

UHI | SHETLAND

UHI Shetland, University of the Highlands and Islands

Student Disciplinary Procedure

1. Introduction

- 1.1. This procedure supports the Student Conduct Policy and the Student Code of Conduct.
- 1.2. This procedure is designed to give students and staff a clear framework to fairly and promptly address any situations which may arise around student conduct and suspected breaches of the Student Code of Conduct.
- 1.3. The Student Disciplinary Procedure is part of a suite of documents, including:
 - Academic Misconduct Policy
 - Fitness to practise guidelines (course-specific)
 - Gender Based Violence Policy (forthcoming 2022/23)
 - Mental Health Strategy
 - Mitigating Circumstances Procedure
 - Support to Study Procedure
 - Student Code of Conduct
 - Student Conduct Policy
 - Student Criminal Offence Data Disclosure Policy (forthcoming 2022/23)
 - Student Mental Health and Counselling Policy
 - Suicide Intervention and Risk Management Policy and Guidance
 - Safeguarding Policy
 - University of the Highlands and Islands Academic Standards and Quality Regulations
 - University of the Highlands and Islands Academic Misconduct Guidance

2. Scope

- 2.1. This procedure applies to all students regardless of level enrolled on a programme of study at UHI Shetland or who are enrolled at another academic partner but are studying at UHI Shetland.
- 2.2. This procedure applies to suspected breaches of the Student Code of Conduct in physical and virtual environments, including social media and messaging services.
- 2.3. The procedure applies to suspected breaches of the Student Code of Conduct on campus and off campus.

- 2.4. Both staff and students can report suspected breaches of the Student Code of Conduct.
- 2.5. For students who are also school pupils, refer to Section 7.

3. Principles

- 3.1. The Student Disciplinary Procedure seeks to act without bias and provide all involved with the right to a fair hearing. UHI and partners understand that raising a concern or being investigated under the Student Disciplinary Procedure can be stressful. Support is available from UHI Shetland HISA should students wish.
- 3.2. As per section Student Conduct Policy section 3.4, any breach of the Student Code of Conduct which may also constitute a criminal offence will be reported to the police and may lead to separate criminal proceedings. UHI Shetland will discuss the situation with the student raising a concern prior to any police referral being made, but due to our duty of care have an obligation to refer to the police in some circumstances regardless of whether the students involved support the action.
- 3.3. As a general principle UHI and partners will always seek to disclose only relevant information as part of the Student Disciplinary Procedure. However, in a situation where a student raising a concern against another student it is likely that the evidence provided by the student raising a concern will form a key part of disciplinary proceedings against the other student. Care must be taken to ensure that both students are treated fairly, have a proper opportunity to put their case, and a proper opportunity to challenge the evidence of the other.
- 3.4. Should a student raising a concern not give their consent to information they provide being used during a disciplinary investigation they must make staff aware. The student should also understand that it may be difficult to proceed to an investigation without the sharing of evidence.
- 3.5. The procedure has an accompanying privacy notice which should be considered by staff and students.

4. Exceptions

- 4.1. There are separate procedures for academic misconduct.
- 4.2. In situations where a student's conduct may be related to a health condition e.g. mental health condition or a condition identified in a Personal Learning Support Plan (PLSP), additional support and use of the Support to Study Procedure and/or relevant fitness to practise procedures may be considered alongside or instead of this procedure.
- 4.3. This procedure is distinct from UHI Shetland Complaints Handling Procedure. Breaches of the Student Code of Conduct cannot be investigated by the Complaints Handling Procedure.

5. Definitions

- 5.1. **Precautionary Action:** In the event of an allegation of misconduct, a student may be excluded from UHI Shetland until the investigation is completed if there is risk of harm to themselves, other students or staff. During this time they will be able to continue to study remotely and will continue to receive student support funds. Precautionary action is not a punishment but is intended to protect the interests of all parties.

Where precautionary action is to be used the Head of Student Experience, or other Senior Management Group member where appropriate, should inform the student by letter explaining that they are being excluded to allow an investigation to occur.

Precautionary action may also include measures up to complete exclusion from UHI Shetland, e.g. removal of access to a course of study or specific building. Consideration should also be given to removing access to other university and academic partner facilities.

5.2 Exclusion from Campus: The removal of the student's access to all sites constituting UHI Shetland campus for a specified period of time in response to a disciplinary incident. In some circumstances this exclusion may extend to all university and academic partner campuses. The student may continue to study remotely throughout this period.

