

Academic Policy and Procedures

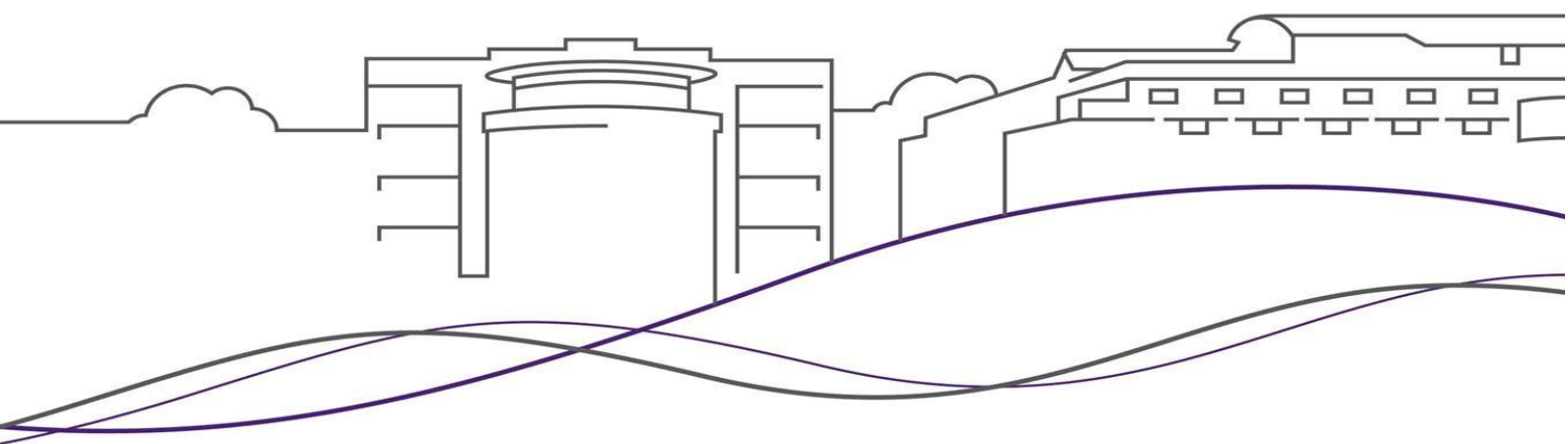


UNIVERSITY
CENTRE
SOUTH DEVON

[] South Devon College

HIGHER EDUCATION

Higher Education Code of Conduct and Disciplinary Procedure



Student Code of Conduct and Disciplinary Procedure

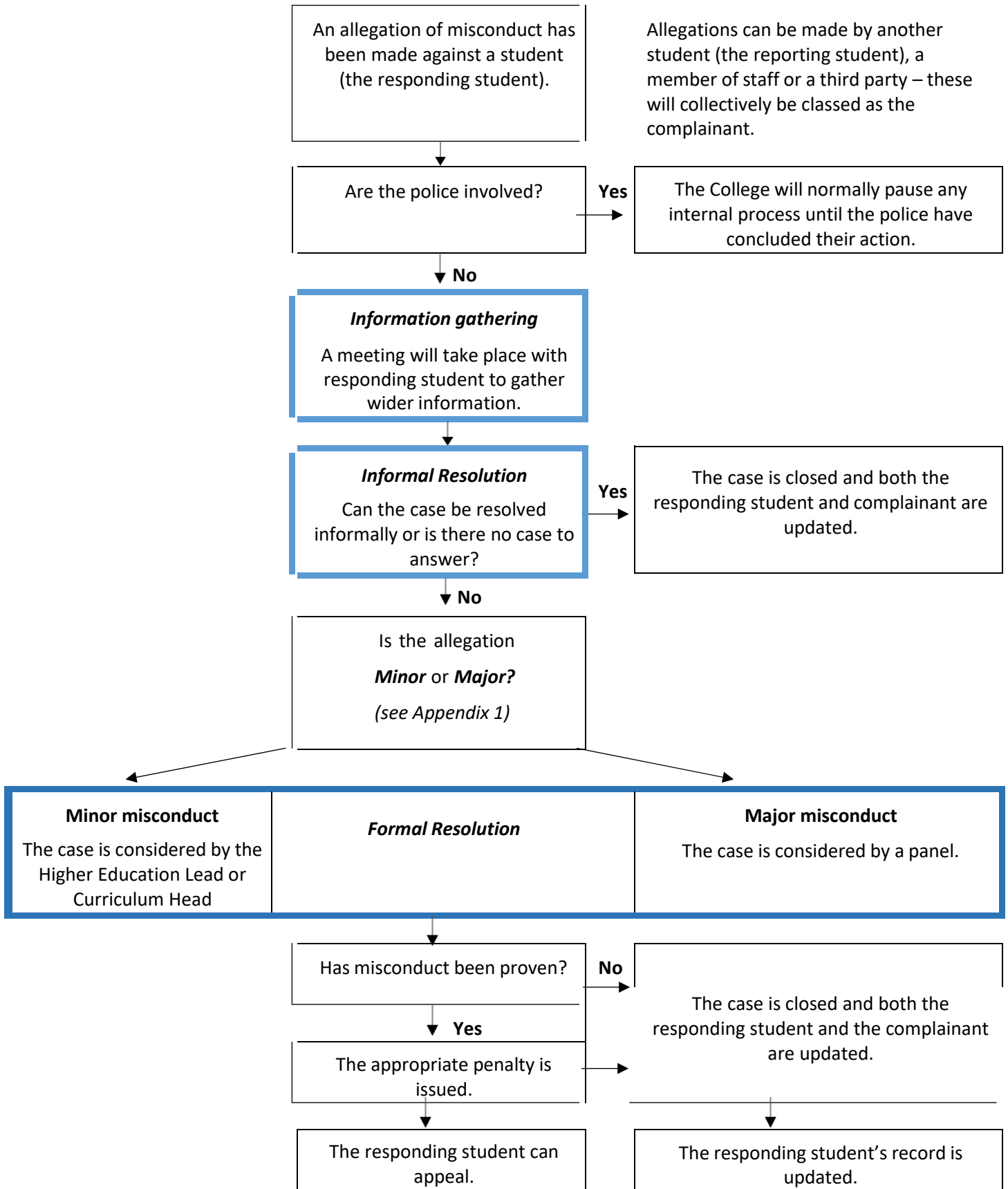
Version number	Status (draft/final)	Owning Directorate / Faculty		
5.1	FINAL	Academic Registry		
Summary of any amendments:				
<ul style="list-style-type: none"> - Separated and provided greater clarity for the information gathering process, informal resolution and formal resolution. - Changed expected resolution to 90 from 60 days (as per OIA best practice) - Defined the appeals process (previously referred to the generic appeals process that was not fit for purpose for student conduct matters) 				
Document objectives:				
<p>This code and associated procedure outlines the approach to student conduct for all students on L4 or above qualifications at South Devon College and University Centre South Devon</p> <ul style="list-style-type: none"> • The definition of misconduct and what constitutes misconduct • Explains the levels of misconduct • Explains how allegations of misconduct are investigated and who carries out the investigation • Details the procedure of how the process is instigated, how it's managed to achieve an outcome and explains the appeals process • Explains the roles and responsibilities of students and staff. 				
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STUDENT CODE OF CONDUCT AND DISCIPLINARY PROCEDURE

