

## Student Misconduct and Disciplinary Policy

### 1. Overview

- 1.1 The University is committed to the values and behaviours within the Student Charter to provide all students with a considerate, inclusive and safe environment. The link to the Student Charter can be found here: [Student Charter 22-23 \(dmu.ac.uk\)](https://dmu.ac.uk/student-charter-22-23)
- 1.2 This policy sets out behaviours that we define as student misconduct and actions that we may take in response through the Student Misconduct and Disciplinary Procedure. There is a separate policy and procedure to investigate cases of alleged academic misconduct. The DMU Students' Union Code of Conduct applies to any alleged misconduct that takes place under its remit and activities.
- 1.3 This policy covers misconduct that occurs in-person or on-line, including through social media and all other forms of technology.
- 1.4 The policy applies to all students registered with the University, including those studying at partner institutions. The specific nature of the Student Misconduct and Disciplinary Procedure may vary if you are studying at a partner institution and any differences will be included in your Programme Handbook. Where there is variation, the University is responsible for ensuring that the principles of the partner institution's procedure align with the University's requirements.
- 1.5 A penalty will normally be given if an allegation of misconduct is upheld. The penalty will be dependent on the nature of the misconduct and its impact, and will normally range from a warning through to expulsion from the University. Examples of misconduct and associated penalties are provided in Appendix 1. If you (the alleged offender) are studying on a programme that leads to a qualification that includes the right to practice in a particular profession (e.g. nursing) and a case of misconduct against you is upheld, the penalty may include preventing you from practicing in that profession.

## 2. Support

- 2.1 If you have been subject to alleged misconduct by another student, or if you are reporting the alleged misconduct of another student, or if an allegation of misconduct has been made against you, confidential support is available from Registry Services. This includes support from The Mandala Project in cases of Sexual Misconduct and from No Space for Hate in cases linked to hate or harassment. It is important to seek support if the situation is impacting negatively on your wellbeing or mental health. The Wellbeing Team offer mental health support to students at DMU. The DMU Students' Union can also provide independent advice.

## 3. Misconduct Definitions

- 3.1 Misconduct is defined by the University as inappropriate behaviour, including but not limited to the following:
- **Towards other people:** behaviours that negatively affect the working and learning environment of others; violent, threatening, abusive or anti-social behaviour or language; physical misconduct; coercion, sexual misconduct; harassment; bullying; victimisation; making malicious complaints or allegations; breach of the DMU Equality, Diversity and Inclusion Policy; use of weapons; hate crimes; distributing or publishing information that is offensive, threatening or illegal; initiation ceremonies or associated behaviours
  - **Towards the University or its community:** damage to University property; unauthorised use of University property including IT networks; theft, fraud, deceit, deception and bribery; creating an obstruction that prevents a person or the University from operating normally; causing a potential or actual health and safety incident; possession, supply and production of illegal drugs; causing unreasonable reputational damage to the University or to a member of the University; failure to comply with a penalty issued for previous misconduct; failure to produce ID or comply with a reasonable request from a member of staff; unauthorised possession of an offensive weapon.

- **In accordance with UK law:** either on or off University premises, and where the nature of an alleged or actual offence has a potential or actual impact on you, the wider University community or your fitness to practice on a professional programme.
- In professional settings connected to your programme for which there may be additional and specific codes of conduct with which you need to comply.

3.2 All students should familiarise themselves with other University policies that set out in more detail the behaviours that we require of you and what constitutes misconduct. These include:

- Policy on Dignity and Respect
- No Space for Hate
- Sexual Misconduct Policy
- Unacceptable Behaviour Policy (when communicating with staff)
- Smoking on Campus Policy
- Social Media Policy
- IT policies including Principal Information Security Policy, Use of Information Systems Policy, Network Management Policy, Janet acceptable use of guidelines

#### **4. Identification and reporting of alleged or actual student misconduct**

The university is committed to providing support and protection to those in the greatest need, and wherever possible students with the most difficult circumstances are afforded that protection. Through this policy we aim to assist students to identify and access resources and support which will guide them through what can be a difficult and distressing time.

