Student Code of Conduct

and

Disciplinary Procedure

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Summary/ Description:

This document sets out the University's Student Code of Conduct and Disciplinary procedure which applies to all students. It is informed by practice in other UK Universities.

This code defines behaviours which are unacceptable – and which are therefore classified as 'misconduct' and the procedure followed by the University regarding any student misconduct identified. A diagram within this Code (para 29) provides a non-exhaustive list of offences, unacceptable behaviour and examples of penalties.

The document is set out and approved by the University as a Code within the Quality Handbook but it is also designed to be a freestanding document which is introduced to all students during their registration as well as being easily accessible on the University's website.

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INTRODUCTION

Authority

1 The Academic Board is the final arbiter of the application and interpretation of this Code of Conduct and Disciplinary Procedure.

Purpose

2 The University is a diverse community of staff, students and visitors who have come together through a shared desire to promote individual and collective learning and development through study, teaching and research. Underpinning that community is an absolute commitment to create and sustain a learning, working and social environment in which the rights and dignity of all its students, staff and visitors are respected, which is free from discrimination, prejudice, intimidation and all forms of harassment including bullying. The Student Contract - Terms and Conditions (QH:E2) sets out the ways in which the University seeks to achieve this environment, including through defining behaviours which are unacceptable – and which are therefore classified as 'misconduct' - in that they are likely to have a negative impact on this environment and on members of the University community collectively and/or individually.

3 Conduct within this Code includes any conduct involving, or relating to, the University or its members, whether staff, students or visitors and specifically includes any conduct which may affect the environment of the university campus, including through social or other electronic media. It includes conduct which may damage the reputation of the University, or a part of the University, bearing in mind that such damage adversely affects all members and former members of the University. It also includes conduct which adversely affects the University's 'neighbours' – such as those living or working close to the University campus– and those who work in partnership with the University, such as placement providers.

4 In addition to setting out conduct which is deemed unacceptable the Code sets out the disciplinary procedure which will be used when it is believed that a student has engaged in misconduct. It therefore sets out the rights of the student alleged to have engaged in misconduct, and the rights of those who are alleged victims of such conduct, especially their right to report an allegation. It also emphasises the importance of, and right to, support throughout the process for both an accused and an alleged victim.

5 The role of the officer is referred to throughout this code. The officer will typically be the Registrar and other officer will be the Chief Financial & Operations Officer (CFOO). Should the Registrar or CFOO be unable to deal with the situation, another member of the University Executive Team will be appointed. Appeals will be escalated to the Vice-Chancellor (or appointed deputy).

Scope

6 The University's authority for setting out a Code of Conduct and Disciplinary Procedure applicable to students is based on the formal legal contract which students enter into when they accept the offer of a place on a University course or programme (of whatever level or duration). This Code and Disciplinary Procedure therefore forms part of the Terms and Conditions set out in the Student Contract Terms and Conditions (Code E2).

Principles

7 All allegations of misconduct will be investigated as soon as possible and, if proven, penalised in accordance with the principles of natural justice.

8 Where an allegation of misconduct is made by one student against another, the University will endeavour to ensure that both parties receive appropriate information and support, including about the investigatory process that will be followed and the possible outcomes, and each student's entitlement to access specialist support services (whether internal or external to the University).

9 Staff will also determine whether any modifications should be made to existing study arrangements, for example if the two students concerned are on the same programme. Particular attention will also be paid to the potential impact on each student's performances and ability to undertake assessments: for example, action under the absence with good cause procedures may be appropriate to allow deferral of assessments. It will endeavour to do this to support both students and will not make or indicate any presumption about the validity of the allegation until the matter has been investigated and determined by a Student Disciplinary Panel or the legal authorities (where the matter is also reported to the police). Powers to take precautionary action are set out in paras. 46-51.

10 Where the officer or another member of staff has reason to believe that the alleged misconduct is the result of or significantly influenced by the mental health, illness or disability of the student in question, the officer must seek independent, appropriate advice before determining whether to proceed with an investigation under this Code and Disciplinary Procedure and/or whether to recommend alternative action such as the suspension of the student's studies under para 46 -51. They may also require the student to seek independent advice such as a medical report.

Scope of the Code and Disciplinary Procedure

11 This Code and Disciplinary Procedure applies to all University of Gibraltar students registered for, or undertaking, any form or level of study or award, including those students who have suspended, or been required to suspend, their studies, and those who have completed their studies but are yet to graduate from the University.

