

STUDENT CODE OF CONDUCT AND DISCIPLINARY PROCEDURE 2019/ 20.

1 Introduction

- 1.1 This Code and Procedure forms part of the University Regulations and is made under the University's Articles of Government (Article 12.2): The Board of Governors, after consultation with the Academic Board and representatives of the students, shall make rules with respect to the conduct of students, including procedures for suspension and expulsion.
- 1.2 The purpose of the Code and Procedure is to regulate student behaviour in order to seek to maintain a safe environment which is conducive to teaching, learning, research, study and work and the enjoyment of a positive student experience, and to secure the proper functioning of the University in its broadest sense.
- 1.3 The Student Code of Conduct is appended to the Procedure together with other supporting documents to this Procedure.

2 Scope and Context

- 2.1 The Code and Procedure are applicable to all students of the University in term-time and vacation. They extend to alleged misconduct by a student on or off University premises (including via social media) whether the alleged victim is the University itself, a student or employee of the University or others visiting, working or studying at the University, or a member of the public; and to alleged misconduct occurring during University activities (including on placements and field trips) or which affects or concerns the safety or interests of other members of the University community or the University itself. The Code of Conduct (Appendix A) elaborates upon this general definition of misconduct at UCA.
- 2.2 The University is committed to meeting the requirements of the Equality Act 2010: to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act, advance equality of opportunity between people from different groups and to foster good relations between people from different groups.
- 2.3 Students' behaviour may be affected by some health conditions or disabilities. However, the University has a duty to ensure that members of the University community are not subjected to unacceptable behaviour and any allegations of inappropriate behaviour may be investigated. Where health conditions or disabilities may be a contributing factor, evidence of these will be taken into account as is appropriate in the circumstances. Where student conduct is found to be unacceptable as a result of a health condition or disability, the University will try to offer appropriate support to assist the student via the Support to Study Policy, but, at the discretion of the University Secretary, the University may take action under this Student Code of Conduct and Disciplinary Procedure.

- 2.4 This Code and Procedure should be read together with specific regulations covering academic requirements, including the requirements of particular physical areas of the University, and the Terms and Conditions of Residence which govern the University's residential accommodation.
- 2.5 They should also be read in conjunction with the policies and procedures relating to equal opportunities, freedom of speech and bullying and harassment.
- 2.6 The Student Code of Conduct and Disciplinary Procedure does not deal with issues relating to academic misconduct or behaviour. These are addressed in the Academic Misconduct Regulations.
- 2.7 The University's requirements regarding the prompt payment of tuition fees and other charges, together with sanctions for non-payment, are found in the University's Debtor's Regulations. The terms of payment for the University's residential accommodation are contained in the Terms and Conditions of Residence.
- 2.8 Students found in breach of the Student Code of Conduct may be subject to a disciplinary hearing that could put their study and/or their accommodation at the University at risk.

3. Overview of the Disciplinary Procedure

- 3.1 The University may initiate the disciplinary procedure where it considers there has been an alleged act of misconduct, howsoever that concern has been brought to the University's attention.
- 3.2 Whenever possible, the University believes that allegations that a student has committed a minor breach of the Student Code of Conduct should be dealt with informally between the individuals involved. Where a satisfactory resolution is not possible by this approach or the allegation is of a serious nature, the allegation should be brought formally to the attention of the Assistant Campus Registrar in accordance with the procedures below. It is at the discretion of the University whether to initiate an investigation into allegations of misconduct. If in the view of the University, a decision is taken not to investigate an allegation, the person making the allegation will be provided with written reasons for that decision.
- 3.3 A formal disclosure of misconduct may be received by any member of staff at the University. The member of staff receiving the disclosure should record basic details on the form in Appendix B. The form should be completed by the member of staff who receives the allegation. For matters of alleged misconduct that take place within University Accommodation (excluding sexual misconduct), the University Accommodation Manager or nominee may investigate without making a referral to the Assistant Campus Registrar. For all other disclosures of misconduct, in the first instance, the information in the form should be communicated to the relevant Assistant Campus Registrar (unless the disclosure is made directly to the Assistant Campus Registrar by the reporting student, in which case, the Assistant Campus Registrar shall complete the form) to advise on

whether the matter is appropriate for further investigation and whether any pre-cautionary measures (in accordance with Paragraph 4) or other measures are required regarding advice and support for those involved. A record should be made giving reasons why pre-cautionary measures are not taken in each case to demonstrate an appropriate risk assessment has taken place. The information is confidential and should only be shared internally on a need to know basis. Allegations may be the subject of an investigation and, where appropriate, referral onwards for a hearing. It shall be possible for the student against whom an allegation is made to appeal a decision in accordance with these regulations. The investigation, hearing and appeal should be conducted as quickly and fairly as possible.

- 3.4 If, in the opinion of the Assistant Campus Registrar or University Accommodation Manager or their nominee, a matter requires investigation, the procedures in these regulations should be followed. A matter may not require further investigation if the reporting student alleging misconduct does not wish to pursue the matter, wishes to remain anonymous or where it can be resolved informally between the parties. However, the University reserves the right to take a view on whether to investigate where appropriate. Disclosures may be documented and the University may consider whether other actions should be taken in light of the disclosure.
- 3.5 The decision regarding who should investigate serious matters of sexual misconduct should be referred to the Deputy Vice-Chancellor (Academic) or University Secretary. Further reference to the Deputy Vice-Chancellor within this Procedure is in relation to the Deputy Vice-Chancellor (Academic) only. In all other cases, matters may be investigated by the Head of School of the student against whom the allegations are made, or the Head of School's nominee. Where allegations relate to University managed accommodation and the student whom the allegation is against resides within accommodation, the matter will be investigated by the University Accommodation Manager or their nominee.
- 3.6 In matters where a serious sexual misconduct is alleged, the University shall follow the guidance and procedures set out in Appendix D.
- 3.7 The Assistant Campus Registrar or University Accommodation Manager or their nominee shall continue to be the point of contact for students during the entire disciplinary process and shall keep students updated on the progress of the matter. The Assistant Campus Registrar shall not investigate any matters but may assist in resolving minor matters at a local level where no sanctions are to be incurred by a student.
- 3.8 The standard of proof that shall be used in all cases that are dealt with under the disciplinary procedure shall be the balance of probabilities, which is the standard of proof used in civil law. The University will apply this standard of proof in misconduct matters because the internal disciplinary process is a civil matter and is based on upon an allegation that a student has breached the University's rules and regulations.

