence on the one hand, and professional conduct on the other. Competence (both academic and professional) is a matter for the normal assessment system of the programme, overseen by the Board of Examiners.

Misconduct relating to admissions

2.12. Registered students who are alleged to have gained or facilitated admission to LCDS by making false or misleading or incomplete statements or representations or producing falsified documents shall normally be subject to investigation and action under these procedures. This shall include any student found to have concealed or misrepresented offences, or to have deliberately provided misleading, incomplete or inaccurate information to the Disclosure and Barring Service (DBS).

2.13. Where an applicant (who is not a registered student) is suspected to have made false or misleading or incomplete statements or representations, or produced falsified documents, either in pursuit of an offer of a place, or as a means of having gained, or facilitating an offer of a place, such cases will be handled under the procedures as outlined in the Admissions Policy and, where applicable, the Criminal Records policy.

Misconduct which is also a criminal offence

2.14. Where the alleged misconduct could also constitute an offence under the Criminal Law, special provisions will apply and LCDS's own misconduct investigations or proceedings may be delayed until such time as the police and/or courts have completed their investigations and proceedings. In such circumstances, the CE will determine whether:

- any action under this Policy and procedures should commence or proceed, including consideration by the Convictions Consideration Panel (see Criminal Records Policy), or
- whether the matter should be held in abeyance pending the completion of police and/or court investigations and proceedings, or
- whether any action already underway under this Policy and procedures should be deferred/suspended, and subsequently reviewed.

2.15. In determining whether to commence or proceed with any action or process under this Policy, LCDS are not bound by the outcome of any police or criminal investigation or prosecution.

2.16. Where a registered student obtains a criminal conviction, the matter will normally be immediately referred to the Convictions Consideration Panel for consideration under its procedures, unless there is justifiable cause not to refer this matter immediately or to follow an alternative process.

- 2.17. Where a student is the subject of a criminal investigation, LCDS will not take any internal disciplinary action against the student in relation to the matter. However, LCDS may take any action deemed necessary for safeguarding, as outlined above (2.11). LCDS may also commence disciplinary action in relation to any matter which is not part of the criminal investigation (e.g. drug use).
- 2.18. In exceptional circumstances, the CE will refer concerns to the police where they consider it appropriate (e.g. where there is a perceived legitimate risk), or where LCDS is legally obliged to do so, and will co-operate with the police in their investigation of an alleged breach of the law or of any matter that may involve a student. Where a student alleges they are the victim of a crime, only in exceptional circumstances will the alleged crime be reported to the Police contrary to the wishes of the victim.

Absence and withdrawal/non-engagement relating to this process

- 2.19. None of the proceedings outlined in this Policy will be invalidated or postponed by reason of the absence of the student who is required to attend a Preliminary Enquiry interview or a Misconduct Panel hearing, or an Misconduct Appeal hearing, provided that the student has been given written notice of the interview or hearing within the timescale laid down in this Policy, and provided that those conducting the hearing believe that sufficient and reasonable evidence and representations are before it. In the event that a student has indicated they will attend but then cannot do so for good reason (eg ill-health, bereavement) an adjournment would generally be considered.
- 2.20. The School may commence or proceed with any action or process under this Policy in the absence of the student, if the student withdraws from the School and/or if the student does not engage with the process. Where there is good cause to do so, the School may place the consideration of a case in abeyance at any stage.
- 2.21. In the operation of the processes set out in this Policy the School will remain mindful of its legal obligations, including its duty of care and its obligations under the Equality Act 2010 which include, where appropriate, the duty to make reasonable adjustments.

3. Definitions and Policies

Presumption of Innocence

- 3.1. A student will be presumed to be innocent of the allegation of misconduct, until the contrary is proved on the balance of probabilities.

Burden of proof

- 3.2. The burden of proof which applies to all decisions reached is the balance of probabilities. The definition of the balance of probabilities is that, based on the evidence, more likely than not there is more than 50% chance that the alleged events occurred.

Legal context

- 3.3. LCDS will act in accordance with the provisions of the Human Right Act 1998, the Equality Act 2010, the General Date Protection Regulations (GDPR) 2018 and other relevant legislation.

Anonymous allegations

- 3.4. LCDS will not normally take action in response to anonymous allegations of misconduct, except where they are satisfied that just cause and/or reasonable grounds exist to do so.

Data Processing, Confidentiality and record keeping

- 3.5. In line with the provisions in the GDPR, LCDS may share information regarding a misconduct case with the validating university, to ensure fair and proper process in the case, and to monitor or enhance this Policy and procedures or the student experience more generally. Where necessary, this may include sharing personal and sensitive/special data regarding individual students. All such information will be treated confidentially by all parties and in line with LCDS Privacy Notice. If you have any questions or concerns regarding confidentiality and this procedure you should contact you're The Place Data Protection Officer.
- 3.6. Records will be retained for a minimum of 15 months and for no longer than is reasonably necessary (i.e. no longer than 6 years after the final action on the student's case, at which point the individual student file will be destroyed). Some deviation from this schedule can be expected for cases which, in the judgement of the School and/or Shared Services, are unique or complex and therefore require shorter or longer record retention periods.
- 3.7. All misconduct proceedings, including Preliminary Enquiry interviews, Misconduct Panel hearings and Misconduct Appeals Panel hearings, will be held in private.
- 3.8. Where partnership arrangements with other organisations are in place for the delivery of learning opportunities, any variations to the policies or procedures set out in this Policy shall be set out in the relevant guidance.
- 3.9. The CE may delegate their powers under this Policy to a nominee, providing always that the nominee will be in a position to act and be seen to act impartially. Where reference is made under this Policy and procedures to the CE, such references will include the CE's nominee.
- 3.10. Where it has good cause³ to do so, in accordance with the General Data Protection Regulations 2018 (GDPR) LCDS will disclose the outcomes of misconduct processes and/or information about students ascertained in the course of such processes to relevant parties, such as the police. There may also be circumstances in which disclosures may have to be made to other parties, such as placement providers and/or employers or sponsors. Other than the student, it is at the CE's discretion as to who else needs to be informed about any matter relating to the process and outcomes.

