

# Reporting of Student Misconduct

## Briefing information to give to students who are considering reporting an incident of misconduct.

### 1. What is student misconduct?

Student misconduct is where a student's alleged behaviour has breached the University's Student Code of Conduct. 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.

Student Code of Conduct and Disciplinary Procedure

[http://webdocs.ucreative.ac.uk/Rules\\_for\\_Student\\_Conduct-1471443960156.pdf](http://webdocs.ucreative.ac.uk/Rules_for_Student_Conduct-1471443960156.pdf).

### 2. How do I report allegations of misconduct by other students?

You can make an allegation of misconduct by another student to a University member of staff, such as your Personal Development Tutor or a member of staff in Gateway Services, located in the Library. The member of staff will record your disclosure on the form in Appendix B of the Student Code of Conduct and Disciplinary procedure.

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The disclosure form will be sent to the Assistant Campus Registrar, who will handle your case and be your main point of contact.

If you do not want to be identified and instead wish to make an anonymous report, your personal information will not be captured in the disclosure form but basic information regarding the incident may be included so that the University is able to monitor disclosures. The University cannot normally take direct action as a result of anonymous reporting. However, the University reserves the right to take whatever action is necessary to ensure the safety of University staff, students or others.

If you believe that a criminal offence has been committed, then you can report the matter to the police. If you report a matter to the police, you can still report it to the University. The University may be able to take precautionary action whilst the police are conducting an investigation, to prevent or limit the other student's contact with you during the police investigation. Other than 'precautionary action', the University will wait until all police action and any subsequent criminal proceedings have completed before investigating itself or taking any further action

### 3. What does a University investigation into misconduct mean?

The University can investigate alleged breaches of its Code of Student Conduct which all students sign up to when they accept an offer of a place at UCA.

Misconduct is treated as a breach of the University's Student Code of Conduct. The University can investigate allegations that students have breached the Student Code of Conduct under the terms of that Code and the disciplinary procedure which forms part of it. In such circumstances the University will appoint an investigator and take evidence from you as a witness to the alleged misconduct, as well as taking evidence from the accused student and any third-party witnesses.

#### **4. What are the limitations of a University's investigation?**

The University cannot investigate alleged criminal offences. Misconduct is a potential breach of discipline and not a criminal offence. The University's disciplinary process is a civil matter based upon an allegation that a student has breached the Student Code of Conduct.

The allegation has to be proven on the balance of probabilities (i.e. more likely than not to have taken place (51% or more) and the most serious sanction that can be applied is expulsion from the University. The balance of probabilities involves considering all the available evidence and deciding whether it is more probable than not that an event happened.

In contrast, the criminal procedure is an external procedure managed by the police and the courts that deals with allegations that a student has committed a criminal act. In criminal cases the allegation has to be proven beyond reasonable doubt and the most serious sanction that can be applied is imprisonment.

Due to the limitations of internal investigations, the University maybe faced with some cases where there is insufficient evidence to establish, on the balance of probabilities, that the alleged misconduct occurred. In other cases, there may be sufficient evidence to establish that another type of unacceptable behaviour has occurred and then the University can impose a sanction for that breach of discipline.

#### **5. What will a University investigation involve?**

Signed witness statements will be taken from the reporting student. Other available evidence will be gathered, for example, screen shots of conversations, CCTV footage, etc. This may also include talking to other witnesses and taking statements from them too. The University will also need to interview the student against whom the allegation has been made.

Before the interview, a copy of the evidence gathered by the University will be given to the accused student allow them to respond to the allegation. If the investigator decides that the allegation is serious enough to result in suspension or expulsion from the University or in restricted access to the University, then the matter will be passed to a Disciplinary Panel to hear the case and decide the outcome.

#### **6. What types of findings can be made by the University?**

Following the conclusion of a disciplinary process, University findings can include: dismiss the allegation of a breach of the Student Code of Conduct; uphold the allegation but take no further action; uphold the allegation and impose a sanction in accordance with section 9 of the Student Code of Conduct.