- 3.9 Students who are the subject of allegations of misconduct or who otherwise seek to interpret the provisions in the Student Code of Conduct and Disciplinary Procedure may seek support and advice from the Students' Union.
- 3.10 The University has the right to report any suspected criminal offence to the police.
- 3.11 Where the alleged misconduct might also potentially constitute an offence under criminal law, the Head of School/University Accommodation Manager, following consultation with the University Secretary, will report the allegations directly to the Deputy Vice-Chancellor. The procedures to be followed in these circumstances are set out in Paragraph 10.
- 3.12 The Deputy Vice-Chancellor or University Secretary may appoint a nominee to act on their behalf, if they are unavailable, or in cases where conflicts occur or for any other reason. It shall be at the discretion of the Deputy Vice-Chancellor or University Secretary to decide whether to refer the matter to an external investigator.
- 3.13 The Vice Chancellor, Deputy Vice-Chancellor or the University Secretary may vary the process under this Procedure to deal with misconduct cases where it is fair and reasonable to do so.
- 3.14 In cases of complaints against students which are investigated under these regulations, complainants will be informed if the decision maker has found substance to the complaint and if the disciplinary procedures are to be followed. However, the complainant may not be informed of the outcome of any disciplinary procedure or any penalty that may be awarded. This is because the data protection legislation regards such information as personal data and prohibits disclosure, unless the person who is subject to the complaint has given his or her consent.

4. Precautionary Suspension or other Precautionary Measures

- 4.1 Precautionary suspension or other precautionary measures may be imposed on any student who is alleged to have committed a breach of discipline at any stage including pending the outcome of police investigation or criminal/disciplinary proceedings.
- 4.2 Any decision to impose an order of precautionary suspension or other precautionary measures is at the discretion of the Deputy Vice-Chancellor and does not constitute an indication or finding of misconduct. If pre-cautionary measures are necessary, it may be appropriate to liaise with the accommodation office.
- 4.3 Where it appears to the Deputy Vice-Chancellor that precautionary action may be appropriate, this will only be considered where:
- 4.3.1 there is a risk of re-offending or further offending;

- 4.3.2 there is a risk, or perceived risk, that the student might harm themselves or others; or cause damage to property;
 - 4.3.3 there is a risk that the student's continued presence may inhibit a proper investigation.
- 4.4 Precautionary action will be reasonable and proportionate, seeking to mitigate any detriment that the student may potentially experience in connection with their studies and/or academic progression. Such action may include:
 - 4.4.1 suspending the accused student from their studies for a defined period of time (which may be extended). A student who is the subject of a precautionary suspension is prohibited from entering University premises and from participating in University activities. Precautionary suspension may be subject to qualification, such as written permission to hand in an assignment, take an examination, see a counsellor.
 - 4.4.2 restricting access to certain accommodation or facilities for a defined period of time (which may be extended). A student who is the subject of a precautionary access restriction is prohibited from accessing specified University facilities, which may include its residential accommodation, as a precautionary measure; and/or
 - 4.4.3 imposing conditions on the accused student for a defined period of time (which may be extended); for example, requiring the accused student not to contact the reporting student and / or certain witnesses and/or requiring the accused student to move accommodation.
- 4.5 The terms of the precautionary measures and reasons for them will be recorded by the Deputy Vice-Chancellor and made available to the student in writing, together with details of their right to make representations under paragraph 4.6. The record will be retained until the student has ended their registration with the University or for 7 years, whichever is the shorter period.
- 4.6 Unless the matter is deemed to be urgent by the Deputy Vice-Chancellor, no student shall be subject to precautionary measures [including any extension of a measure], unless he or she has been given an opportunity to make representations to the Deputy Vice-Chancellor. The representations may be made in person or in writing and may be put forward by the student or by the student's friend or other non-legal representative. In cases deemed to be urgent by the Deputy Vice-Chancellor, a student may be suspended and/or other precautionary measure imposed with immediate effect. An opportunity will be given to the student to make representations as soon as reasonably practicable.
- 4.7 A decision to impose precautionary suspension or other precautionary measures shall be subject to review at the request of the student after four weeks. Such a review will not involve a hearing, but the student, either personally or through his or her friend, student representative, or other representative, will be entitled to make written representations. The review will be conducted by the Deputy Vice-Chancellor. Any pre-cautionary measures taken may be notified to the reporting student or individual making the allegation where it is considered necessary to

protect the vital interests of either the reporting student or the student against whom the allegation has been made or where it is necessary for the purposes of the legitimate interests of the University.

- 4.8 In addition to the initial review, the Deputy Vice-Chancellor shall review the precautionary suspension or other precautionary measures on receipt of evidence of altered circumstances which might affect the order. In the event that a decision is made to end a precautionary measure or the student is successful in challenging the measure, it may be necessary to notify the student or staff member who has made the allegation.