³ Good cause would be, for example, where an outcome of a misconduct process might necessitate in referral of a matter to the police. This may not necessarily be at the end of all misconduct procedures, but might, for example, be the result of an allegation of misconduct which may constitute a criminal offence and which it is necessary to refer to the police ahead of any formal School misconduct procedures being able to be concluded.

Emergency Powers

- 3.11. Nothing in this policy will prevent the CE from taking action under their emergency powers (see Emergency Powers of Exclusion or Suspension policy)
- 3.12. Where allegations of suspected misconduct are received, the Preliminary Enquiry Officer will determine the most appropriate action to be taken, including referring a case under other procedure or regulations as appropriate.

Complaints regarding the Non-Academic Misconduct procedures

- 3.13. All students have the right of appeal against the decisions reached under these procedures. The policy sets out the specific avenue / right of appeal at the relevant stage, at each stage of the process.

Impact of misconduct procedures on release of results

- 3.14. Where allegations of non-academic misconduct against a student are being considered under this process, and consideration has not yet been concluded at the time the Board of Examiners meet (including an appeal process against a Misconduct Panel decision), the student will normally be allowed to academically progress. Academic progression in such circumstances however is no indication of LCDS's view of alleged misconduct, nor is it an indication of any right to continue studying subsequent to a decision of the Misconduct Panel or Misconduct Appeals Panel, and it will not be taken into account as a mitigating factor by either Panel.
- 3.15. If a student is in their final year of study, and an investigation into non-academic misconduct is still continuing when the Board of Examiners considers their marks for an assessment or award (including an appeal process against a Misconduct Panel decision), the marks/final result may be released but the student may not normally graduate until the conclusion of the misconduct case. This could mean that a student may not graduate with their peers.

Timescales

- 3.16. A summary of the timescales and according responsibilities are provided in Appendix 4. Except where otherwise stated, all timescales constitute calendar days, excluding bank holidays and statutory closure days.

Failure to comply with decisions

- 3.17. Failure by a student without good reason, in the view of LCDS, to:
- Comply with an decision reached or order issued by LDDS ((including by the Preliminary Enquiry Officer, a Misconduct Panel, a Misconduct Appeals Panel, the School Principal, or CE of the Conservatoire), or
 - To comply with terms of a temporary exclusion or suspension made under this policy and procedures.

may itself constitute an act of misconduct and may therefore be dealt with in accordance with this policy.

4. Misconduct Procedures

Informal Procedures

- 4.1. LCDS recognises that many concerns regarding student conduct can and should where appropriate be dealt with informally by members of staff. However, matters of concern which cannot be dealt with informally will normally be investigated and appropriate outcomes determined as appropriate as per the following procedures.

Informal Warnings

- 4.2. Under these informal procedures a member of staff authorised by the CE may issue an informal warning regarding their future conduct to a student and/or indicate targets for improvement and/or a timeframe within which a further informal review of the student's conduct shall be conducted. As appropriate, the member of staff shall advise the student that failure to meet expectations may result in referral for further consideration under the formal procedures. Examples of misconduct which may lead directly to a verbal warning may include:
- a) Failure to conform to attendance requirements
 - b) Inappropriate behaviour in class
 - c) Use of inappropriate clothing and/or equipment for class work
- 4.3. A note of such informal warnings will be held centrally by LCDS together with a record of acknowledgement by the student. Where a student wishes to complain about or disagrees with an informal warning, they have the right to request that a Preliminary Enquiry be conducted under the formal procedures.

Formal Procedures

- 4.4. These regulations comprise a 3-stage procedure:
- a) **Preliminary Enquiry**
For handling initial allegations/reports of suspected misconduct, determining and referring such allegations under the appropriate policy, procedures and regulations, and determining appropriate action for instances of minor misconduct
 - b) **Misconduct Panel**
For determining whether there is sufficient evidence to substantiate and uphold a charge of major misconduct, on the balance of probabilities, and/or determining whether the student is deemed unsuitable to continue training for the profession
 - c) **Misconduct Appeals Panel**
To review the case in accordance with the grounds outlined in Section 7 of this Policy, in order to determine whether the decisions and findings of the Misconduct Panel should stand

Suspected Misconduct: Preliminary Enquiry

- 4.5. Where any member of staff, placement provider, student, or member of the public believes that misconduct may have been committed by a student, they should notify LCDS as soon as possible.

Preliminary Enquiry Procedure

- 4.6. On receipt of an allegation of suspected misconduct, a Preliminary Enquiry officer will be appointed to conduct a preliminary enquiry. The Preliminary Enquiry Officer has the discretion as to whether to investigate anonymous allegations and/or to request that an oral report regarding an allegation is put into writing.
- 4.7. The Preliminary Enquiry Officer may make some initial enquiries before determining whether to open an investigation, to satisfy themselves whether the matter should be investigated further. Where it has been determined that an investigation should take place, the Preliminary Enquiry Officer should normally notify the student in writing of this, together with an expected date/timeline for conclusion of the Preliminary Enquiry, and notifying the student of any support available.
- 4.8. The Preliminary Enquiry Officer will review the information provided, and will determine whether there is sufficient evidence to proceed under the Misconduct Policy. To reach this determination, they may make any necessary enquiries to acquire further information, which may include inviting the student against whom the allegation has been made to make a written response to the allegations or interviewing them, and/or any parties who may be able to provide necessary information. Such interviews are not an obligatory part of the process, and it is at the discretion of the Preliminary Enquiry Officer to determine whether they are necessary.
- 4.9. The Preliminary Enquiry Officer may delegate any investigation actions, including interviews, to other staff at The Place as appropriate.