5.3 Exclusion from Studies: The removal from the student's course of study in response to a disciplinary incident, resulting in the loss of registered student status and loss of access to all facilities.

In some circumstances this exclusion may apply to the university and all academic partners for a period of time deemed appropriate by the disciplinary procedure. In some cases this may result in any future applications from the student being rejected.

5.4 Suspension of Studies: A suspension of studies is not a disciplinary measure. When a student chooses to take a period of time out from their studies because of a change in their personal circumstances, with the intention to return at a later date. The option of suspension of studies is dependent on what the student's course allows.

6. Procedure

6.1 It is widely acknowledged that disruptive conduct is a barrier to learning and can negatively impact on the learning and wellbeing of the student themselves and/or other students and staff. This procedure should be implemented promptly as early intervention and support can result in better outcomes for the student and may avoid the situation becoming more complex.

All staff have a responsibility to promote a positive learning environment and challenge conduct contrary to the Student Code of Conduct. Staff should ensure that, when intervening in any situation, they consider their own safety as well as the safety of other staff and students.

At any stage during the disciplinary procedure, if a student is found not to be responsible for any suspected misconduct then the investigation will be closed and no further action taken.

6.2 Students reporting a suspected breach of the Student Code of Conduct

Students can report suspected breaches of the Student Code of Conduct to any member of staff. Should the report be of a personal or sensitive nature, students can discuss the issue with a member of staff they trust or speak to a representative from the Highlands and Islands Students Association (HISA) to find out more about the type of support they can offer. The member of staff will follow the process below as appropriate.

6.3 Informal Stage

6.3.1 UHI Shetland will usually try to deal with suspected breaches of the Student Code of Conduct informally first, and only use the formal disciplinary procedure when this proves unsuccessful,

or it is inappropriate in the circumstances (e.g. recurring breaches of the Student Code of Conduct, an instance of a more serious nature or gross misconduct – see 6.6.1).

- 6.3.2 Informal action would normally involve staff discussing with the student any conduct causing concern and setting out the expectations around conduct. Brief notes should be taken of the discussions and recorded on the student's record.
- 6.3.3 All students interviewed, including the student who is alleged to have breached the Student Code of Conduct, should be offered the opportunity to be accompanied by a supporter of their choosing (other than a legal representative or another student involved in the incident or investigation). The student can approach HISA to find out more about the type of support they can offer.
- 6.3.4 Students should be notified that a note has been made of the discussions and that no further action will be taken unless misconduct continues or escalates.
- 6.3.5 Repeated low-level misconduct should be raised with the PAT or equivalent. Should the misconduct continue or escalate, the formal disciplinary procedure will be considered.

6.4 Stage 1 Formal Disciplinary

- 6.4.1 Where a suspected breach of the Student Code of Conduct has occurred, or where previous informal discussions and or informal verbal warnings or other sanctions have been ignored, the reporting member of staff should discuss the situation with the PAT or equivalent.
- 6.4.2 The PAT or equivalent will then consider the incident alongside the student's conduct to date generally. Discussions should be held with the student suspected of breaching the Student Code of Conduct to establish their version of events. The student should be advised that the Disciplinary Procedure is being used and be provided with a copy of the procedure prior to any formal interview taking place.
- 6.4.3 All students interviewed, including the student who is alleged to have breached the Student Code of Conduct, should be offered the opportunity to be accompanied by a supporter of their choosing (other than a legal representative or another student involved in the incident or investigation). The student can approach HISA to find out more about the type of support they can offer.
- 6.4.4 Discussions may be held with other staff and/or students to ascertain the situation and verify events.
- 6.4.5 The PAT or equivalent should take brief notes of all the discussions along with gathering any evidence which may indicate whether the suspected misconduct has taken place. A copy of the notes should be given to the parties interviewed for confirmation of accuracy along with a request for acknowledgment.
- 6.4.6 Provided the staff members investigating are satisfied that a breach of the Student Code of Conduct has taken place, PAT or equivalent can issue a verbal warning to the student.
- 6.4.7 Should the evidence suggest that the misconduct is not serious enough to merit a verbal warning, PAT or equivalent can use an informal warning instead, following the guidance in Section 5.2.2 onwards. Conversely, should the evidence suggest the misconduct is more serious than Stage 1, proceeding to Stage 2 should be considered, following the guidance in 5.4.