5. Investigatory proceedings

- 5.1 For matters not referred directly to the Deputy Vice-Chancellor for a decision on who should investigate, the Head of School or the University Accommodation Manager (or their respective nominee) shall investigate. The relevant Head of School shall be dependent on the relevant course on which the accused student is registered. The investigator appointed will undertake an investigation to determine the substance of the allegation. The investigator should be a person with no previous involvement in the case and the following process should take place:
- 5.1.1 The investigator shall arrange to meet with the reporting student and any other witnesses to gather evidence. Evidence is likely to be, but not exclusively, in the form of a signed written statement from the person reporting the allegation and any other witnesses. Other forms of evidence may include, CCTV footage, emails, text messages, messaging on social media, mobile phone screen shots. A template for taking a witness statement is in Appendix C.
- 5.1.2 If an investigatory meeting is required, the student against whom the allegation has been made will be requested in writing to attend. The purpose of the investigatory meeting is for the student to answer questions pertaining to the alleged misconduct and to present their version of events. At an investigatory meeting, the student is entitled to be accompanied by a student or a Student Union representative or other representative. Legal representation is not normally permitted. If the student admits the allegation of misconduct, the matter may proceed to consider relevant actions to be taken as set out in 5.2.
- 5.1.3 The student against whom the allegation has been made should be provided with a copy of this procedure in advance of any meeting. Copies of evidence to be relied upon (including signed witness statements obtained from the investigation) should be given before the meeting to allow the student time to respond to the allegations. Information on any further support the student may require should also be provided, for example, from the Student's Union or Gateway Services. The accused student should be told very clearly what the allegation is about and who is making the allegation in advance of any meeting. The

student should be asked to bring any evidence or information to the meeting that they have if the allegation is denied. A note should be made of the meeting and a copy provided to the student after the meeting has concluded. Where possible, a record of what has been discussed can be signed as an accurate record by the investigator and the accused student at the conclusion of the meeting.

- 5.1.4 If the student fails to attend the meeting without good reason and / or fails to provide representations and / or evidence after being given the opportunity to do so, the investigator may reach a conclusion based on the evidence they have collected and this shall not constitute grounds for appeal. If the student subsequently submits evidence and exceptional reasons for absence, the investigator may set aside findings from the first missed interview and arrange a second interview.
 - 5.1.5 The investigator should produce a report to include information on the process followed, the information that has been gathered and their conclusions. A copy of the report should be provided to the accused student and information provided on the next steps.
- 5.2. Upon the conclusion of the investigation, the investigator may take one of the following actions (If the investigator is the nominee of a Head of School or University Accommodation Manager, the investigator should consult with the relevant head prior to imposing a sanction):
- 5.2.1 dismiss the allegation;
 - 5.2.2 uphold the allegation but take no further action;
 - 5.2.3 uphold the allegation and impose a sanction in accordance with paragraph 9 or;
 - 5.2.4 conclude that the alleged misconduct is such that it would be considered serious enough to convene a Disciplinary Panel to hear the matter. For the avoidance of doubt, any matter of alleged misconduct that may result in the suspension or expulsion of a student or in restricted access to the University shall be considered sufficiently serious to convene a Disciplinary Panel.
- 5.3 In cases of conflict or dispute between students, when a grievance raised is met by counter allegations, the investigator may, with the students' agreement, refer them to a facilitation or mediation service which shall be external to the University. In such cases, the University will not contribute to any costs.
6. **Appeal against the decision of the investigator (where there has been no hearing of the Disciplinary Panel)**

- 6.1 A student may request an appeal against the decision of the investigator. The appeal request must be made to the Deputy Vice-Chancellor in writing, setting out the full grounds of appeal, within five working days of the date of the written outcome, on the following grounds only:
- 6.1.1 that the decision should be overturned in the light of material new evidence that was not reasonably available before;
 - 6.1.2 that the process was not conducted fairly;
 - 6.1.3 that the decision was unreasonable in the light of the findings of fact; and/or
 - 6.1.4 that the sanction was too severe in the circumstances.
- 6.2 On receipt of the request for appeal, the University Secretary will consider the request and determine whether on its face it discloses valid grounds for appeal. If the University Secretary determines that grounds for appeal have not been disclosed, they will inform the student in writing of this and the Procedure will be exhausted.
- 6.3 If grounds for the appeal are accepted, the Deputy Vice-Chancellor may choose to investigate in whatever reasonable manner they see fit.
- 6.4 Normally appeals will be dealt with by way of a paper review. In cases where the student is given an opportunity to appear in person, the student has the right to be accompanied by a friend, supporter from the Students' Union or a non-legal representative and shall be given in writing not less than five working days' notice of the appeal hearing.
- 6.5 There will be no entitlement to a re-investigation of the case, which will be allowed only in exceptional circumstances. The Deputy Vice-Chancellor may:
- 6.5.1 refuse the appeal and uphold the original decision in whole or in part;
 - 6.5.2 allow the appeal in whole or in part;
 - 6.5.3 refer the case for fresh determination; and/or
 - 6.5.4 make a new decision.
- 6.6 The Deputy Vice-Chancellor will inform the student in writing normally within five working days of the conclusion of the appeal of their determination with reasons. The Deputy Vice-Chancellor's decision is final in respect of an appeal against the findings of the investigator or the sanction imposed; there is no further right of internal appeal.