Preliminary Enquiry Interview Process

- 4.10. Where an interview is held as part of the investigation:
 - a) The student will be informed in advance in writing of the nature and purpose of the meeting;
 - b) The student will not be required to attend (though it is in their interests to do so), nor will they be obliged to make a statement or give any explanation either in writing or in attendance at the meeting;
 - c) The student may be accompanied for support to the interview by a family member or a friend (either from inside or outside LCDS), and should normally give at least 24 hours' notice of anyone expected to accompany them;
 - d) The Preliminary Enquiry Officer has the discretion to accept or decline any statements or supporting evidence/documentation presented by an accompanying individual on behalf of the student, but any such statements/evidence/documentation may be forwarded for consideration should the case be referred under these or other procedures;
 - e) Written notes of the interview will be made; these will be circulated to the student for the opportunity for their agreement and any corrections normally no later than 2 working days after the interview has been held;
 - f) The Preliminary Enquiry Officer has the discretion to terminate the interview at any point (e.g. if any attendee including any supporting person displays unacceptable behaviour);

- g) Any information resulting from the interview may be used to determine the outcome of the Preliminary Enquiry.

Preliminary Enquiry Findings and Outcomes

The Preliminary Enquiry Officer will compile a report⁴ on completion of the Preliminary Enquiry to confirm the outcome of the enquiry, which will include any relevant recommendations and any further action needed. The student will receive a copy of the report on completion of the Preliminary Enquiry process. Where other staff have undertaken any investigative actions on behalf of the Preliminary Enquiry Officer and have compiled the report, the Preliminary Enquiry Officer will sign off the report and any resulting recommendations before the report is forwarded to the student.

4.11. The Preliminary Enquiry Report will include the following:

- a) Details of the allegations made
- b) The established facts following the investigation
- c) The findings (e.g. no case to answer, minor misconduct, major misconduct, alternative procedure referral)
- d) The outcome i.e. whether any further action will be taken, and what that action will be

Preliminary Enquiry Findings

4.12. The Preliminary Enquiry Report will state one of the following decisions:

- a) **There is insufficient or no evidence of any misconduct** therefore no further action will be taken. The student will be informed that no further action will be taken at this time and will be advised whether a copy of the report will be held centrally but separately from the student's file.
- b) **There is sufficient evidence, on the balance of probabilities, to form the basis of a charge of minor misconduct.** The Preliminary Enquiry Officer may determine that appropriate action is taken (see Minor Misconduct findings/concerns which do not warrant referral to a panel); the case will not proceed to a formal misconduct panel. A record of the report will be kept on the student's file until the student has completed their course, unless the CE authorises a different timescale for retention.
- c) **There is sufficient evidence to form the basis of an allegation of major misconduct** therefore the case will be referred to the Misconduct Panel. The Preliminary Enquiry Report will be submitted to the misconduct panel along with any supporting evidence gathered. For the avoidance of doubt, multiple allegations which might otherwise in isolation each be regarded as minor, may be considered as potential major misconduct and referred to the Misconduct Panel;
- d) **There is sufficient evidence and/or reasonable grounds to refer the matter to another policy as appropriate.** This may include:
 - Ceasing the misconduct procedures under this policy and referring the matter entirely under another policy
 - Placing the misconduct procedures under this policy in abeyance whilst the matter is referred under another policy, setting a date for future review of whether they should be re-instigated or ceased

⁴ The Preliminary Enquiry Report form (Appendix 3) should be used for this.

- Referring the matter under another policy whilst simultaneously continuing with the misconduct process, making any fair and reasonable adjustments to either process as necessary.

Preliminary Enquiry Outcomes

4.13. Minor Misconduct Findings / Concerns which do not warrant referral to a panel:

Where it is determined that there is sufficient evidence to uphold a charge of minor misconduct, the Preliminary Enquiry Officer may impose one or more of the following 'Category 1' types of penalties (for the full of list of non-academic misconduct penalties under this Policy, see Section 6):

Category 1 Penalties

- a) A formal warning or a final warning (for a repeated offence)
- b) A formal written reprimand
- c) A requirement to make a verbal/written apology to any party concerned
- d) The payment by the student of compensation for damage or loss caused, which shall not exceed the value of any damage caused or loss incurred
- e) Withdrawal of privileges (particularly any particular privileges abused by the student offender) for a period not exceeding one month
- f) Requirement to remove material published which is deemed to be inappropriate
- g) Set conditions or expectations for the student's future behaviour

4.14. It is at the discretion of the Preliminary Enquiry Officer to determine the appropriate action, or to award a penalty from the above list, following a finding of minor misconduct.

4.15. The Preliminary Enquiry will normally be completed **within 14 days of** receipt of an allegation, and the student will receive confirmation of the outcome in writing, normally within 48 hours of the conclusion of the Preliminary Enquiry. However, in particularly sensitive cases, where interviews with any parties are deemed necessary, or where it is foreseen that untimely disruption to studies might be caused by this process, this may result in extending the length of the completion of the process. Any student facing an allegation of misconduct will be updated in writing accordingly. Any other persons involved in the case may be notified by the Preliminary Enquiry Officer that the Preliminary Enquiry has been concluded, but they will only be informed of the Preliminary Enquiry decision and/or findings where the Preliminary Enquiry Officer deems it appropriate and necessary.

4.16. Where a student wishes to complain about or disagrees with a Preliminary Enquiry finding of minor misconduct (including disagreement with respective action/penalty), they have the right to request their case be heard by the Misconduct Panel. A request should be made in writing to the Preliminary Enquiry Officer, normally within 7 days of receiving formal written notification of the Preliminary Enquiry outcome, on receipt of which the student's case will be referred to the Misconduct Panel.

5. Misconduct Proceedings: General Provisions

- 5.1. All Misconduct Panel hearings and Misconduct Appeals Panel Hearings will be closed sessions and not open to the public.