12 It applies to students' conduct on campus and off campus, where a student is engaged with activities as a student of the University (such as on placement, or accessing University facilities or

services on-line), or where their conduct may adversely affect the interests or reputation of the University. It expressly includes use of social or other electronic media, whether using university or privately owned devices where the content reflects on the University or members of its community.

13 This Code and Disciplinary Procedure is intended to address misconduct by students rather than to resolve disputes between individuals.

Staff

14 This Code and Disciplinary Procedure does not apply to the conduct of staff. Any concern or dissatisfaction on the part of a student with the conduct of a member of staff must be progressed through the University's Code on Complaints by Students (QH:G1).

Students who are also employees of the University

15 Where a student is also a member of staff of the University, the officer will determine whether the matter should be progressed under this Code and Disciplinary Procedure, as a Complaint under the Code on Complaints by Students (QH: G1) or as another procedure according to the circumstances of the alleged conduct e.g. the University Human Resources and Employee Handbook.

Time limits

16 This Code and Disciplinary Procedure applies in respect of conduct occurring during the period from which an offer of a place on a course or programme (of whatever level or duration) is made and accepted until the student has either:

(a) completed their course or programme, including completed any associated activity such as attending a graduation or similar award ceremony
(b) confirmed in writing their permanent withdrawal from the course or programme.

17 The University, through the Academic Board, may defer the award of any certificate or qualification, or defer a student's attendance at a graduation or other award ceremony where an allegation of misconduct has been made and any investigation into that alleged behaviour has not been concluded. In making its decision the Academic Board **must** take into account the nature of the alleged behaviour, the likely timescale for completion of the investigation, and will ensure that any deferral is proportionate to the nature of the behaviour alleged. Any such deferral does not constitute, and should not be regarded as constituting, a ruling by the University that the allegation is proven.

18 Where a student withdraws after an allegation has been made, the investigation of which has not been completed, the officer **must** determine whether the matter should be proceeded with, taking into account the nature of the alleged behaviour and the concerns of any alleged victim. Where an allegation is not proceeded with a record of the allegation should be retained on the

student's file and should be taken into account in the event that the student applies to study at the University in the future.

19 Where a student is currently suspended from studies or interrupting their studies, the officer must determine whether it is appropriate to proceed with the investigation during that period of suspension or wait until the suspension has been completed. The officer must take into account the nature of the alleged behaviour and the concerns of any alleged victim.

20 Any reference to 'allegation' includes the plural where appropriate.

Application to collaborative provision

21 This Code and Disciplinary Procedure applies to students of another higher education provider who are enrolled with the University for part or all of a University of Gibraltar award unless Academic Board and the partner higher education provider have jointly agreed another Student Code of Conduct and Disciplinary Procedure applicable to those students.

Relationship with other Regulations and Codes of Practice

22 Where alleged misconduct could constitute misconduct under another University Code of Practice or equivalent procedure, the officer must determine which procedure will be applied, taking into account the following:

(a) behaviour constituting Academic Misconduct as defined in the Code on Academic Misconduct (QH:C7) or Chapter VII of Academic Regulations: Research Degrees (QH:D1) will be investigated in accordance with that Code
(b) behaviour which raises questions as to whether the student is fit to practise as defined in the Code on Fitness to Practise (QH:C8) will be investigated in accordance with that Code.

STUDENT CODE OF CONDUCT

Responsibilities of the University

23 The University is committed to:

(a) providing you with ready on-line access to the University Codes and Regulations that apply to you, and to ensuring that these are maintained and kept up-to-date, and to providing you, when requested, with clarification and/or further information where you are unclear about a provision in a Code
(b) handling any investigation into a student's conduct in a timely, proportionate and transparent manner, following the processes set out within this Code and Disciplinary Procedure and any related and applicable procedures
(c) respecting the need for confidentiality and the right to privacy, in accordance with Gibraltar law.

Responsibilities of students

24 In order to create and sustain an environment in which every member of this community is tolerant and respectful of the views and beliefs of others and promotes equality and the shared worth of all individuals, and in which each individual can seek to fulfil their potential through learning, teaching and research, the University expects all students to abide by the following standards of behaviour:

(a) 'treat other people with respect, and make sure you have consent for any actions you perform towards them
(b) treat other people with respect, appreciating difference and including people of all backgrounds
(c) treat other people with consideration and empathy, and avoid actions which are likely to cause them distress or harm
(d) respect other people's physical and personal space, physical and intellectual property and private information
(e) respect the University's campus, physical/intellectual property and confidential information
(f) act in such a way as to keep yourself and others safe
(g) comply with all applicable rules, regulations, policies, procedures and codes, both of the University and of local/national government, and act honestly, ethically, and in good faith
(h) act in such a way as to support the work of the University and uphold its reputation.'