7. Referral to Disciplinary Panel

- 7.1 Where matters are considered sufficiently serious by the investigator to merit suspension or expulsion or restricted access to the University, the matter may be referred to the Deputy Vice-Chancellor who will set up a Disciplinary Panel to hear the matter.
- 7.2 The Disciplinary Panel shall comprise of 2 members independent of the case from amongst the Leadership Team and the Senior Managers, together with an officer of the Students' Union, to consider the allegation. The Deputy Vice-Chancellor shall appoint one of the Panel as Chair. The Deputy Vice-Chancellor will also appoint a further individual to act as Clerk to the Disciplinary Panel.
- 7.3 The Disciplinary Panel shall conduct a hearing of the allegation. The Disciplinary Panel shall consider: the evidence presented before them; the accused student's response to the allegation; any witness statements including those provided to the panel in person; and the gravity and frequency of the conduct alleged. The procedures for the hearing shall normally include:
 - 7.3.1 the student shall be given in writing not less than 10 working days' notice of the date, time and place of the hearing together with an explanation of the nature of the allegation and copies of any reports, statements or other written evidence in support of the allegation and the details of who will be on the Disciplinary Panel;
 - 7.3.2 the student may, not less than 5 working days before the hearing, forward to the Chair of the Disciplinary Panel a written statement and other supporting evidence (if appropriate) in response to the allegation;
 - 7.3.3 the student shall have the right to appear before the Disciplinary Panel at the hearing to consider the allegation and has the right to be accompanied by a friend, supporter from the Students' Union or a non-legal representative;
 - 7.3.4 should the student fail to attend the hearing, the hearing may be conducted in their absence or the hearing adjourned at the discretion of the Chair;
 - 7.3.5 the investigator shall present the allegation, and any supporting evidence, to the Disciplinary Panel, may call witnesses and question the student and witnesses called by the student;
 - 7.3.6 the Disciplinary Panel shall give the student the opportunity, either personally or by their representative, to respond orally to the case presented against them, present documentation, call witnesses and question witnesses called by the investigating officer;
 - 7.3.7 in exceptional circumstances, where it is considered appropriate to do so, alternative arrangements may be made in relation to the questioning

of witnesses where a witness is considered to be vulnerable or where a witness is unable to attend in person (for example, by video call);

7.3.8 the Disciplinary Panel may question any witnesses and the student;

7.3.9 both the investigator and the student (either personally or by their representatives) shall have the opportunity to summarise the evidence for and against the allegation, with the student being permitted to make final representations;

7.3.10 the investigator and the Clerk will form no part of the decision making panel;

7.3.11 if in exceptional circumstances the Disciplinary Panel deems it appropriate, it may adjourn the hearing for a short period at any stage (for example, to allow further investigation of the relevant evidence);

7.3.12 the Disciplinary Panel shall retire to determine the matter in private.

7.4 It is the responsibility of the Disciplinary Panel to determine the outcome of the disciplinary hearing and to decide whether the allegation is proven on the balance of probabilities. If the allegation is proven on the balance of probabilities, one or more of the sanctions as set out in paragraph 9.4 below may be imposed. The Disciplinary Panel may make a recommendation as to the sanction to the Deputy Vice-Chancellor for approval. The Deputy Vice-Chancellor is not obliged to accept the recommendation of the Disciplinary Panel and may impose another and / or additional sanction as laid out in 9.4. Where the Disciplinary Panel is unable to make a finding of misconduct on the balance of probabilities, it shall dismiss the allegation.

7.5 The student shall be advised in writing, normally within 10 working days following the conclusion of the hearing, of the Disciplinary Panel's decision with reasons.

7.6 The student has a right to request an appeal against the decision of the Disciplinary Panel within 5 working days of the date of the written outcome.

8. Appeal against the decision of the Disciplinary Panel

8.1 A request for an appeal should be made in writing by the student to the Vice-Chancellor within 5 working days of the date of the written outcome of the Disciplinary Panel's decision, including full details of the grounds for appeal.

8.2 A request for an appeal against the Disciplinary Panel's decision given in accordance with the above procedure can only be made on one or more of the following grounds:-

- 8.2.1 that material new evidence has come to light that was not reasonably available before;
 - 8.2.2 that the original hearing was not conducted fairly;
 - 8.2.3 that the decision was unreasonable in the light of the findings of fact; and/or
 - 8.2.4 that the sanction was too severe in the circumstances.
- 8.3 On receipt of the request for appeal, the University Secretary (or nominee) will consider the request and determine whether on its face it discloses valid grounds for appeal. If the University Secretary determines that grounds for appeal have not been disclosed, they will inform the student in writing of this and the Procedure will be exhausted.
- 8.4 If grounds for the appeal are accepted, the Vice-Chancellor will convene a Disciplinary Appeal Panel comprising two members from amongst the Leadership Team and the Senior Managers (other than those who served on the Disciplinary Panel convened under paragraph 7.2) and the Vice-Chancellor as Chair. In the very exceptional circumstances that the Appeal Panel could not be formed with such members, the Vice-Chancellor would invite a member the Board of Governors, other than staff or student members, to join the Panel.
- 8.5 There is no right of appeal against the sanction imposed by the Disciplinary Panel other than on the grounds set out above in 8.2 above.
- 8.6 The Vice-Chancellor shall convene a meeting of the Disciplinary Appeal Panel as soon as is practically possible, and normally not more than 25 working days from receipt of the appeal.
- 8.7 The procedures for the Disciplinary Appeal Panel shall include that:-
- 8.7.1 the student shall be given in writing not less than 10 working days' notice of the date, time and place of the appeal hearing;
 - 8.7.2 the student shall, not less than 5 working days before the appeal hearing, forward to the Chair of the Vice-Chancellor's Disciplinary Appeal Panel a written statement and other evidence (if appropriate) supporting or contesting (as appropriate) the grounds of appeal;
 - 8.7.3 the student has a right to appear before the Vice-Chancellor's Disciplinary Appeal Panel to present their appeal and to be accompanied by a friend, supporter from the Students' Union or a non-legal representative;
 - 8.7.4 should the student fail to attend the appeal hearing, the hearing may be conducted in their absence or the hearing adjourned at the discretion of the Chair;