- 6.4.8 At the point of issuing the verbal warning, the student's conduct should be discussed, outlining the impact on others and emphasising the need to change. Strategies should be discussed that will lead to improvements and agreed with the student. The student should be informed that repeated misconduct may lead to a Stage 2 formal disciplinary procedure.
- 6.4.9 After issuing the verbal warning to the student, the PAT or equivalent will arrange for an official notification of the verbal warning, and any possible supplementary action plan, to be sent to the student. The warning should be documented on the student's record.
- 6.4.10 When issuing the verbal warning, the PAT or equivalent should complete all appropriate paperwork. A copy of this should be sent to the appropriate Head of Section and Head of Student Experience. Appropriate information and any relevant documentation should be logged in the student's file. The student should receive official notification of the verbal warning.
- 6.4.11 The verbal warning will remain in place for six months. Students who re-enrol on a course within six months should have the verbal warning retained on the student's record. If concerns about the student's conduct have passed the verbal warning will normally be expunged after six months, but if concerns remain around the student's conduct the verbal warning can remain in place until the end of the academic year at the discretion of staff. The student must be notified of this extension and the reasons.
- 6.4.12 The PAT or equivalent should provide feedback to the member of staff that initially reported the misconduct where relevant.
- 6.4.13 The student has the right to make an appeal against the outcome under specific circumstances. Further information is included in Section 7.

6.5 Stage 2 Formal Disciplinary

- 6.5.1 Where conduct which has previously received a formal verbal warning recurs, or where there is serious breach of the Student Code of Conduct, the Stage 2 Formal Disciplinary Procedure will be initiated.
- 6.5.2 The PAT or equivalent will consider the suspected breach of the Student Code of Conduct alongside the student's conduct to date. Discussions should be held with the student suspected of breaching the Student Code of Conduct to establish their version of events. The student should be advised that the Disciplinary Procedure is being used and be provided with a copy of the procedure prior to any formal interview taking place.
- 6.5.3 All students interviewed, including the student who is alleged to have breached the Student Code of Conduct, should be offered the opportunity to be accompanied by a supporter of their choosing (other than a legal representative or another student involved in the incident or investigation). The student can approach HISA to find out more about the type of support they can offer.
- 6.5.4 Discussions may be held with other staff and/or students to ascertain the situation and verify events. The PAT or equivalent should take brief notes of the discussions along with gathering any evidence which may indicate whether the suspected misconduct has taken place. A copy of the notes should be given to the parties interviewed to be signed for verification of accuracy.

- 6.5.5 Provided the staff members investigating are satisfied a breach of the Student Code of Conduct has taken place, PAT or equivalent can issue a written warning to the student, which should be agreed in advance with appropriate Head of Section, where relevant.
- 6.5.6 Should the evidence suggest that the misconduct is not serious enough to merit a written warning, PAT or equivalent can issue a verbal warning instead, following the guidance in Section 5.3.4 onwards. Conversely, should the evidence suggest the misconduct is more serious than Stage 2, proceeding to Stage 3 should be considered, following the guidance in 5.5.1.
- 6.5.7 At the point of issuing a formal warning the PAT or equivalent should arrange to meet with the student to discuss their conduct, outlining the impact on others and emphasising the need to change. Strategies should be discussed that will lead to improvements and agreed with the student. The student should be informed that repeated misconduct may lead to the Stage 3 Disciplinary Procedure being initiated.
- 6.5.8 When issuing the written warning, the PAT or equivalent should complete the appropriate paperwork. A copy of this, and any possible supplementary action plan, should be sent to the student, the appropriate Head of Section and the Head of Student Experience. Appropriate information and any relevant documentation should be logged on the student's record.
- 6.5.9 The written warning will remain in place for twelve months. Students who re-enrol on a course within twelve months should have the written warning retained on the student's record. If concerns about the student's conduct have passed the written warning will normally be expunged after twelve months, but if concerns remain around the student's conduct the written warning can remain in place up to an additional six months at the discretion of staff. The student must be notified of this extension and the reasons.
- 6.5.10 The student has the right to make an appeal against the outcome under specific circumstances. Further information is included in Section 6.

6.6 Stage 3 Formal Disciplinary (including gross misconduct)

Context

- 6.6.1 A Stage 3 Formal Disciplinary will be initiated where:
- Repeated breach of the Student Code of Conduct for which the student has previously received warnings
 - A single instance of suspected gross misconduct e.g. conduct serious enough that if proven it may lead to exclusion or withdrawal from UHI Shetland. Gross misconduct includes the most serious breaches of the Student Code of Conduct. Gross misconduct is not precisely defined as it is contextual but is likely to involve serious criminal misconduct, serious damage to property, substance misuse, verbal abuse, physical and/or sexual violence and gender based violence.
- 6.6.2 Should the relevant Head of Section believe Stage 3 Formal Disciplinary Procedure may be appropriate, the issue should be discussed with the Depute Principal Tertiary or Vice Principal Operations. These members of staff should make a decision about whether to proceed to Stage 3 Formal Disciplinary procedure.