Definitions of misconduct

25 The following identifies the kind of behaviour which is considered by the University to be unacceptable – and therefore to constitute misconduct - for the purposes of this Code and Disciplinary Procedure and which therefore justifies investigation, and if proven, penalty. Broadly, misconduct is considered to fall within three categories:

(a) offences against people
(b) offences against property
(c) offences against the University

26 The definitions of misconduct are underpinned by the University's zero tolerance of abusive, offensive or threatening conduct, in person or through the use of website, social networking sites or other forms of electronic media and communication.

Where a student is under investigation by the Police, where criminal proceedings have been initiated, or where a student has been convicted of a criminal offence, it is the responsibility of the student to report this to the University. Failure to disclose any information in this regard will constitute an offence under these Regulations.

27 The definitions and examples set out in this Code of Conduct are indicative and not exhaustive. The list of examples of misconduct and penalties are illustrative.

28 The list of multiple or repeated incidents of misconduct may be more serious than a single act of misconduct and previous findings may be taken into account when determining what penalties should be imposed.

29 The diagram below illustrates several non-exhaustive examples of offences, unacceptable behaviour and examples of penalties:

People		
Disciplinary Offence	Examples of Unacceptable Behaviour	Examples of Penalties
Physical Misconduct	• Punching • Kicking • Slapping • Pulling hair • Restraining someone inappropriately • Biting	• Expulsion • Suspension/ exclusion • University service • Acceptable behaviour contract • Absolute discharge
	• Pushing • Shoving	• Written caution • Letter of apology • University service • Acceptable behaviour contract
Sexual Misconduct	• Sexual intercourse or engaging in a sexual act without consent • Attempting to engage in sexual intercourse or engaging in a sexual act without consent • Taking and/ or sharing private sexual materials of another person without consent • Inappropriately showing sexual organs to another person	• Expulsion • Suspension/ exclusion • Acceptable behaviour contract
	• Touching inappropriately through clothes without consent • Kissing without consent	• Written caution • Letter of apology • Acceptable behaviour contract

	• Repeatedly following another person without good reason • Making unwanted remarks of a sexual nature	
Abusive Behaviour	• Organisation of or participation in 'initiation' ceremonies or similar events • Any behaviour which could constitute discrimination or harassment on the grounds of sex, sexual orientation, gender, gender re-assignment, race, religion or belief, disability, or age, including racist, sexist, homophobic, transphobic or disablist behaviour • Threats to hurt another person • Acting in an intimidating or hostile manner • The distribution or production of inappropriate literature	• Expulsion • Suspension/ exclusion • Acceptable behaviour contract • University service
	• Use of inappropriate language • Repeatedly contacting another person (by phone, email, text, or on social networking sites) against the wishes of the other person • Excessive noise, nuisance or anti-social behaviour, which significantly affects students or staff over a prolonged period of time	• Written caution • Letter of apology • Acceptable behaviour contract • University service

Property		
Disciplinary Offence	Examples of Unacceptable Behaviour	Examples of Penalties

Damage to Property	• Causing significant damage to / defacing property belonging to or under the control of the University, or any of its placement providers, or the property of any student, member of staff or visitor	• Expulsion • Suspension/ exclusion • University service • Acceptable behaviour contract • Requirement to pay for damage
	• Causing minor damage to property belonging to or under the control of the University, or any of its placement providers, or the property of any student, member of staff or visitor	• Written caution • Letter of apology • University service • Acceptable behaviour contract • Requirement to pay for damage
Unauthorised Taking or Use of Property	• Unauthorised entry onto or unauthorised use of University premises • Failure to leave any premises of the University or the Students' Union when reasonably required to do so • Taking property belonging to another without permission • Unauthorised procurement of goods or services in the name of the University or its systems • Misappropriation of any funds or assets of the University, the Students' Union or of any member of the University	• Expulsion • Suspension / exclusion • University Service • Acceptable Behaviour Contract • Requirement to pay for loss
	• Misuse of University property (for example computers and laboratory equipment)	• Written caution • Letter of apology • University service • Acceptable behaviour contract • Requirement to pay for damage
Causing a Health or Safety Concern	• Act/ omission that did cause or could have caused harm on University premises or during University activities (for	• Expulsion • Suspension/ exclusion • University service

	example, using/possessing/ supplying controlled drugs)	• Acceptable behaviour contract • Requirement to pay for damage
	• Act/ omission that did cause or could have caused a health and safety concern on University premises (for example, smoking cigarettes in non-designated areas)	• Written caution • Letter of apology • University service • Acceptable behaviour contract • Requirement to pay for damage