- 8.7.5 the student shall present the appeal (personally or by their representative) and any supporting evidence, to the Vice-Chancellor's Disciplinary Appeal Panel and may call witnesses;
 - 8.7.6 the Vice-Chancellor shall appoint a university representative to respond to the appeal with any supporting evidence and who may call witnesses;
 - 8.7.7 in exceptional circumstances, where it is considered appropriate to do so, alternative arrangements may be made in relation to the questioning of witnesses where a witness is considered to be vulnerable or where a witness is unable to attend in person (for example, by video call)
 - 8.7.8 the Disciplinary Appeal Panel may question any witnesses and the student;
 - 8.7.9 both the university representative and the student (either personally or by their representatives) shall have the opportunity to summarise their case;
 - 8.7.10 if in exceptional circumstances the Disciplinary Appeal Panel deems it appropriate, it may adjourn the hearing for a short period at any stage (for example, to allow further investigation of the relevant evidence);
 - 8.7.11 the Disciplinary Appeal Panel shall retire to determine the matter in private.
- 8.8 The Disciplinary Appeal Panel, having considered the case, shall make a decision normally within 5 working days following the conclusion of the appeal hearing as follows:
- 8.8.1 refuse the appeal and uphold the original decision in whole or in part;
 - 8.8.2 allow the appeal in whole or in part;
 - 8.8.3 refer the case for fresh determination;
 - 8.8.4 and/or make a new decision.
- 8.9 The student shall be advised in writing, normally within 10 working days following the conclusion of the appeal hearing, of the decision of the Vice-Chancellor's Disciplinary Appeal Panel. The Panel's decision is final and there is no further right of appeal.

9. Sanctions

- 9.1 When determining the sanction, consideration will be given (as relevant in the case) to the nature and seriousness of the misconduct, the circumstances of the misconduct, and the means and general personal circumstances of the student. If

a student is found guilty in respect of an allegation of misconduct, sanctions may be imposed by the University as follows:

- 9.1.1 A Head of School acting as investigator may impose sanctions. 9.4.1-9.4.6;
 - 9.1.2 The nominee of the Head of School acting as investigator may impose sanctions 9.4.1 – 9.4.6 after consultation with the Head of School;
 - 9.1.3 The University Accommodation Manager acting as investigator may impose sanctions 9.4.1 – 9.4.7;
 - 9.1.4 The nominee of the University Accommodation Manager acting as investigator may impose sanctions 9.4.1 - 9.4.7 after consultation with the University Accommodation Manager;
 - 9.1.5 The members of the Disciplinary Panel may recommend any of the sanctions in 9.4;
 - 9.1.6 The Vice Chancellor or the Deputy Vice-Chancellor may impose any of the sanctions in 9.4;
 - 9.1.7 The Disciplinary Appeal Panel may impose any of the sanctions in 9.4.
- 9.2 Any sanction that affects the accommodation arrangements of a student must be carried out in consultation with the accommodation office.
- 9.3 Where a student is found guilty of misconduct under this Procedure, and a student has also been sentenced by a criminal court, the sentence imposed by the criminal court may be taken into account in deciding the sanction under this Procedure.
- 9.4 Where there is a finding on the balance of probabilities of misconduct, the Disciplinary Panel may decide to take no further action or, impose one or more of the following sanctions,
- 9.4.1 a written warning requiring the student to give an undertaking as to their future good conduct and to meet any other stipulated conditions; and advising of the likely consequences if those conditions are not met or if the student commits a further breach of the Student Code of Conduct;
 - 9.4.2 a fine of up to a maximum of £500. This maximum figure will be subject to periodic review by the Board of Governors;
 - 9.4.3 a restriction on access to the Student Union bar or to University managed residential accommodation (only where a student is not resident in student managed accommodation) between defined hours for a specified period;
 - 9.4.4 a requirement to pay a reasonable sum by way of compensation for identified and quantified loss;

- 9.4.5 a requirement to perform unpaid services for the University community to a maximum of 40 hours;
- 9.4.6 a requirement to participate in a programme identified to educate students about a particular type of misconduct and its consequences;
- 9.4.7 relocation within or removal from the Halls of Residence or other University managed residential accommodation, giving such notice as is legally required, of the termination of the residential licence on a student who is in breach of the terms of the Terms and Conditions of Residence;
- 9.4.8 an access restriction, prohibiting access to specified facilities or buildings (e.g. residential accommodation), or contact with named staff and/or named students, for a defined period, up to a maximum of twelve months. The terms of the restriction will be notified to the student in writing;
- 9.4.9 deferred expulsion for a fixed period of time, up to a maximum of 12 months. Any further breach of the Code of Conduct within that period and/or failure to comply with additional sanctions imposed by the Deputy Vice-Chancellor (Academic) will normally result in the student being expelled from the University following due process;
- 9.4.10 suspension from the University for a fixed period of time, up to a maximum of twelve months. A student who is suspended is prohibited from entering all University premises, and from participating in University activities. Suspension may be subject to qualification, such as permission to take an examination. The terms of the suspension will be notified to the student in writing. An order of suspension may include a requirement that the student shall have no contact with a named person or persons; and/or
- 9.4.11 expulsion from the University, which means that the student ceases to be a member of the University, and loses all rights and privileges of membership, including the right to complete his or her studies;

10. Allegations of Misconduct that may also constitute a Criminal Offence

- 10.1 The University has the right to report any suspected criminal offence to the Police. Where the alleged victim is not the University, the University will, as is appropriate in the circumstances, take into account the views of the alleged victim as to whether or not they wish to report the matter to the Police. However, the University may report a suspected crime contrary to the wishes of the alleged victim if the University considers it necessary to do so (for example to protect the alleged victim or others from harm or to prevent a further crime taking place). In these exceptional circumstances, the University will be mindful of its obligations to individuals under the data protection legislation. .