All students, including the complainant, alleged offender and any witnesses are supported by the university through plans which are made as part of this process, for example a risk assessment and access to Mental Health support via the Wellbeing Team. There will be an expectation that all reasonable efforts are made to commit to any plan from both the university and the students.



All students can let us know/choose to report something that has happened. Any report that is logged will be triaged so that the appropriate points of escalation, resources and support is put in place for the complainant, the alleged offender and any witnesses.

The triage team consists of key members of expert staff from specialist areas within the university. These staff will ensure that reports are managed in a timely manner. This team meets weekly to determine any next steps and support needs of any student impacted following a report. By choosing to make a report the university will be able to help provide students with better support and to stop something similar from happening to anyone else.

Students can disclose something that has happened anonymously. Choosing to submit a report anonymously means that we will not be able to contact you and we are therefore unable to give you support.

If you would like to speak to someone, or need direct support or guidance, please contact the team at [nsfh@dmu.ac.uk](mailto:nsfh@dmu.ac.uk) [themandalaproject@dmu.ac.uk](mailto:themandalaproject@dmu.ac.uk) or by calling DMU Security 24 hours a day on 0116 2577642.

Anonymous disclosures will enable us to monitor trends and build a picture of issues across DMU where people do not feel able to reveal personal information. This will inform support and prevention work across DMU on tackling bullying, harassment and sexual misconduct.

DMU will not generally take steps such as investigating the complaint, initiating disciplinary or other formal proceedings or passing information on to third parties in order to take the report further, unless you have chosen to report with contact details (and you agree to this action).

However, there are certain circumstances in which DMU may take steps such as those listed above even where an anonymous disclosure is received (in which case action will be taken on a 'no names' basis). This is usually where there are concerns for your safety or another person's safety. Please see our Privacy Notice together with our separate guidance notes on duty of care and confidentiality, for further information.

4.1 Alleged or actual misconduct may be reported by:

- Another student
- A member of staff
- A visitor to the University community
- A person external to the University where your behaviour impacts on the reputation of the University and/or could harm members of the public or the University community.

4.2 The complainant will not be disadvantaged by the University by reporting the alleged or actual misconduct of another student other than if the complainant makes a report on malicious grounds. We strongly encourage the complainant to talk to a member of staff or the DMU Students' Union if, despite this assurance, you have a misconduct allegation that you do not feel you can raise without doing so anonymously. The DMU Students' Union or member of staff can discuss this matter, with DMU Security via the Control Room 01165274642 or by attending the Security Office (24/7) (only with your agreement) to consider if there are any actions that the University is able to take, for example, in accordance with the University's Safeguarding Policy.

4.3 **This policy and its procedures are not designed to receive emergency disclosures. In the case of an emergency, please contact 999 or the appropriate emergency services for your location.**

## 5. Confidentiality

5.1 The University aims to manage misconduct allegations confidentially. It will be necessary for a limited number of people to know the details of the allegation for it to be investigated. Depending on the stage of the Student Misconduct and Disciplinary Procedure, these people will include staff who administer and manage the allegation, who undertake the investigation, are named in the allegation, are witnesses to the matters it raises, are part of a panel that considers the allegation or who are asked to review an appeal against a misconduct outcome.

5.2 Where an allegation of misconduct is upheld, the reporting student (or any other student) will not normally be informed of the penalty. Examples of full or partial exceptions to this position are where a non-contact or similar agreement is put in place, or where the student against whom the allegation has been upheld has been excluded from the University.

## **6. Dignity and respect**

- 6.1 All students and staff engaging in the Student Misconduct and Disciplinary Procedure must behave with dignity and respect for each other and in accordance with the Equality Act 2010. The process may be halted where unreasonable behaviours occur. The University may make further use of the Student Misconduct and Disciplinary Policy where behaviours constitute misconduct.