University		
Disciplinary Offence	Examples of Unacceptable Behaviour	Examples of Penalties
Reputational Damage	• Behaviour which has caused serious damage or could have caused serious damage to the reputation of the University	• Expulsion • Suspension/ exclusion
	• Behaviour which has damaged or could have damaged the reputation of the University • Excessive noise, nuisance or anti-social behaviour on the University's premises, or which significantly and adversely affects the local community to the extent that it brings the institution into disrepute	• Written caution • Letter of apology • University service • Acceptable behaviour contract
Operational Obstruction	• Behaviour which constitutes a failure to comply with a previously-imposed penalty or reasonable instruction under: ▪ (i) this regulation; or ▪ (ii) any other university regulation, code, rule or policy • Failure to abide by the rules, policies, procedures and requirements of associated practice placements	• Expulsion • Suspension/ exclusion • University service • Acceptable behaviour contract

	• Failure to disclose criminal investigation whilst as an applicant of the university or whilst registered as a student • Criminal or other activities that have a bearing on a student's participation in the University or provide a risk to other students, staff or other users of the University's services • Bribery or attempted bribery • Conduct which: ▪ (i) obstructs or attempts to obstruct the free movement of staff, students or visitors from any University building or premises, or ▪ (ii) might prejudice the freedom of speech of any individual • Communication of information confidential to the University or to its members to anyone outside the University	
	• Behaviour which is in breach of an Acceptable Behaviour Contract • Improper interference with the activities of the University (including academic, administrative, sporting and social) on University premises or elsewhere • Improper interference with the functions, duties or activities of any student or employee of the University or any authorised visitor to the University • Failure to produce appropriate identification within a reasonable period of time on reasonable request from any member of staff, including placement providers' staff	• Written caution • Letter of apology • University service • Acceptable behaviour contract

	• Failure to comply with and reasonable request or instructions from any member of staff	

Penalties

30 The range of penalties which the University may impose for misconduct include but are not limited to the following:

(a) a written warning
(b) requiring a letter of apology
(c) carrying out specific community/University service or a mentoring/coaching workshop
(d) agreeing a written behaviour contract
(e) requirement to pay compensation and/or pay for damage caused
(f) a fine
(g) suspension from the University for a defined period of time
(h) expulsion from the University.

The University may issue single or multiple penalties. These are also illustrated on the above diagram.

PROCEDURE ON STUDENT DISCIPLINE

Reporting alleged misconduct

Reporting within the University

31 Where an allegation of misconduct by a student is made, the officer will cause an investigation to be conducted as they deem appropriate to the circumstances of the case. Such investigation may be conducted by a person or persons external to the University, but acting on behalf of and reporting to the University.

32 Such investigation will be conducted in a manner which is fair to the accused student, any alleged victim, and other affected parties, taking account of the nature of the behaviour alleged, its likely impact on any person, and the type of evidence likely to be required.

33 Where an allegation is received anonymously the officer will determine whether it is appropriate to conduct an investigation taking account of the nature of the alleged behaviour and the availability of corroborating evidence.

34 The making of an allegation by a student against another student is a breach of this Code of Conduct if it is made maliciously knowing that the information provided is false or has been exaggerated.

35 Subject to para. 16 there is no time limit for the reporting of alleged misconduct under this Code and Disciplinary Procedure. However, the University will take into account any significant passage of time as this may make investigating the matter fairly more difficult.

Reporting alleged criminal offences to the police

36 This Code is concerned with matters which constitute misconduct in relation to the University and its community of staff, students and visitors. However, misconduct may also constitute a criminal offence, and an alleged victim of such an offence is entitled to report the matter to the police.