- 10.2 The Campus Registrar shall advise the alleged victim regarding the options. The key options for the alleged victim will usually be to make a report to the police, to take some time to consider the options, not to report the matter to the police but to request the University to consider the matter under these regulations or take no further action. If the alleged victim decides to pursue the matter through the University regulations, the disciplinary process should be explained to the student and that it will be treated as a potential breach of discipline only.
- 10.3 In cases where it is alleged that a rape or sexual assault has occurred, the Campus Registrar shall provide information to the student making the allegation about the nearest sexual assault referral centre. Details of the nearest centres to each campus can be found in Appendix D. Where the student has decided to take time to consider the options, the Campus Registrar should contact the student within seven days of the report as to which options the student has decided to pursue and record the discussion.
- 10.4 Where a matter is not reported to the police, the University may nevertheless decide to proceed with internal disciplinary (or other) action. Any such cases will be dealt with under the relevant University regulations as internal University matters (for example, potential breaches of the Student Code of Conduct) and not as suspected breaches of the criminal law.
- 10.5 Where the matter has been reported to the police no internal disciplinary action will normally be taken against the accused student other than potential precautionary measures until either a prosecution has been completed or a decision not to prosecute has been taken. Where the student is acquitted of a criminal offence or where the criminal investigation has been dropped, the University retains a discretion to proceed with internal disciplinary (or other) action in appropriate cases.
- 10.6 Where internal University action is stayed pending a police investigation or the outcome of a criminal prosecution the University will consider and keep under review what steps it might reasonably take to support the alleged victim and/or the alleged perpetrator and to mitigate any detriment that they may potentially experience in connection with their studies and/or academic progression.
- 10.7 The University may take disciplinary action under this Procedure notwithstanding a decision not to prosecute a student or the acquittal or conviction of a student in the criminal courts.
- 10.8 Where an allegation of misconduct is proven under this procedure and a student has also been sentenced by a criminal court, the sentence imposed by the criminal court may be taken into account in deciding the sanction under this Procedure.

11. Independent External Review

- 11.1 Where an undergraduate or postgraduate student is dissatisfied with the outcome of the University's disciplinary procedure, they may refer the outcome of the case,

as a complaint, to the Office of the Independent Adjudicator for Higher Education (OIA).

- 11.2 The OIA provides an independent scheme for the review of unresolved student complaints. The complaint must be submitted to the OIA within 12 months of the date of issue of the Completion of Procedures letter.
- 11.3 Further details about the OIA can be obtained from the Student Appeals & Complaints Manager, or from the following website: <http://www.oiahe.org.uk/> or by contacting the OIA at the following address:

The Office of the Independent Adjudicator for Higher Education
Second Floor
Abbey Gate
57 – 75 Kings Road
Reading RG1 3AB
Telephone: 0118 959 9813
Email: enquiries@oiahe.org.uk

- 11.4 Where a further education student is dissatisfied with the outcome of the University's disciplinary procedure, they may refer the outcome of the case, as a complaint, to the awarding body.
- For students on Foundation Diploma, Diploma or Extended Diploma, refer to the UALAB regulations at: <http://www.arts.ac.uk/about-ual/awarding-body/about-us/policies-and-procedures/>
 - For students on Access Courses, refer to the Laser Learning regulations at <http://laserawards.org.uk/content2.asp?id=487>

Appendix A

Student Code of Conduct

Scope

The Student Code of Conduct sets out the standards of conduct the University requires of its students in order to seek to maintain a safe environment for those who study, work or visit the University which is conducive to teaching, learning, research, study and work and the enjoyment of a positive student experience and to secure the proper functioning of the University in its broadest sense.

1. Behaviour that is required of students

The Law and the University

- i) Students are required to act within the law and not to engage in any activity or behaviour that brings the University into disrepute or which interferes with its proper functioning.

Students are required to inform the University if they receive a relevant unspent criminal conviction whilst they are a student at UCA. Relevant criminal offences include convictions, cautions, admonitions, reprimands, final warnings, bind over orders or similar involving one or more of the following:

- Any kind of violence including (but not limited to) threatening behaviour, offences concerning the intention to harm or offences which resulted in actual bodily harm
- Offences listed in the Sex Offences Act 2003
- The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking
- Offences involving firearms
- Offences involving arson
- Offences listed in the Terrorism Act 2006.

If a conviction involves an offence similar to those set out above, but was made by a court outside of Great Britain, and that conviction would not be considered as spent under the Rehabilitation of Offenders Act 1974, students should declare it as they would any other unspent conviction.

People

- ii) Students are required to behave at all times in a considerate, respectful manner towards staff, fellow students, visitors and any other members of the University community. Rights to freedom of expression and belief must be respected. Sexual violence and hate incidents will not be tolerated and there shall be no harassment on any grounds. Students must not impede staff in the performance of their duties and must comply with instructions and requests issued by any member of staff at any time.

Property

- iii) Property must be respected whether it belongs to the University, to the Students' Union, to students, staff, visitors or other members of the University community. It must not be moved without due authorisation, or damaged.

Premises

- iv) University premises must not be damaged or defaced in any way. Access shall be restricted to areas which are made available for students' work or for their social, recreational or residential use. Access to other areas, such as roofs, maintenance workshops and storerooms and boiler rooms, is strictly forbidden. Within areas of authorised access, restrictions over time or mode of use must also be observed. This includes all 'no smoking' restrictions.

Health and Safety

- v) Students must familiarise themselves with, and observe, all health and safety regulations both for the University in general and for particular areas which they use, e.g. workshops or residential accommodation. Students must wear their ID card at all times whilst on campus.