The Investigating Officer will make a decision on the outcome and has the ability to impose sanctions. However, where the Investigating Officer considers the alleged misconduct is such that it would be considered serious enough to result in suspension or expulsion, a Disciplinary Panel will be convened to hear the matter.

When the matter is referred to a Disciplinary Panel, the Panel must decide whether the allegation is proven on the balance of probabilities. If the allegation is proven on the balance of probabilities, the Panel will recommend a sanction or penalty to the Deputy Vice-Chancellor for approval.

Possible sanctions include:

- Formal written warning
- Fine of up to a maximum of £500
- Restrictions on access (e.g. to Student Union bar or to University managed residential accommodation)
- Requirement to pay a reasonable sum by way of compensation for identified and quantified loss
- Requirement to perform unpaid services for the University community to a maximum of 40 hours
- Compulsory attendance at workshop/support sessions
- Relocation within or removal from the Halls of Residence or other University managed residential accommodation
- Restrictions on access, prohibiting access to specified facilities and buildings or contact with named staff and or students, for a defined period
- Deferred expulsion for a fixed period of time
- Suspension from the University for a fixed period of time, up to a maximum of twelve months
- Expulsion from the University

As a reporting student, you may not be informed of the outcome of any disciplinary procedure or any penalty that may be applied. 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 their consent.

## **7. What can the University do if misconduct has occurred?**

The University can only impose a sanction if there is a finding that on the balance of probabilities, misconduct has occurred. In serious cases, it is most likely that a disciplinary hearing will take place before a panel and you and other witnesses (if any) may be questioned by a panel about the evidence you have provided. If the panel finds that the alleged misconduct occurred, the panel must then decide what, if any, sanction should be recommended. Sanctions vary according as to the seriousness of the misconduct and are listed in full in the Student Code of Conduct and Disciplinary Procedure. The most serious cases can result in suspension or expulsion from the University and/or removal from Halls of Residence. Where the Disciplinary Panel is unable to make a finding of misconduct on the balance of probabilities, it will dismiss the allegation and no sanctions will be applied.

It is possible for the person against whom the allegation was made to appeal the decision of the investigating officer / panel in accordance with the procedures set out in the Student Code of Conduct and Disciplinary Procedure. It is not possible for the person making the allegation to appeal a decision of the investigating officer / panel.

For the duration of the process it is essential that all involved maintain confidentiality to ensure a fair process for all. The University has a duty to all of its students and must remain impartial throughout any disciplinary process.

## **8. Will the University investigate immediately?**

The University may not investigate an allegation of misconduct immediately. This decision will be made on a case by case basis depending on the circumstances (such as if there is a active/live police investigation).

## **9. What will happen if I want to report the incident to the police?**

The University will not start an internal disciplinary action while there is an active/live police investigation. The University may implement any potential precautionary actions/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.

The University may take action under its disciplinary process at the same time as a criminal process is underway if the disciplinary case is based upon facts and matters which are different to those being dealt with under the criminal process. For example, in a case where a student acted abusively to another student after taking drugs, the police may be prosecuting the student for the supply of drugs but not the abusive behaviour. In that situation, the University could undertake disciplinary proceedings in relation to the abusive behaviour but any action in relation to the drug use would have to be suspended until the outcome of the criminal process was known.

## **10. What happens if I don't want to report the matter to the Police?**

Unless the University considers there to be an immediate and significant risk to you or other members of the community or that reporting the matter to the police may prevent a further crime taking place, it will not inform the police or other external agencies about a matter you have reported without your agreement.

## **11. What support is available?**

For information, advice and support on or during this process you can contact:

- Gateway Services
- Students' Union - Advice & Representation Coordinator

Further information and details about specially trained advisers (Sexual Violence Liaison Officer (SVLOs)) will be made available from May 2020.

In cases of sexual misconduct there will be three Sexual Violence Liaison Officers, who will be responsible for coordinating support and assisting students in accessing it.