Investigation

- 6.6.3 Following initial investigations into the suspected breach of the Student Code of Conduct, consideration should be given by the relevant academic Head of Section and the Head of Student Experience or equivalent as to whether precautionary action should be taken (see Section 5.1).
- 6.6.4 An appropriate member of staff will be appointed as Investigating Officer by the Head of Student Experience or equivalent. Any potential conflicts of interests should be avoided when appointing an Investigating Officer.
- 6.6.5 All investigations should be conducted within a timeous period once the incident becomes known by staff. For example, it is recommended that an investigation should not normally take more than 10 working days, however holidays and staff absence during this period should be accounted for sensitively. All parties will be communicated with regarding any delays and alternates will be appointed in a timely fashion if absence is likely to prevent the investigation progressing.
- 6.6.6 Before meeting with a student as part of a formal investigation, it should be ascertained whether the student has a Personal Learning Support Plan that means they may need extra support during the investigation. This support should be arranged before any formal disciplinary meeting. The Investigating Officer should be aware of the impact the student's PLSP may have on their experience of the disciplinary procedure. This also applies to any witnesses that may be interviewed.
- 6.6.7 The student who is the subject of the disciplinary investigation should be provided with a copy of the Disciplinary Procedures prior to interviews taking place.
- 6.6.8 The Investigating Officer will identify all witnesses and individuals involved in the suspected misconduct and collect any relevant evidence. Where it is considered necessary to interview a witness or those involved, the Investigating Officer should meet with each of these people individually. A record of these interviews will be taken by an appropriate member of the administration team. A copy of the notes should be given to the parties interviewed to be signed for verification of accuracy.
- 6.6.9 All students interviewed, including the student who is suspected of breaching the Student Code of Conduct should be offered the opportunity to be accompanied by a supporter of their choosing (other than a legal representative or another student involved in the incident or investigation). The student can approach HISA to find out more about the type of support they can offer.
- 6.6.10 Where the student suspected of misconduct declines to attend an interview or not attend an interview without a valid reason for absence they should be advised that the investigation will carry on regardless and may proceed to a disciplinary hearing which they will be requested to attend.
- 6.6.11 At the end of the investigation the Investigating Officer will complete the Stage 3 Disciplinary Checklist and provide a recommendation on whether there is a disciplinary case to answer to the Head of Student Experience or equivalent. The recommendation will be accompanied by any evidence relating to the suspected breach of the Student Code of Conduct collected during the investigation, including statements from staff and/or students.

- 6.6.12 The recommendation will include details of any previous disciplinary action and an overview of the student's engagement with studies to date.
- 6.6.13 The Head of Student Experience or equivalent will make a decision whether to proceed to a Disciplinary Hearing, based on the recommendation from the Investigating Officer and the evidence collected during the investigation.
- 6.6.14 Should the Head of Student Experience choose not to proceed to a disciplinary Hearing, their rationale should be recorded and all records retained in line with the appropriate document retention period.

Disciplinary Hearing

- 6.6.15 Should the Head of Student Experience or equivalent decide to proceed to a disciplinary hearing, it will take place within ten working days of the Investigating Officer making their recommendation. All parties will be communicated with regarding any delays and alternates will be appointed in a timely fashion if absence is likely to prevent the investigation progressing.
- 6.6.16 The disciplinary hearing panel should consist of three members, plus a scribe. At least one of the panel members should be of a senior enough level to be able to make a decision on withdrawing or excluding a student. Where the latter is not possible the panel outcome should be passed to a relevant senior member of staff after the meeting who can take this decision within a timeous manner. It is recommended that at least one of the managers on the panel is from another curriculum area.
- 6.6.17 The purpose of the meeting is to:
- Establish whether the alleged incident took place
 - Explore the reasons for alleged incident
 - Establish whether the student is committed to correcting their conduct
 - Explore how the student can be supported if they continue with their studies
 - Consider any information that was not available during the investigation
 - Determine any disciplinary action that should be taken against the student
 - Determine whether the circumstances are such that the student should be excluded from their studies or from the campus (and/or all UHI campuses)
- 6.6.18 The panel must consider all the evidence presented before arriving at a conclusion. The conclusion may be reached at the end of the meeting or through further discussion with relevant members of staff after the meeting.
- 6.6.19 Where a student states their intention not to attend a disciplinary hearing or does not attend the hearing without a valid reason for absence, the hearing will take place in order to consider the investigation findings before coming to a conclusion as to the appropriate course of action. Should there be a valid reason for absence, a decision will be made in liaison with the student about reconvening the hearing.