## **7. Student Misconduct and Disciplinary Procedure**

- 7.1 This Procedure will be used to investigate and respond to any reports of misconduct and is designed to be fair and transparent.
- 7.2 If you plan to submit an allegation of misconduct, or if an allegation of misconduct has been made against you, please read the Student Misconduct and Disciplinary Policy and this Procedure so that you understand the process.
- 7.3 The DMU Students' Union is available to provide students with independent advice. Mental Health support is available from the Wellbeing Team.
- 7.4 If you decide to make an allegation of student misconduct, we ask that you do so normally within three months of the incident occurring, unless there are exceptional circumstances so that we can engage with the matter swiftly.
- 7.5 This Procedure sets out the expected timescales for each stage of the process. We will always let you know if we are unable to meet the published timescale and the reason why.
- 7.6 The complainant will not be disadvantaged in their studies or in any other way if you make an allegation of misconduct. The only exception to this position is where you make an allegation on malicious grounds and where we may take disciplinary action against you. A student against whom a misconduct allegation has been made will not be disadvantaged if the case is not upheld.

- 7.7 Staff involved in the management of responding to a report of alleged misconduct, including the investigation, hearing and appeal stages, will have appropriate experience and/or training. Measures will also be put in place by the University to ensure that any member of staff involved in the process does not have any conflict of interest.

## **8. Reporting of misconduct**

- 8.1 Reports of alleged misconduct may be made to any staff member who will then remit it urgently to the Academic Support Office or Security. The staff member will need your name, name/s of the student/s you are reporting and general information about the alleged misconduct. If you have been the victim of behaviour which may constitute a criminal offence then you are strongly advised to report it to the police as soon as possible.

## **9. Initial assessment of the misconduct report**

- 9.1 The Head of the Academic Support Office and the Head of Security assesses whether the alleged misconduct is major or minor and determine the process to be adopted and timeline where there is more than one process that is triggered by the report (e.g. staff disciplinary, sexual misconduct etc). A risk assessment will be completed and reviewed within 48 hours (see Appendix 1)
- 9.2 An alleged misconduct case will be considered on the balance of probability and standard of proof. This means that for the University to uphold an allegation of misconduct, we need to show sufficient evidence that either the misconduct occurred or is more than likely to have occurred. The balance of probability and standard of proof is the process required of us by the UK Office of the Independent Adjudicator ([link](#)), the body that sets out expectations of all higher education institutions.

## **10. Acknowledgement of the misconduct report**

10.1 Within 10 university working days of the University receiving a report of alleged misconduct, we will:

- Provide a written acknowledgement to the person making that report.
- Notify the student/s about whom the alleged misconduct report has been made.
- This will include what the allegation is,
- How the allegation will be considered under the Student Misconduct and Disciplinary Procedure,
- The seriousness of allegation and any Police involvement,
- Provide both parties information about support that is available through Registry Services,
- Provide both parties information about support that is available through DMU Students' Union,
- Confirm the need for confidentiality to enable a fair process, and
- Allocate an investigator appropriate to the allegation and the students involved.

## **11. Investigating Alleged Minor Misconduct**

11.1 Following the acknowledgement process, a minor misconduct case will be investigated by a member of staff who is either:

- From your Faculty and authorised by the Dean to investigate the case
- The Director of Library and Student Services (or their nominee) for cases relating to the library or student services
- The Head of Sport for cases relating to non-Students' Union sports activities

11.2 The member of staff will investigate the alleged misconduct and will gather any supporting evidence. The process will normally include meeting with the person making the report, with any witnesses to the alleged misconduct and any other relevant evidence.