37 The University has the right to take action against a student in such circumstances given the differences between the criminal law and University discipline. However, where the police initiate an investigation and bring proceedings under the criminal law the University will suspend any internal investigation and co-operate fully with the police investigation. Suspension of the internal investigation under this paragraph does not prevent the University from taking precautionary action as set out in paragraphs 46-51.

38 Once criminal proceedings have been concluded, whether discontinued through lack of evidence or having resulted in a conviction or acquittal, the University officer will determine whether to proceed with an internal investigation using, where appropriate, evidence from the criminal proceedings. Where the University decides to proceed it will take account of the findings of the court, and any penalties imposed, as considered appropriate.

39 For students on programmes leading to professional practise proceedings the matter must be addressed under Code on Fitness to Practise (QH:C8) as an issue of fitness.

The decision to report

40 An alleged victim of a criminal offence which might also constitute misconduct under this Code and Disciplinary Procedure, has the right to decide whether to:

(a) report the matter to the police
(b) report the matter to the University for action under this Code and Disciplinary Procedure
(c) take no action.

41 Other than in very exceptional circumstances the University will not report a matter to the police against the wishes of the alleged victim, and will not bring any pressure on the alleged victim to report or not report the matter. Exceptional circumstances (for example relating to the need to protect students or others from harm) will be determined by the Vice-Chancellor and will be explained to the alleged victim before the matter is reported or as soon as possible thereafter.

42 The University will offer support without prejudice to the alleged victim. Staff will also make clear the differences in the nature of any investigation which can be conducted by the University compared with the police and related authorities, especially relating to forensic evidence and medical examination.

43 Where the University is the 'victim' of the alleged criminal offence (such as selling drugs or arson), the officer will determine whether to deal with the matter internally or make recommendations to the VC for the matter to be reported to the police.

Malicious, frivolous or vexatious complaints

44 The University will not process allegations that are deemed to be malicious, frivolous or vexatious in that they are obsessive, harassing, exaggerating or repetitive, abusive in tone or language, insistent on pursuing unrealistic or unreasonable outcomes, designed to cause disruption or annoyance, or demanding disproportionate redress. The University reserves the right to terminate the allegation process at any time where a complaint is judged malicious, frivolous or vexatious. The determination of whether the allegations are deemed to be malicious, frivolous or vexatious will typically be made by the Officer or other Officer.

45 A student who submits an allegation which is malicious, frivolous or vexatious may be subject to disciplinary action under this Code and Disciplinary Procedure.

Precautionary action

46 A student who is alleged to have committed misconduct under this Code and Disciplinary Procedure may be subject to precautionary action for a defined period of time where the officer, in consultation with the other officer, considers that this is necessary to:

(a) protect any person or persons whether members of the University or another associated organisation (such as a partner institution or placement provider)
(b) prevent interference with evidence or interference with or harassment of potential witnesses or those involved in investigating/determining the allegation
(c) avoid any recurrence of the alleged misconduct or any related misconduct.

47 Precautionary action may, but is not limited to, take the form of:

(a) suspension from the course or programme or a defined part of the course or programme (such as a field trip or placement)
(b) suspension from entering the University campus or specified University buildings
(c) suspension from carrying out specified roles or activities (such as volunteering or acting as a student representative)
(d) suspension from using all or specified University facilities or services (such as IT equipment or other specialist equipment)
(e) prohibition from contacting (through whatever media) specified persons whether directly or through a third party.

48 In determining any precautionary action, the officer should consider the implications for the accused student in relation to their academic progress (for example if assessments or examinations are imminent) and in relation to other applicable matters such as their immigration status.

49 Where the officer determines that suspension is justified they should inform the accused student verbally without delay if practicable and must inform them in writing within 24 hours stating the nature and extent of the suspension, the duration of the suspension and the reasons for it.

50 The accused student must also be informed that the suspension does not prejudice the outcome of the investigation and any panel decision but is purely precautionary in nature.

51 An accused student may appeal against a suspension issued under the above paragraphs in writing to the Vice-Chancellor within five days of being issued with the suspension. The decision of the Vice-Chancellor is final.

Disciplinary hearings

52 Once an investigation has been undertaken the officer will determine whether there is sufficient evidence to proceed with the matter. Where they determine that there is insufficient evidence they will determine that the matter be closed and the accused student and any alleged victim or witnesses will be informed.

53 Where the officer determines that the matter is of a kind which could be resolved informally, for example through a verbal or written apology or a written undertaking to not repeat the misconduct, they may invite the accused student and any alleged victim to agree this course of action.