Proceedings of Panel Hearings

- 5.2. **Representation and Accompaniment; Witnesses:** LCDS are committed to ensuring students are properly supported, and recognised that facing an allegation of misconduct, or pursuing an appeal against a decision of the Misconduct Panel, can be stressful for a student. Provisions as follows are therefore made to support students through the processes:

- a) Students have the right to be represented
- b) Students have the right to be accompanied
- c) Students have the right to call witnesses

- 5.3. The student must give notice in writing to the Secretary of the panel, at least 48 hours in advance of a hearing of the relevant panel:

- a) If they are to be represented / accompanied at the relevant panel, the name(s) of the person(s) who is/are to attend
- b) If they wish to be represented by an individual not listed in Appendix 3 it is at the discretion of the chair of the panel as to whether this will be permitted
- c) The name(s) of any witness(es) the student wishes to call

- 5.4. The chair of the relevant panel has the discretion to:

- a) Refuse to permit a representative or friend / family member to attend where prior written notice has not been given.
- b) Accept or reject an application for alternative representation and their decision will be final. Where the chair determines that an application for alternative representation be rejected, the reasons will be provided in writing.
- c) Admit or refuse any witness evidence or other evidence, and their decision will be final.

- 5.5. Where the student is unable to attend the hearing and wishes to attend, they may request a deferral of the hearing at the earliest opportunity and in any case at least 48 hours before the hearing, by contacting the Secretary of the relevant panel in writing. The student must state the reason(s) for the request. Where appropriate and applicable, the Chair of the Panel may request that the student forward supporting evidence. Deferrals will only be granted where the Chair of the Panel is satisfied that reasonable grounds (eg illness, bereavement) exist to prevent the student from attending the hearing. The Chair of the Panel has the ultimate discretion to grant or refuse a request for a hearing to be deferred.

- 5.6. For the purpose of the hearing, a decision on any point of procedure by the chair of the panel will be binding. For more details of these provisions, please see Appendix 5, Non-Academic Misconduct: Guidance on Hearings (General provisions and procedures).

Evidence

- 5.7. The ruling of the Chair of the panel, shall be final on the admission of all evidence at the hearing, including the admission of written evidence and of oral evidence from witnesses or other parties at the appeals hearing. This shall include the power to refuse to admit evidence or hear witnesses on the basis of lack of relevancy. The Chair of either Panel has the sole discretion to determine to proceed with a hearing or adjourn it, in the absence of any witness.

Adjournment

- 5.8. The Chair has the discretion to adjourn the hearing where the timeframes for providing documentation, or notifying witnesses, or for other good cause, have not been met. For more details, please see Appendix 5, Non-Academic Misconduct: Guidance on Hearings (General provisions and procedures).

6. Misconduct Panel

- 6.1. The CE will appoint the panel members, alongside a secretary who will serve the panel. The Secretary will act as note-taker and shall advise the Misconduct Panel regarding procedural matters but shall not take part in any decision making.

Terms of Reference

- 6.2. The Terms of Reference of the Misconduct Panel are:
- a) To consider cases referred to it by the Preliminary Enquiry Officer, in order to determine whether an allegation of misconduct or unprofessional behaviour has been substantiated on the balance of probabilities, and to determine appropriate outcomes and action in accordance with these procedures;
 - b) To advise the Academic Board on disciplinary matters or any related issues that may arise from the Panel proceedings.
- 6.3. In the circumstance that the student and/or any other relevant parties are unable to attend, it will be at the discretion of the Chair of the Misconduct Panel as to whether the proceedings may continue or whether any other action (eg a rescheduling of the hearing or the opportunity to make further written submissions) is necessitated. Where a student is for good reason unable to attend a hearing on the scheduled date, a new date will normally be offered.

Membership of the Misconduct Panel

- 6.4. The membership will include:
- a) A chair, who shall be a senior member of staff at The Place, unconnected with the student's course of study, and may be a member of teaching or non-teaching staff and approved by the Academic Board
 - b) Two other members of staff at The Place unconnected with the students course of study.

- 6.5. No member of staff from the course team with whom the student is studying will serve as a chair of panel member.
- 6.6. No one will serve on the Misconduct Panel who has had formal involvement in any previous consideration of the allegation of, or a connection to, the misconduct to be considered by the Panel. Panel members must be in a position to act and be seen to act impartially in relation to the student and the allegation being considered.
- 6.7. The quorum for a Misconduct Panel hearing will be the Chair and two other members of staff.

What LCDS will send to the student

- 6.8. Written notice of a Misconduct Panel hearing will normally be sent to the student at least 10 days in advance of the hearing and will include:
- a) The date of the panel hearing
 - b) The names of the panel members and any witnesses / expert advisors called by LCDS
 - c) The name and contact details of the Secretary to the panel
 - d) All documentary evidence, including the Preliminary Enquiry Report and copies of any witness statements
 - e) The names of any witnesses the student has already informed LCDS they wish to call
 - f) Notification of the rules governing the conduct of hearings
- 6.9. In all cases students will be provided with written notice of the exact date of the Panel hearing together with the panel documentation at least seven days in advance of the hearing.
- 6.10. The student may present documentary material and/or witnesses in their defence or mitigation to the Misconduct Panel. The student may submit any personal written statement and/or supporting evidence/witness statements, to the Panel for consideration. Any such documentation should normally be submitted by the student to the Secretary of the Panel not less than 48 hours before the Panel hearing, to allow for circulation to members for consideration prior to the hearing. Any such documentation submitted after this deadline will only be accepted at the discretion of the Chair of the Misconduct Panel, where the Chair is satisfied that it is reasonable to do so and that doing so will not unduly compromise the proceedings.
- 6.11. Both the student and LCDS have the right to call any witnesses to the panel, and both parties should present the names of any witnesses they wish to call to the Chair of the Panel normally at least 48 hours in advance of the hearing. The Chair of the Panel has the ultimate discretion to admit or refuse any witnesses.
- 6.12. The student has the right to be accompanied and/or represented at the Hearing. The student should notify the Chair of the Panel of the name(s) of any accompanying person(s), normally at least 48 hours in advance of the Hearing. The Chair of the Panel has the ultimate discretion to allow to admit or refuse any representative.