- 11.3 As part of the process, the alleged offender will then be invited to attend a meeting to discuss the allegations and to provide their response, including any mitigation. The alleged offender may be accompanied to this meeting by a Student Companion. You will be given 5 university days' notice of the meeting which may be held in person or online via one of the University's approved on-line platforms. The alleged offender will also be provided with any supporting evidence that has been collected by the member of staff relating to the allegation as set out below.
- 11.4 We strongly advise the alleged offender to attend the meeting. However, they may choose (i) not to attend the meeting and/or (ii) to make written representations, including any mitigation they consider relevant. Where the alleged offender chooses not to attend, the consideration of the case will go ahead in their absence.
- 11.5 The member of staff investigating the alleged misconduct will be accompanied to the meeting by another member of staff with whom they will form a judgement on the case after meeting with the alleged offender or considering any representations they make.
- 11.6 Within 10 university working days of that meeting, the outcome will be confirmed in writing. The outcome of the meeting will be one of the following:
- There is insufficient evidence to show on the balance of probabilities that misconduct occurred,
  - The alleged offender admits misconduct,
  - There is sufficient evidence to show that on the balance of probabilities that misconduct occurred,
  - Exceptionally, and in response to matters raised in the meeting with the alleged offender by the University, further investigation is required and a follow-up meeting will be held with them once that investigation has concluded. This follow-up process will normally conclude within 15 working days and you will receive a further written outcome,
  - The case will be referred to a Disciplinary Committee because there is now new evidence to suggest that the alleged misconduct is major.

11.7 Where the alleged offender admits minor misconduct or where there is sufficient evidence to show that on the balance of probabilities it occurred, a penalty will normally be given. The penalty will depend upon the nature and impact of the misconduct. A reason for the chosen penalty will be provided and will take account of any mitigating circumstances that the alleged offender puts forward, relevant to the case.

## **12. Right of Appeal**

12.1 If the alleged offender disagrees with the outcome or penalty, they may appeal the decision on the following grounds:

- The procedure has not been followed appropriately, or;
- The decision is unreasonable and/or a disproportionate penalty has been imposed; or
- There is new information/evidence that was not reasonably available before.

12.2 The alleged offender should submit their appeal to the Director of Registry Services within 10 university working days of receiving the original outcome. The appeal will be considered by the Director of Registry Services and the alleged offender will receive an email acknowledgment of its receipt, and this will be followed by a review outcome within 10 university working days.

12.3 The Academic Support Office and Security will retain records of upheld cases of misconduct.

### **13. Investigating Alleged Major Misconduct**

- 13.1 Following the acknowledgment of the report as set out in point 11, cases of alleged major misconduct will be managed in two parts (i) Risk Assessment and (ii) Investigation and Disciplinary Committee.

#### Part 1: Risk Assessment

1. The University will undertake a risk assessment of any alleged major misconduct report to consider if any immediate actions additional to investigation need to be put in place. A Risk Assessment Panel will be set up to consider these matters which will be chaired by Director of Registry Services (or nominee) with representation from the relevant Associate Professor Student Experience (or nominee), Head of Welfare (or nominee), Head of Security (or nominee) and IT depending on the nature of the alleged misconduct. If that risk assessment panel concludes that there is no need for additional actions to be put in place, the case will proceed to Part 2: Investigation and Disciplinary Committee.
2. There are 4 possible actions in addition to investigation that may arise from a risk assessment that the University will consider depending on the nature of the alleged misconduct:
  - Temporary Precautionary Measures
  - Fitness to Study
  - Fitness to Practice
  - engagement with a police or court process.
3. The Risk Assessment Panel will oversee the coordination of actions and communications if more than action is required.