Noise and Nuisance

- vi) Noise, including the playing of music, must at all times be kept to a volume unlikely to offend or distract others. Similarly, activities in public areas which constrict their use by others must be avoided. Mobile devices must be silenced or switched off in the teaching areas, workshops, libraries and during assessment. Litter must not be left anywhere.

Vehicles

- vii) Private vehicles, which must be fully registered and taxed and must display a University permit, may be parked on the campus only in authorised places. Sleeping overnight in parked vehicles on campus is forbidden.

Visitors

- viii) Students may bring visitors to the University subject to any local restrictions (e.g. to workshops only with the prior permission of the academic staff, or to the Students' Union only in accordance with membership rules). Hosts shall be responsible for the conduct and safety of their guests. Rules for visitors apply, in particular to any children or external speakers brought into the University.

Academic

- ix) Students are required to undertake their academic work and research with integrity and honesty, and not to seek to gain advantage over other students by unfair or improper means. The 'Policy and Procedures on Academic Misconduct' set out further the University's requirements in this regard and the procedures for dealing with allegations of academic misconduct.

Students under 18 Years of Age

- x) Students under the age of 18 are not permitted to use any workshop equipment or machinery without the prior permission and supervision of a member of University staff associated with their course.

2. Examples of behaviour which will be regarded as misconduct

The University considers the forms of behaviour set out below to constitute misconduct that is likely to lead to disciplinary action. However, the list is not to be regarded as exhaustive.

- i) Disruption of, or improper interference with, the academic, research, administrative, sporting, social or other activities or functioning of the University.
- ii) 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 or with the enjoyment by students of a positive student experience.
- iii) Action which otherwise improperly damages the University or its reputation.
- iv) Violent, indecent, disorderly, threatening, intimidating, improper or offensive behaviour or language (whether expressed verbally, in writing or electronically, including via blogs, social networking websites or other electronic means).
- v) Bullying or harassment of any student or member of staff of the University, or any visitor to the University.
- vi) Sexual misconduct (including violence) against or sexual harassment of any student or member of staff of the University, or any visitor to the University. The following are examples of sexual misconduct, whether or not the activity took place within a relationship or not:
 - sexual intercourse or engaging in a sexual act without consent;
 - attempting to engage in sexual intercourse or engaging in a sexual act without consent;
 - sharing private sexual materials of another person without consent (for example: images, video, voice recordings, text message, letters, emails, etc);
 - kissing without consent;
 - touching inappropriately without consent;
 - inappropriately showing sexual organs to another person;
 - making unwanted remarks of a sexual nature.
- vii) Discrimination, harassment or victimisation of others on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.
- viii) Hate crimes or incidents motivated by hostility on the grounds of age, race, religion or belief, sexual orientation, disability, gender or transgender identity.
- ix) Actions which involve making defamatory statements and/or false claims about a member of the University community.

- x) Failure to respect the rights of others to freedom of belief and freedom of speech and expression.
- xi) Fraud, deceit, deception or dishonesty in relation to the University or its staff, students or visitors.
- xii) In addition, the following may be considered grounds for misconduct:
 - a. Failure to disclose a relevant 'unspent' criminal conviction, or
 - b. Failure of a student who undertakes paid or unpaid activity which brings them into frequent contact with children or vulnerable adults whilst in their student role, to reveal any conviction or offence, obtained either pre or post-admission
- xiii) Theft, misappropriation or misuse of University property, or the property of the University's staff, students or visitors
- xiv) Misuse or unauthorised use of University premises and property, including computer misuse.
- xv) Damage to or misappropriation of University property, or the property of the University's staff, students or visitors, caused intentionally or recklessly.
- xvi) Action likely to cause injury or impair safety on University premises.
- xvii) Any interference with fire detectors, fire alarms or fire extinguishing equipment.
- xviii) The possession, use or supply of illegal drugs.
- xix) Unacceptable behaviour arising from the consumption of alcohol or other substances.
- xx) Breach of the provisions of any University code, rule or regulation, including, but not limited to the IT Use Policy, Smoking Policy, Alcohol. Drugs and Substance Misuse Policy, Health & Safety Policies, the Data Protection Policy and the Equality & Diversity Policy.
- xxi) Conduct which constitutes a criminal offence where that conduct:
 - a. takes place on University premises,
 - b. affects or concerns other members of the University community,
 - c. damages the good name of the University, and/or
 - d. itself constitutes misconduct under the terms of this Code
- xxii) Failure to disclose details of personal identification to a member of staff in circumstances in which it is reasonable to require that such information be given.
- xxiii) Failure to comply with a reasonable instruction relating to discipline, issued with the Vice-Chancellor's authority.

Appendix B Disclosure of Student Misconduct Form

Name of person making initial disclosure:
Address:
Telephone:
Email:

Name of person subject of alleged misconduct (if different from above):
Address:
Telephone:
Email:

Name of person allegation of misconduct is against:
Address:
Telephone:
Email:

Details of alleged misconduct (please include what the misconduct is / relevant date / time / location / names and contact details of any witnesses):

Date misconduct reported to Assistant Campus Registrar:
Name of person and contact details for person completing this report:

For Assistant Campus Registrar to complete: provide details of any action taken and reason:

--

Appendix C Template witness statement

WITNESS STATEMENT OF [WITNESS NAME]

I [name of witness] of [[insert address] OR [an address made known to [insert party]]] will say as follows:

1. I have been asked to make this statement by the University in relation to an allegation regarding student misconduct. I make this statement from matters that fall within my own knowledge. Where matters are not from within my own knowledge, I will state the source of my knowledge.
2. [Insert all other information and evidence in chronological order as far as possible.]
3. I understand that my statement may be used in evidence for the purpose of an investigation into student misconduct and / or a disciplinary hearing. I confirm that I am willing to attend any such hearing to give evidence if asked to do so.
4. I understand and consent that the information in this statement may be shared with others in the University for the purposes of investigating student misconduct. I also understand and consent that this information may be shared with the police for the purposes of an investigation

I believe that the facts stated in this witness statement are true.