Misconduct Panel Hearing Procedure

6.13. The following paragraphs should be read in conjunction with Appendix 3 Guidance on Hearings:

- All parties will normally be present at the Misconduct Panel Hearing at the same time, unless any reasonable adjustment is required which would preclude this.
- The LCDS representative will normally present the concerns with regard to the conduct of the student to the Misconduct Panel first, and call any witnesses; however it is at the discretion of the Chair of the Panel to invite parties to speak as they deem it appropriate.
- The student facing the allegation(s) of misconduct (or their representative) will be invited to reply to the allegation(s) and may call witnesses. The student shall also be invited to present to the Panel any mitigating circumstances which the student considers to be relevant to the case.
- At the conclusion of all presentations and questions, the student facing the allegation(s) of misconduct and/or (or their representative) may address the Panel and make a closing statement. At their discretion, the Chair of the Panel may also make a closing statement.
- The deliberations of the Panel are confidential and will be held in private. The Panel will determine on the balance of probabilities its findings and decision(s).
- A decision of the Misconduct Panel will be reached by a majority vote of the members of the Panel present at the hearing but will be announced as a decision of the Panel. The votes of the individual Panel members will be treated as confidential.
- The Panel will endeavour to reach a decision and findings without adjournment. However, in the event that the Panel determines at any point during proceedings that it needs further information in order to reach a decision or for other good cause, it shall adjourn the case. The student will be notified of the adjournment normally within 24 hours of the decision to adjourn, and the Secretary to the Panel will endeavour to collect the respective information the Panel considers it needs to reach a decision.
- The decision(s) and findings of the Panel will be communicated in writing via a Hearing Outcome Letter to the student, the LCDS representative and any other parties the Chair deems necessary and appropriate, normally within seven days of the date of the hearing.
- Should the Misconduct Panel determine that the allegation(s) and/or concerns were not established, or without foundation, that decision will be communicated to all persons involved in the case, normally within seven days of the date of the hearing.

Misconduct Panel Outcomes

6.14. After considering all the evidence, in its deliberations, the Misconduct Panel will reach the following findings and decision(s) on the balance of probabilities:

Finding(s)

6.15. Firstly, the Panel will determine whether the alleged misconduct on the part of the student has occurred by making the following finding:

- a) Whether any misconduct allegation(s) have been substantiated

In reaching its findings the panel may also determine:

- b) Whether there are any other further concerns which have emerged which should be taken into account, or which require further investigation.

Decision(s)

6.16. Once the Misconduct Panel has reached its findings, it will determine any relevant action including:

- a) Any appropriate penalties which should be applied to the student
- b) Any action deemed necessary by either the student and/or LCDS
- c) Whether there are any matters which should be referred under alternative procedures

General Panel Considerations when determining findings and reaching decisions

6.17. As part of its decision-making, the following factors may be taken into consideration by the Misconduct Panel in reaching findings and determining and appropriate penalty:

- a) The severity of the offence, including any aggravating factors resulting from its impact
- b) The student's engagement with LCDS during the misconduct process
- c) There is any evidence of malicious intention
- d) The number of previous and/or contemporaneous misconduct offences, both non-academic and academic
- e) Whether the student has had any concerns about conduct drawn to their attention prior to this instance
- f) Whether the student is in receipt of any formal warnings, or any other School sanctions
- g) Any mitigating circumstances and/or aggravating factors which are accepted by the Panel.

Penalties

6.18. Where the Misconduct Panel determines that an allegation of misconduct or unprofessional conduct has been substantiated on the balance of probabilities, the panel may impose one or more of the measures listed in the 'Table of Penalties' below.

6.19. The penalties are listed as 'Category 1' or '2'. 'Category 1' penalties may be awarded when the Panel deems the misconduct to be a more minor offence; more serious offences may receive a 'Category 2' penalty. Penalties will only be considered and applied after a Panel has determined on the balance of probabilities that misconduct has occurred.

6.20. Penalties listed below are non-exhaustive and will be applied on a case-by-case basis, taking into account the circumstances of each offence. For repeated or multiple offences, 'category 2' penalties will normally be considered. More than one penalty may be applied simultaneously from either category.

Table of Penalties
<p>Category 1 Penalties (Penalties that may be applied by the Preliminary Enquiry Officer, the Misconduct Panel, or the Misconduct Appeals Panel)</p> <ul style="list-style-type: none"> a. A formal warning or a final warning (for a repeated offence); b. A formal written reprimand; c. A requirement to make a verbal/written apology to any party concerned, as, and if, appropriate; d. The payment by the student of compensation for damage or loss caused, which shall not exceed the value of any damage caused or loss incurred; e. Withdrawal of privileges (particularly any privileges abused by the offender) for a period not exceeding one month; f. Requirement to remove material published either in hard copy or electronically which is deemed to be inappropriate; g. Set conditions or expectations for the student's future behaviour.
<p>Category 2 Penalties (Penalties that may only be applied by the Misconduct Panel, or the Misconduct Appeals Panel)</p> <ul style="list-style-type: none"> h. Mandatory attendance at a workshop or course within a specified time period⁵; i. Restorative action such as a reflective statement or project; j. Restricted ability to contact the complainant, where the complainant is a student or member of staff of LCDS / The Place; k. Requiring that the student does not represent LCDS or The Place in a paid or unpaid capacity for a specified period of time. This could include employment by The Place on a contractual or casual basis⁶, representing LCDS or The Place other events, or voluntary roles; l. Conditions for the continuation of student status; m. Exclusion from, or restrictions concerning, participation in specified activities (including external course-related activities) or use of specified facilities at LCDS for a stated period. Conditions for return to those activities may be specified; n. The suspension of the student's studies, in whole or in part, for a specified period or until an agreed review date; o. Permanent exclusion / removal of student status⁷ with or without the right to re-register for any further course of study at LCDS; p. Such other penalty as may be deemed appropriate, provided that the penalty is both proportionate and relevant to the offence.