4. **Temporary Precautionary Measures** will be put in place if the University considers there is an actual or potential risk to any individuals in the University community (including the alleged offender) arising from any alleged misconduct. These measures may also be put in place where there is a potential or immediate risk to University premises or facilities or to the overall reputation of DMU. As their name suggests, the actions are temporary and precautionary. They do not pre-determine the outcomes of the investigation and Disciplinary Committee. Measures the University may take can include but are not limited to:
  - Suspending the alleged offender from their programme; suspension authorisation rests with a Programme Suspension Panel comprising of:
    - Director of Registry Services (or nominee)
    - Head of Welfare (or nominee)
    - Associate Professor Student Experience (or nominee)
    - Head of Security (or nominee)
  - Excluding the alleged offender from all or part of University premises or use of facilities (including Students' Union activities, facilities and premises); exclusion authorisation also rests with the Programme Suspension Panel,
  - Authorisation to exclude the alleged offender from Student Union Activity; this rests with the CEO of the Students Union.
  - Establishing a non-contact agreement with another member of the University; authorisation to establish a non-contact agreement rests with the Programme Suspension Panel.
5. The University will inform the alleged offender in writing if any of these measures will be put in place and the time period for which they will apply and/or be reviewed. Where non-contact agreements are put in place, the University will also inform the student(s) concerned.
6. As part of the risk assessment, the University will also consider if the temporary precautionary measures applied, will impact on the alleged offender's studies:
  - Where the University determines that the alleged offender will have full access to relevant learning resources, they will be permitted to continue their studies.

- Where the University determines the alleged offender has partial access to relevant learning resources, the University will consider whether it is academically possible and appropriate to put in place a special scheme of study that enables the alleged offender to continue their studies in a different way. The feasibility of this option is dependent on the nature of their programme.
  - Where the University determines that the alleged offender does not have sufficient access to relevant learning resources, the University will normally suspend their registration until the temporary precautionary measures have been lifted and/or the outcome of the investigation has concluded. The purpose of this action is not to penalise them, but to ensure that they are not academically disadvantaged by not having sufficient access to resources. If the temporary precautionary measures are lifted and/or if outcome of the misconduct hearing allows them to continue with their studies, the University will consider whether it is academically possible and/or necessary to put in place a special scheme of study to best support their continuation. The feasibility of this option is dependent on the nature of their programme.
7. The judgement about the academic feasibility of these options will be led by the Faculty representative of the Risk Assessment Panel.
  8. The alleged offender's fitness to study will be considered if there is evidence to suggest that they are potentially not fit to engage with their programme at this time. The Student Misconduct and Disciplinary Procedure will normally be suspended temporarily if the University decides that fitness to study needs to be addressed first through the **Students of Concern Policy**. The University may still put in place Temporary Precautionary Measures.
  9. The alleged offender's **Fitness to Practice** will be considered through the Fitness to Practice Policy if they are studying on a programme for which there are fitness to practice requirements and if the nature of the alleged misconduct suggests they may not be fit to practice. The University may still put in place Temporary Precautionary Measures.

10. The University's **engagement with the police or court** process will occur where:
- The alleged offender's alleged misconduct is a criminal offence against the University and where we decide to report this matter,
  - The University receives a report that the alleged offender has allegedly committed a criminal offence off University premises
  - The University is requested to provide information about the alleged offender in accordance with the Data Protection Act.
11. Depending on the nature and impact of alleged misconduct, the University may apply Temporary Precautionary Measures as set out above and we will normally suspend the Student Misconduct and Disciplinary Process while criminal proceedings are in progress. Where the alleged offender is acquitted of a criminal offence, we may subsequently progress the Student Misconduct and Disciplinary Procedure if there is evidence that any alleged misconduct was in breach of our Student Misconduct and Disciplinary Policy.
12. If the alleged misconduct is a criminal offence against another individual (e.g. student, staff), it will normally be that individual's decision as to whether they report the matter to the police. The University will provide information to any student reporting alleged misconduct that may also be a criminal offence of the options available to them.

## Part 2: Investigation and Disciplinary Committee Hearing

13. Major misconduct reports will be investigated by the Head of Security or their nominee. We will endeavour to complete the investigation in a timely manner, however there may be circumstances outside our control, e.g. availability of witnesses that delays the process. The investigation process will include the following sequence of actions:
- Reviewing the misconduct allegations,
  - Meeting with the individual/s reporting the misconduct,
  - Gathering information from any witnesses who observed the misconduct,
  - Compiling any other relevant information or evidence,
  - Meeting with the alleged offender to understand their account of the circumstances in which the misconduct is alleged to have occurred and to hear any relevant mitigating circumstances. If the alleged offender decides not to participate in the investigation, this fact will be included in the report.