Student Disciplinary Panel

54 Where neither of the above circumstances apply, the officer will arrange for a hearing to be conducted before a Student Disciplinary Panel to comprise no fewer than two members of staff, none of whom have been involved in the allegation or have a close connection with the accused student or alleged victim (such as being the tutor of either party). One or more members of the panel may be external to the University provided they have appropriate experience in dealing with student disciplinary or related matters. The Chair of the panel will in all cases be a member of staff.

55 The accused student will be entitled to attend the hearing of the panel, to present evidence, and to question witnesses.

56 Once the date of the Panel hearing has been agreed the officer **must** inform the accused student and any witnesses in writing, stating the date, time and venue of the hearing and giving no fewer than 10 working days' notice of the hearing. The accused student **must** also be informed of their right to be accompanied by a person of their choosing, and must be informed of any witnesses

who will appear at the hearing and be provided with copies of any evidence which will be considered by the Panel. A 'person of their choosing' must be read subject to the restrictions set out in paragraphs 63 and 64.

57 The hearing must be conducted in a manner which the Panel considers appropriate given the nature of the allegation and the evidence to be considered. The Chair **must** ensure that the accused student is given a fair and proper opportunity to make their case, to question any witnesses, and to comment on any evidence provided at or before the hearing.

58 The officer will act as Panel Secretary and make a record of the proceedings at the hearing, a copy of which **must** be provided to the student within five working days of the hearing. Neither party will digitally record the proceedings of a Complaints Panel.

59 If the accused student declines to attend the hearing the Panel may agree to progress the matter in the student's absence. If the accused student is unable to attend for a reason which the Panel considers legitimate (such as illness) the hearing **must** be rearranged giving the parties no fewer than 10 working days' notice of the new date.

60 If the accused student does not appear at the hearing, the Panel may proceed provided it is satisfied that the Panel Secretary has properly notified the accused student of the hearing.

61 Once the Panel is satisfied that it has received sufficient information on which to make a decision, and that all parties have had a fair opportunity to make their case, it shall require all parties and witnesses to withdraw. The Panel may defer the making of the decision after the hearing where it considers that this will facilitate a better decision, provided that the decision is confirmed in writing to the accused student by the officer within five working days of the hearing. Confirmation of the decision must include notice of the accused student's right to appeal.

62 As soon as the decision has been made, the Panel **should** inform the accused student verbally of the outcome of the allegation including any applicable penalty where the allegation is judged proven, and the reasons for its decision.

Representation at the panel hearing

63 The accused student may be accompanied by one person of their choosing at the hearing provided that the person is not someone who has been suspended or excluded from the University for any reason. The accompanying person may not address the Panel or witnesses other than in exceptional circumstances and at the invitation of the Chair. For the avoidance of doubt, the definition of "exceptional circumstances" in this context is a matter for determination by the University.

64 As the Code of Student Conduct is not a criminal process, legal representatives are not permitted to be present at any stage of the conduct process.

Outcomes

65 The Panel **must** determine the outcome of the allegation based on the evidence presented prior to and at the hearing. It must apply the standard of proof of a balance of probabilities (more probable than not). If it is not satisfied that the standard of proof has been met it must reject the allegation.

66 Where there is more than one allegation, each allegation must be considered against the standard of proof.

Penalties

Aggravated misconduct

67 In determining the penalty or penalties for proven misconduct under this Code and Disciplinary Procedure, the Panel must decide whether the misconduct should be classified as 'aggravated' justifying a more severe penalty.

68 Misconduct should be considered as 'aggravated' where one or more of the following applies, where the misconduct involved:

(a) causing or intending or threatening to cause physical or mental harm to any person or being reckless as to whether harm would be caused
(b) the possession of, or use of, an offensive weapon
(c) causing or intending to cause serious damage to property (such as damage which would cost more than £500 to repair or replace) or being reckless as to whether such damage would be caused
(d) any action involving fraud or deception, whether involving financial or personal and/or confidential information.

69 Where the panel determines that the misconduct meets the criteria of 'aggravated' under the above paragraph, the penalty shall be permanent exclusion from the University and from all its courses, programmes and facilities unless the Panel considers that there are compelling mitigating factors justifying a lesser penalty (as set out below).