6.21. The Misconduct Panel may order that any measures agreed will be imposed immediately, or should be deferred. The conditions of any such deferment will be clearly stated as part

⁵ Where a student is required to complete a workshop, course or restorative exercise, this may result in a delay to graduation. The Misconduct Panel and Misconduct Appeals Panel will consider potential additional consequences when determining penalties and will ensure that sanctions remain proportionate.

⁶ Where a student is contracted to undertake paid employment for The Place, action may also be taken under The Place staff disciplinary procedures.

⁷ In such cases, the Panel will determine whether there is just cause to deprive the student of any credits already achieved and any award to which they may lead.

of the decision of the Panel. The imposition may be contingent upon the student failing to fulfil any conditions set.

- 6.22. The Misconduct Panel will have the discretion to indicate a point in the future and/or the conditions under which a substantiated allegation of misconduct may be considered spent. Once spent, any record(s) of the offence will be removed from the student's file, including any records of any suspension or exclusion relating to the offence.
- 6.23. The Panel may determine to vary the penalty in the light of accepted mitigating circumstances or other aggravating factors.
- 6.24. The findings and decisions of the Misconduct Panel will be communicated to the student, the CE, and any other interested parties as deemed appropriate by the Chair of the Panel, and in accordance with the General Data Protection Regulations 2018 (GDPR).
- 6.25. Where a student wishes to complain about, or disagrees with, a decision or finding(s) of the Misconduct Panel, they must submit an appeal in accordance with section 7 of this policy. An appeal must be made under one of the stated grounds, normally within 14 days of the date of the Hearing Outcome Letter. The decision of the Misconduct Panel stands until and unless it is overturned following a successful appeal.

Hearing Outcome Letter

- 6.26. The Secretary to the Misconduct Panel will send a Hearing Outcome Letter to the student, normally within 7 days of the date of the hearing. The letter will set out the decision(s) of the Panel and the reasons for the decision(s), and provide information on the right of appeal.
- 6.27. A copy of the Hearing Outcome Letter containing the finding(s) and decision(s) of the Panel will be placed on the student's file. Subject to the provisions set out in paragraphs 6.19-6.24 above, the student will also be advised that the finding(s) and decision(s) of the Panel may be taken into consideration in the event of a future finding of misconduct or unprofessional behaviour under this policy. The finding(s) and decision(s) of the Panel may also be taken into consideration when determining whether to exercise powers of temporary exclusion or suspension in the future.

7. Appeal against a decision of the Misconduct Panel

Grounds of Appeal

- 7.1. Following a hearing of the Misconduct Panel, a student may submit an appeal against the decision(s) of the Panel, under one or more of the following grounds:
- a) There has been procedural irregularity
 - b) There was prejudice or bias on the part of a decision-maker
 - c) The decision(s) is/are unreasonable and/or the sanction or outcome disproportionate
 - d) There is new evidence that is also material to the case, which the student can demonstrate was for good reason not previously available, and sufficient evidence remains that this warrants further consideration by a Misconduct Appeals Panel.

Appeal submissions

- 7.2. An appeal must be made under one of the stated grounds, normally within 14 days of the date of the Hearing Outcome Letter. Appeals submitted after this deadline may be rejected for being out of time. Appeals which do not state any grounds may also be summarily rejected.
- 7.3. To make an appeal, a student should submit an appeal form, together with any supporting documentation/evidence which they consider should be taken into account, to the Principal who will either act as the Misconduct Appeal Reviewer or delegate the role to another senior member of staff. Students must include with their appeal all documentation that they wish the Misconduct Appeal Reviewer to consider, including any information relating to mitigating circumstances.
- 7.4. The Misconduct Appeal Reviewer may for good cause extend the time period in which the student may submit an appeal to the School.
- 7.5. There are two stages to the Misconduct Appeal process:
 - 1) The appeal submission is reviewed by the Misconduct Appeal Reviewer, to determine whether it **discloses grounds** for a Misconduct Appeals Panel to be convened, otherwise the appeal shall be rejected by the Misconduct Appeal Reviewer.
 - 2) Where the Reviewer is satisfied that the submission discloses grounds, a Misconduct Appeals Panel is convened to give further consideration to the appeal.
- 7.6. In this procedure, '**discloses grounds**' means that the Misconduct Appeal Reviewer considers that there is sufficient evidence that the appeal may meet one or more of the above grounds, or that there is some other good cause, to merit further consideration of the appeal. It is not sufficient for an appeal merely to state the grounds upon which the student is appealing.

Cases which are forwarded to the Misconduct Appeals Panel

- 7.7. Where the Misconduct Appeal Reviewer finds that the appeal submission discloses grounds, the reviewer will notify the student in writing of this decision, normally within 21 days of receipt of the appeal submission, and refer the case to the Misconduct Appeals Panel Secretary to organise an Misconduct Appeals Panel. The student will be invited to submit any additional documentation or statements that they wish to have considered by the Panel at the point they are notified of the Hearing.

Cases which are rejected by the reviewer for failing to disclose any grounds

- 7.8. Where the Misconduct Appeal Reviewer finds that the appeal submission does not disclose grounds, the reviewer will reject the appeal. The reasons will be set out in the Appeal Outcome Letter, and the original decision(s) and finding(s) of the Misconduct Panel will stand. The Appeal Outcome Letter will be sent normally within 21 days of receipt of the appeal submission, and either simultaneously or shortly after, the student will be issued with a Completion of Procedures Letter, normally no more than 14 days after the date of the Appeal Outcome Letter. On receipt of the Completion of Procedures letter, the

student will have recourse to take their complaint to the Office of the Independent Adjudicator (see Section 9 of these procedures).