14. The investigation report will be considered by the Disciplinary Committee which will be formed by the Academic Support Office. A meeting of the Committee will be scheduled within 10 university working days of the alleged offender being informed that it will meet. They will receive the same written information about the case that is received by the Committee at least 10 university working days in advance of the meeting. The alleged offender will be given 10 university working days' notice of the meeting which may be held in person or online via one of the University's approved on-line platforms.
15. The role of the Disciplinary Committee is to:
  - Review the investigation report and any supporting documentation that both the alleged offender and the panel have received.
  - Hear from the Head of Security or nominee who will present the case.
  - Hear the alleged offender's response to the findings and any mitigating circumstances they wish to present
  - Hear from witnesses that may be called by the alleged offender or by the University
  - Ask questions of those present
  - Determine the outcome and notify the alleged offender of any penalty
16. The Disciplinary Committee will comprise the following people who must not have had any prior involvement with the case:
  - A member of the University Leadership Board who will chair the committee.
  - A member of the Students' Union Executive Committee (who does not also have a role or involvement in supporting any student involved in the case)
  - A member of academic staff who has been trained in the misconduct process or who has experience of such cases.
  - The Director of Registry Services or their nominee.
17. If the alleged offender is studying on a programme that leads to a qualification that includes the right to practice in a particular profession (e.g. nursing), the Student Misconduct and Disciplinary Procedure will normally be suspended temporarily if the University decides that fitness to study needs to be addressed first through the Fitness to Study Policy. This is because if a case of alleged misconduct against them is upheld, they may also lose the right to practice in that profession.

18. The alleged offender is entitled to be accompanied to the Disciplinary Committee meeting by a Student's Companion as defined in the glossary to these regulations
19. Where the alleged offender admits misconduct and/or do not dispute the investigation findings, the alleged offender may choose to waive their right to attend a Disciplinary Committee to present their case.
20. There are other circumstances in which the alleged offender may choose not to attend the Committee meeting. These include:
  - If the alleged offender chooses to submit written evidence rather than attend in person,
  - Where the alleged offender's health or wellbeing means that it is not possible for them to do so
  - The alleged offender chooses not to engage with the process.
21. If the alleged offender chooses not to or does not attend, the Committee will normally go ahead in their absence and will base its decision on the information that is available.
22. The outcome from a Disciplinary Committee will be that either the case is not upheld and no further action will take place, or that the case is upheld and a penalty will be imposed. Where a penalty is imposed, the alleged offender will be provided with the reason as to why that penalty has been given.
23. The alleged offender will normally be notified of the outcome of the Panel within 5 university working days of the hearing. They can appeal the Disciplinary Committee decision on the following grounds:
  - The University has failed to follow its procedure adequately
  - A disproportionate penalty has been imposed
  - The alleged offender has new information/evidence that was not available previously for good reason.
24. The alleged offender's appeal submission will be considered by Director of Registry Services who will either:
  - Dismiss the appeal
  - Uphold the appeal and either (i) refer the matter to a new Disciplinary Committee or (ii) impose an alternative penalty.



25. The alleged offender's request to appeal will be acknowledged in writing and they will be notified of the outcome within a further 15 university working days. This decision will be final, and they will be provided with a Completion of Procedures' letter which concludes the process. That letter will provide them with information about their right to approach the Office of the Independent Adjudicator for Higher Education ([www.oiahe.org.uk](http://www.oiahe.org.uk)) if they wish to seek external independent review of the University's decision.

**Created:** June 2018

**Originating Directorate:** Registry Services

**Updated by:** Joseph Parmar

**Approved by:** Academic Board

**Date of approval:** June 2023

**Effective date:** July 2024

**Due for review:** June 2025