Non aggravated misconduct

70 Where the panel determines that the misconduct is not 'aggravated' or merits a lesser penalty as set out above, it may apply one or more of the following penalties as it judges appropriate:

(a) a written warning
(b) requiring a letter of apology
(c) carrying out specific community/University service or a mentoring/coaching workshop
(d) agreeing a written behaviour contract
(e) requirement to pay compensation and/or pay for damage caused

(f) a fine
(g) suspension from the University for a defined period of time
(h) expulsion from the University.

71 In determining appropriate penalties the panel will take into account:

(a) the type of behaviour constituting misconduct
(b) the extent of the damage or impact which was caused or could have been caused
(c) the need to protect any victims or other students, staff or visitors to the University
(d) whether the behaviour was spontaneous or premeditated
(e) factors which make the behaviour more serious, for example:

(i) previous behaviour including where a warning has previously been issued
(ii) evidence of intention to commit more serious harm than actually resulted from the behaviour
(iii) attempts to lie about the behaviour or conceal evidence

(f) mitigating factors, for example:

(i) lack of intention (e.g. damage caused through negligence rather than intention to cause damage)
(i) evidence of genuine remorse (including If indicated by an early admission of guilt)
(ii) previous good behaviour
(iii) evidence of having co-operated with the investigation
(iv) any personal circumstances put forward and supported by evidence which might explain or mitigate the misconduct.

72 As indicated in para. 38 account will be taken of any penalty imposed by a criminal court following conviction for an offence which relates to, or is derived from the same events, as the alleged misconduct.

Right of Appeal

73 A student who is judged to have committed misconduct under this Code and Disciplinary Procedure may appeal in writing to the other officer within 20 working days of the notification of the decision of the Student Disciplinary Panel, stating the nature of the appeal (against the finding of guilt and/or the penalty) and the reasons for the appeal. The appeal must be supported by all relevant evidence to support the student's case.

74 An appeal may be submitted only on one or more of the following grounds:

(a) where there is evidence that there has been a significant procedural irregularity in the conduct of the Panel of a kind that would have made a material difference to the outcome

(b) that based on the evidence available to the Panel, the outcome is unreasonable (including that the penalty is disproportionate to the misconduct in question)
(c) that there is new evidence which was not available at the time of the Panel hearing for legitimate reasons and which would have made a material difference to the outcome.

75 If, on receipt of the appeal, the other officer determines that the appeal is malicious, frivolous or vexatious in that it is obsessive, harassing, exaggerating or repetitive, abusive in tone or language, insistent on pursuing unrealistic or unreasonable outcomes, designed to cause disruption or annoyance, or demanding disproportionate redress they may terminate the appeal and advise the student of the decision and reasons for it in writing.

76 A student who submits an appeal which is malicious, frivolous or vexatious may be subject to further disciplinary action under this Disciplinary Procedure.

77 The appeal will be determined by the Vice-Chancellor based on the evidence presented in writing by the student, the record of the Panel hearing and any comments provided by the chair of the Panel.

78 Pending the decision of the Vice-Chancellor, the other officer may defer any or all of the penalties imposed by the Student Disciplinary Panel where they judge that this is justified and will not compromise the safety of any person.

79 If the Vice-Chancellor is satisfied that the appeal is valid, or partially valid, they may:

(a) revoke the finding of the Panel that there has been misconduct
(b) substitute the penalty imposed for an alternative penalty (provided it is one permitted under this Disciplinary Procedure)
(c) direct that a new hearing take place before a new Student Disciplinary Panel.

80 Where the appeal relates to more than one finding of misconduct, the Vice-Chancellor may make different rulings (as set out in (a)-(c) above in respect of each finding of misconduct.

81 The student must be informed of the outcome of the Vice-Chancellor's decision in writing within five working days setting out the decision and the reasons for the decision and making clear that the decision is final.

82 This communication to the student must also advise the student of their right to take the matter to the Gibraltar Public Services Ombudsman if they remain dissatisfied with the outcome of their appeal. The communication constitutes confirmation of the 'Completion of University Procedures' by the student and must include the text agreed jointly by the University and the Gibraltar Public Services Ombudsman.

Record keeping and notification

83 Any penalty imposed against a student through this Student Disciplinary Panel will be recorded as a permanent part of the student's record and this information will be shared with those members of staff who may require this information. The University is also entitled to share the information with any third party, for example when providing a reference to a prospective employer or to comply with the reporting requirements of any professional or regulatory body.

84 Following completion of the process the University will also inform the person who reported the allegation of the outcome of the investigation, and (where different) will inform any victim(s).

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