Outcome of Disciplinary Hearing

- 6.6.20 The student must be informed of the outcome of the disciplinary hearing in writing within three working days of the meeting.
- 6.6.21 The disciplinary hearing panel has scope to take disciplinary action that may include one or more of the following:

- No further action
- Referred for consideration to the Support to Study Procedure and/or relevant fitness to practise procedures
- Verbal warning
- Written warning
- Written apology to the aggrieved party
- Compulsory attendance at a workshop/coaching session
- Restrictions/conditions on attendance
- Fines for wilful damage, theft or non-return of equipment
- Final written warning
- Exclusion from campus
- Exclusion from their studies
- De-registration (postgraduate research students)
- Permanent exclusion from the university and all academic partners
- Removal of university award

6.6.22 The student has the right to make an appeal against the outcome under specific circumstances. Further information is included in Section 7.

6.6.23 A copy of all documentation presented as evidence, the panel outcome letter, and the hearing report should be sent to the Head of Student Experience or equivalent. If a sanction is given this should be logged on the student record.

6.6.24 **If the issue is deemed to be gross misconduct** the outcome of the hearing will be attached to the student permanently on the students record and may be taken into account determining any future university partnership applications. The decision to classify the issue as gross misconduct is at the discretion of the panel (see Section 6.6.1).

6.6.25 **If the issue is deemed not to be gross misconduct** the outcome of the hearing will remain in place for two years. Students who re-enrol on a course in the university partnership within two years should have the hearing outcome retained on the student record. If concerns about the student's conduct have passed the hearing outcome will normally be expunged after two years, but if concerns remain around the student's conduct the sanction can remain in place for an additional year. The student must be notified of this extension and the reasons.

6.6.26 Exceptions to 6.5.24 and 6.5.25 are:

- A verbal warning (held on record for at least six months as per Stage 1)
- A written warning (held on record for at least twelve months as per Stage 2)
- Referral for consideration to the Support to Study Procedure and/or relevant fitness to practise procedure.

6.7 Police Investigations

As per section 3.5 of the Student Conduct Policy, the UHI Shetland will be unable to investigate any incidents whilst an official police investigation is underway, however precautionary actions may be taken to reduce risk, ensure the safety of others and protect the integrity of the police investigation and a potential future UHI Shetland investigation. The UHI Shetland will consult with the police during this period, and appropriate support will be provided to any students and staff involved.

7. Appeals

- 7.1 A student may appeal against any disciplinary action taken against them. Appeals will only be considered on the following grounds:
- That the Student Disciplinary Procedure was not followed correctly;
 - That there was prejudice and/or bias on the part of the Investigating Officer or any disciplinary hearing panel members which affected the outcome;
 - That the disciplinary action imposed is thought to be disproportionate to the offence;
 - That there is new evidence, or new information about existing evidence, which could not have been made reasonably available during the original determination.
- 7.2 Appeals must be made in writing to the manager of the issuer of disciplinary action. The appeal must be made within five working days of receiving the outcome of disciplinary action and must state the grounds on which the appeal is being made.
- 7.3 Appeals will not be considered for any other reason or through any other means than those outlined above.
- 7.4 The appeal will be considered by the appropriate manager or appointed deputy who will respond to the student within five working days of receiving the appeal. Once the outcome has been decided there is no recourse to further appeal.

8. Students who are school pupils

- 8.1 School Link pupils fall within the scope of the Student Disciplinary Procedures when they are studying at Shetland UHI and are expected to observe the Student Code of Conduct.
- 8.2 The relevant school Pupil Support Teacher will be notified of any disciplinary actions relating to school pupils.
- 8.3 School pupils may be accompanied by a parent or guardian for any investigation interviews or disciplinary proceedings.

9. Appendices

Appendix 1: Disciplinary Procedure Overview

Appendix 2: Informal Stage Flowchart

Appendix 3: Stage 1 Flowchart

Appendix 4: Stage 2 Flowchart

Appendix 5: Stage 3 Flowchart

Appendix 6: Stage 3 Disciplinary Checklist

Appendix 7: Appeals Flowchart