8. Misconduct Appeals Panel

8.1. A Misconduct Appeals Panel has authority to consider appeals against decisions made by the Misconduct Panel.

Terms of Reference

8.2. The Terms of Reference of the Misconduct Appeals Panel are:

- a) To consider cases referred to it by the Misconduct Appeal Reviewer, in order to determine whether the evidence is of sufficient significance to cast doubt upon the reliability of the decision(s) arrived at by the original Misconduct Panel;
- b) To determine appropriate outcomes and action in accordance with these procedures;
- c) To advise the Academic Board on disciplinary matters or any related issues that may arise from the Appeals Panel proceedings (including from the previous Misconduct Panel proceedings).

Membership of the Misconduct Appeals Panel

8.3. The membership of the Misconduct Appeals Panel will be appointed by the CE and will include:

- a) A chair, usually a member of The Place governing body
- b) A senior member of staff from The Place
- c) Another member, who shall be a member of staff at LCDS / The Place

8.4. The panel will be served by a Secretary who shall act as note taker and shall advise the Misconduct Appeals Panel regarding procedural matters but shall not take part in any decision making.

8.5. No one will serve on the Misconduct Appeals Panel who has had formal involvement in the case previously. Panel members must be in a position to act and be seen to act impartially in relation to the student and the case being considered.

8.6. Any member appointed to a Misconduct Appeals Panel who considers that there is or that there appears to be a conflict of interest in their serving on the Panel shall notify the Secretary who shall then determine whether a replacement Panel member should be appointed.

8.7. The quorum for a hearing of the Misconduct Appeals Panel will be the chair and two other members.

8.8. In determining whether representative from LCDS should attend the hearing to respond to the student's appeal, the final decision regarding the member of staff to be called shall rest with the Chair of the Misconduct Appeals Panel.

8.9. In the circumstance that the student and/or any other relevant parties are unable to attend, it will be at the discretion of the Chair of the Misconduct Appeals Panel as to whether the appeal proceedings may continue or whether any other action (eg a rescheduling of the hearing or the opportunity to make further written submissions) is necessitated. Where a student is for good reason unable to attend a hearing on the scheduled date, a new date will normally be offered.

What LCDS will send the student

8.10. Written notice of a Misconduct Appeals Panel will be sent to the student at least 10 days in advance of the hearing, with the following information:

- The date of the panel hearing
- The names of the panel members and any witnesses / expert advisors called by LCDS
- The name and contact details of the Secretary to the panel
- All documentary evidence, including the Preliminary Enquiry Report, copies of any witness statements, a copy of the misconduct panel Hearing Outcome Letter, the student's appeal and a copy of the letter appointing the Misconduct Appeals Panel
- The names of any witnesses the student has already informed LCDS they wish to call

8.11. The student has the right to be accompanied and/or represented at the hearing. The student should notify the Chair of the Panel of the name(s) of any accompanying person(s), normally at least 48 hours in advance of the Hearing. The Chair of the Panel has the ultimate discretion to allow to admit or refuse any representative.

8.12. The student may submit any personal written statement and/or supporting evidence/witness statements, to the Panel for consideration. Any such documentation should normally be submitted not less than 48 hours before the Panel hearing. Any such documentation submitted after this deadline will only be accepted at the discretion of the Chair of the Misconduct Appeals Panel.

8.13. In the event they are invited to attend the Misconduct Appeals Panel hearing, the student may present documentary material and/or witnesses in their defence or mitigation to the Misconduct Appeals Panel, provided that the Panel has received such documentary evidence and/or notification of the names of any witnesses, at least 48 hours before the hearing.

Misconduct Appeals Panel Hearing Procedure (see also Appendix 3 Guidance on Hearings)

8.14. The following paragraphs should be read in conjunction with Appendix 3 Guidance on Hearings:

- All parties will normally be present at the hearing at the same time, unless any reasonable adjustment is required which would preclude this.
- The Chair will determine the order of the hearing. This may include inviting either the student or the School representative to speak first. The Chair will satisfy themselves that both the student and the School representative are given fair and adequate opportunity to make any representations and to respond to questions.
- The Panel will ask all questions during the hearing. Any questions that either the student or the School representative wish to ask must be addressed through the Chair of the Panel who will decide whether or not any such questions may be permitted.
- At the conclusion of the hearing, the School representative will be asked if they have any final statement to make, followed by the student (or their representative). The Chair of the Panel may also make a closing statement.
- The deliberations of the Panel are confidential, and will be held in private. The Panel will determine on the balance of probabilities its findings and decision(s), in accordance with these procedures.
- A decision of the Misconduct Appeals Panel will be reached by a majority vote of the members of the Panel but will be announced as a decision of the Panel. The votes of the individual Panel members will be treated as confidential.
- The Panel will endeavour to reach a decision and findings without adjournment. However, in the event that the Panel determines at any point during proceedings that it needs further information in order to reach a decision or for other good cause, it shall adjourn the case. The student will be notified of the adjournment normally within 24 hours of the decision to adjourn, and the Secretary to the Panel will endeavour to collect the respective information the Panel considers it needs to reach a decision.
- The decisions and findings of the Panel will be communicated in writing to the student, the School representative and any other parties the Chair of the Panel deems appropriate, normally within 7 days of the date of the Hearing.

Misconduct Appeals Panel Outcomes

Outcome Procedure

- 8.15. After considering all the evidence, in its deliberations the Misconduct Appeals Panel will reach the following findings and decision(s) on the balance of probabilities.