Signed.....

Dated.....

Appendix D Additional Guidance for allegations of Sexual Misconduct

Scope

This additional guidance relates specifically to those experiences which have occurred during the course of study at the University, in which the accused party is a current student of the University. Disclosures and reports made under this policy are not limited to University premises or the immediate geography of the University.

Definitions

Types of behaviour:

Sexual misconduct includes a broad spectrum of sexual behavior. For the purposes of this Policy, sexual misconduct is defined as any unwanted conduct of a sexual nature which occurred in person, or by letter, telephone, text email or other electronic and / or social media and includes, but is not limited to the following behaviour:

- sexual intercourse or engaging in a sexual act without consent;
- attempting to engage in sexual intercourse or engaging in a sexual act without consent;
- sharing private sexual materials of another person without consent (for example: images, video, voice recordings, text message, letters, emails, etc);
- kissing without consent;
- touching inappropriately without consent;
- inappropriately showing sexual organs to another person;
- making unwanted remarks of a sexual nature.

Terminology:

Consent is the agreement to participate in a sexual act where the individual has both freedom and capacity to make that decision. Consent cannot be assumed on the basis of previous sexual experience or previously given consent, or from absence of complaint and each new sexual act requires a re-confirmation of consent as the foundation of a healthy and respectful sexual relationship. Consent may be withdrawn at any time.

Freedom to consent means the individual freely engages in a sexual act. Consent cannot be inferred from a lack of verbal or physical resistance.

Capacity to consent; free consent cannot be given if the individual does not have the capacity to give consent. Incapacitation may occur when an individual is asleep, unconscious, semi-conscious or in a state of intermittent consciousness or any other state of unawareness that a sexual act may be occurring. Incapacitation may also occur on account of a mental or developmental disability or as a result of alcohol or drug use.

Confidentiality; where possible this will be maintained throughout the matter however, the University reserves the right and may be under an obligation to share information in exceptional circumstances where such disclosure is necessary to protect any individual or the wider University community from harm or to prevent a crime from taking place. Information may be shared with counsellors, witnesses, external experts from specialist agencies like Rape Crisis, Sexual Assault Referral Centres or the Police with the permission of the reporting party. All individuals involved must keep information that is disclosed confidential. Unauthorised disclosure of confidential information may be considered a violation of this policy and further action may be taken against the individual making an unauthorised disclosure.

Procedure

The University recognises the importance of minimising the number of times the reporting party has to disclose an incident of sexual misconduct. The University respects the right of the reporting party to choose how to take forward a disclosure of sexual misconduct and therefore it is important that all staff know how to react on receipt of a disclosure.

Following a disclosure of sexual misconduct, the reporting party will be given their options along with information on resources for specialist support. The University recognises that the reporting party may require time and reflection before making a decision. The reporting party will be given the option and support to do one or more of the following;

- Report the matter to the Police
- Make a report to the University under this policy
- Make no report of the incident; and / or
- Receive advice on the support that is available

In particular, staff will signpost anyone who discloses that they have been targeted by someone engaging or attempting to engage in a sexual act without the reporting party's consent to the local Sexual Assault Referral Centre (SARC) so that they may access services provided. The SARC can provide information on how to preserve evidence even if the reporting party is unsure about whether to report the matter to the Police. Staff can make a referral on behalf of the reporting party with their agreement.

If the reporting party is unwilling for the accused party to be informed of the allegation, the University will not be able to proceed with any investigation. The reporting party must be informed that if a formal investigation is commenced by the University, signed witness statements will be required and other witnesses may be questioned by the investigating officer to assess the evidence. If deemed sufficiently serious, a panel may be convened to hear the evidence and question witnesses. If the matter is proven on the balance of probabilities, the accused party may receive a University sanction in accordance with this Policy.

Staff who receive a disclosure regarding a sexual misconduct must report the matter to the Assistant Campus Registrar in accordance with 3.3 in this Procedure. The Assistant Campus Registrar shall consider a risk assessment in accordance with this procedure. In matters of sexual misconduct, the Assistant Campus Registrar shall consult the relevant Head(s) of School and make a direct referral to the Deputy Vice-Chancellor or University Secretary. The Deputy Vice-Chancellor or University Secretary shall consider any pre-cautionary measures (if required) and make a decision on the most appropriate next steps including whether to investigate the matter and if so, who should conduct the investigation.

Investigating Officers shall act promptly and tactfully observing appropriate levels of confidentiality at all times. Appropriate measures should be taken to provide a safe, comfortable environment in which to discuss the alleged incident with the reporting party, the accused party and any witnesses. The processes outlined in the procedure for investigation in part 5 shall be followed.

Contact details for the nearest SARCs are provided below.

Sexual Assault Referral Centres contact details:

Beech House, Unit 7 & 8 North Court
South Park Business Village
Armstrong Road
Maidstone
Kent
ME15 6JZ
01622 726461
0800 133 7432
www.beechhousesarc.org

Solace Centre
Cobham Community Hospital
168 Portsmouth Road
Cobham
Surrey
KT11 1HT
0300 130 3038

The Saturn Centre
Crawley Hospital
West Green Drive
Crawley
West Sussex
RH11 7DH
01293 600469
www.saturncentre.org

Brentwood Community Hospital
Crescent Drive
Brentwood
Essex
CM15 8DR
01277 240620