Finding(s)

- 8.16. Firstly, the Misconduct Appeals Panel will determine whether the appeal has met the grounds and therefore whether it should be upheld, by making one of the following finding(s):

- a) That there is sufficient evidence to demonstrate, on the balance of probabilities, that one or more of the grounds of appeal have been met, which warrants a review of the decision(s) and/or finding(s) of the Misconduct Panel, and therefore **the appeal is upheld**
- b) That there is no evidence, insufficient evidence, and/or that the Misconduct Appeals Panel is not satisfied, on the balance of probabilities, that one or more of the grounds of appeal have been met, that therefore the original decision of the Misconduct Panel stands, and therefore **the appeal is not upheld**

Decision(s)

8.17. Once the Misconduct Appeals Panel has reached its findings as above, it will take any relevant action, as articulated below:

Appeal Upheld:

8.18. In the event that the appeal is upheld, the Misconduct Appeals Panel may:

- a) **Overturn, amend**, or (having reviewed the outcomes) **confirm** that the original findings and/or decision should stand. Where the original findings and/or decision are overturned, the Misconduct Appeals Panel will make new finding(s) and/or decision(s), which will replace those of the original Misconduct Panel.
- b) **Refer the matter back to a new Misconduct Panel** for fresh consideration. In this event the student would have right of appeal against the decision of the Misconduct Panel, but not against the decision of the Misconduct Appeals Panel to refer the matter. No member of the original Misconduct Panel will serve as a member on the new Misconduct Panel.

Appeal Not Upheld:

8.19. In the event that the appeal is not upheld, the original finding(s) and decision(s) of the Misconduct Panel will stand. However, the Misconduct Appeals Panel has the authority to make any reasonable orders (including referring the student under different procedures) or make any recommendations to the School Academic Board in accordance with its findings.

8.20. The findings and decisions of the Misconduct Appeals Panel are final. This includes the finding that the original finding(s) and/or decision(s) of the Misconduct Panel should stand.

8.21. As part of its decision-making, the Misconduct Appeals Panel may take the following into account:

In reaching Finding(s)

- Whether the evidence is of sufficient significance to cast doubt upon the reliability of the finding(s) and/or decision(s) arrived at by the original Misconduct Panel;
- whether there are any other or further concerns which have emerged which should be taken into account, or which require further investigation or warrant referral under another procedure (eg Support Through Studies)

In reaching decision(s)

- Whether any penalties previously handed down to the student warrant amendment (including an increase in severity, where fair and reasonable in the event of new evidence or information), or rescindment
- any action deemed necessary by either the student and/or School
- whether there are any matters which should be referred under alternative School procedures

General Panel Considerations when determining findings and reaching decisions

- The severity of the offence, including any aggravating factors resulting from its impact
- The student's engagement with the School during the misconduct and appeal process
- Whether there is any evidence of malicious intention
- The number of previous and/or contemporaneous misconduct offences, both non-academic and academic
- Whether the student has had any concerns about their conduct drawn to their attention prior to this instance of misconduct concerns
- Whether the student is in receipt of any formal warnings, or any other School sanctions
- Any mitigating circumstances and/or aggravating factors which are accepted by the Panel.

8.22. The Misconduct Appeals Panel will have the discretion to indicate a point in the future and/or the conditions under which a substantiated allegation of misconduct it has determined should stand following an appeal hearing, may be considered spent. Once spent, any record(s) of the offence will be removed from the student's file, including any records of any suspension or exclusion relating to the offence.

8.23. Where a student wishes to complain about, or disagrees with, a decision or finding(s) of the Misconduct Appeals Panel, they will have recourse to take their complaint to the Office of the Independent Adjudicator for Higher Education (OIA).

Hearing Outcome letter

8.24. The Secretary to the Misconduct Appeals Panel will send an Appeal Hearing Outcome Letter to the student, normally within 7 days of the date of the hearing. The Misconduct Appeals Panel Hearing Outcome Letter will set out the decision(s) of the Panel and the reasons for the decision(s), and will provide information on Completion of Procedures (see Section 8).

8.25. A copy of the Appeal Hearing Outcome Letter containing the finding(s) and decision(s) of the Panel will be placed on the student's file. As applicable and subject to the provisions set out in paragraphs 8.22-8.23 above, the student will also be advised that the finding(s) and decision(s) of the Misconduct Appeals Panel (and where applicable the original or new Misconduct Panel) may be taken into consideration in the event of a future finding of misconduct or unprofessional behaviour under this policy. The finding(s) and decision(s) of the Panel may also be taken into consideration by the School when determining whether to exercise powers of temporary exclusion or suspension in the future.

9. Completion of Procedures & Office of the Independent Adjudicator

- 9.1. The guidance published by the Office of the Independent Adjudicator shall be followed in the issuing of Completion of Procedures Letters to students in respect of these procedures⁸.
- 9.2. Once a Completion of Procedures Letter has been issued, a student may apply to the Office of the Independent Adjudicator for Higher Education (<http://www.oiahe.org.uk>) for external review in accordance with the rules to which the OIA scheme operates.

10. Monitoring and Assurance

- 10.1. In accordance with their terms of reference, a Misconduct Panel or Misconduct Appeals Panel may refer matters relating to individual student cases to the Academic Board. The School Academic Board will also, as part of its monitoring and quality assurance duties, monitor disciplinary matters, statistical data, or related issues arising from these procedures.
- 10.2. With reference to this Policy, the School Academic Board should:
- Review urgent recommendations made by the Misconduct Panel and/or Misconduct Appeals Panel expediently;
 - Monitor outcomes of cases, and any recommendations arising from panels;
 - Review annually all cases, recommendations and outcomes arising from the misconduct process and panel proceedings, as part of its annual monitoring, review and quality assurance processes;
 - Provide an annual report to Board of Governors
 - Report any matters to Board of Governors as appropriate, for maintenance and enhancement of quality assurance.
- 10.3. Where misconduct has been established in a case, or where a student has been temporarily suspended or excluded, or expelled under this policy, copies of the summary record and the outcome letter shall be placed on the relevant student's file and a record of the proceedings shall be kept centrally in the School for record and monitoring purposes. Both records shall be retained in accordance with The Place's records management policy.

⁸ <http://www.oiahe.org.uk/providers-and-good-practice/completion-of-procedures-letter.aspx>