The disciplinary procedure at a glance



INTRODUCTION

South Devon College and University Centre South Devon is committed to creating an environment where all members of its community are respected, treated with dignity and feel safe, as well as ensuring the proper working of the College.

This Code of Conduct serves as a framework to help students understand what is expected of them, what standards of behaviour they can expect from other students and explains what happens if those expectations are not met.

The Code of Conduct sets the scope, guiding principles and provides a definition of misconduct. The Disciplinary Procedure and associated appendices provide detail on how the disciplinary process is applied in practice.

This Code of Conduct applies to all students on Level 4 and above programmes studying at South Devon College and College Centre South Devon.

THE CODE OF CONDUCT

1 The scope

- 1.1. This code applies to all students on Level 4 and above programmes, including students on Higher and Degree Apprentices, in relation to matters of alleged non-academic misconduct. Please refer to the separate procedures for academic misconduct.
- 1.2. This code applies to a student whether they are on or off college premises, including non-College activities.
- 1.3. For students who are on professional programmes involving work with vulnerable groups, such as nursing and healthcare, then any allegations of misconduct may be managed through the relevant 'Fitness to Practice' procedure
- 1.4. Below are associated guidance, policies and procedures, this list is not exhaustive:
 - The Student Charter
 - Anti-Bullying and Harassment Policy
 - Assessment Offences and Misconduct
 - Equality and Diversity
 - Fitness to Practice
 - Prevent Policy
 - Safeguarding Policy
 - Student Complaints Procedure
 - Student Sexual Violence and Misconduct Policy
 - Study and Wellbeing Review Policy.

2 Expectations of students

- 2.1. To ensure that our students are respected, valued and feel safe we expect them to treat each other – as well as staff, visitors and members of the public in the wider community - with dignity and respect by:

- Abiding to the terms and conditions¹ of being a UCSD student

¹ [Consumer Rights for UCSD Students | University Centre South Devon](#)

- Respecting and treating with care any facilities or equipment provided by the College and their partners
- Being familiar with and complying with College policies and procedure
- Upholding the spirit of the Student Charter.

3 Guiding principles

- 3.1. Fairness is woven throughout the process to ensure that all students involved are treated fairly, with respect and are supported. This will ensure that the conduct matter is looked into without bias and that all students will have the opportunity to be heard.
- 3.2. Investigations will be concluded in a timely manner and the College will normally aim to arrive at an outcome within 90 College working days of an investigation being started.
- 3.3. Any student involved in the process will have reasonable notice to attend any meetings (the length of notice will normally be determined by the nature of the meeting).
- 3.4. Before any matter is taken forward, the complainant will normally be asked how they want their complaint to be taken forward.
- 3.5. The responding student will have the allegation(s) against them outlined and they will have the opportunity to respond.
- 3.6. Any penalties imposed will be proportionate to the offence(s) and aim to take into account any mitigating factors, as well as aggravating factors.
- 3.7. Both the complainant and responding student will be kept appropriately informed about the investigation, whilst meeting confidentiality requirements (section 10).
- 3.8. Clear reasons will be given for any precautionary actions and or penalties imposed.
- 3.9. The College will, where practicable, aim to ensure the process is free from bias by ensuring that anyone involved in the decision making process will not have been involved with the current case.
- 3.10. If the College has reason to believe anyone is at risk of harm or abuse, then action will be taken in order to safeguard them (this includes any concerns about the safety of an under 18-year old). This is as described in the College Safeguarding Policy².

4 Definition and classification of misconduct

- 4.1. Misconduct is defined as any behaviour which:
 - a) Fails to meet the College's stated expectations (section 2), or
 - b) Interferes with the proper functioning or activities of the College, or
 - c) Otherwise damages the College or its reputation.
- 4.2. Any of the above can be considered a breach of this code and will mean that the matter is taken forward using the disciplinary procedure.
- 4.3. Misconduct at the College will be classed as 'minor' or 'major' (see appendix 1 for Examples).
- 4.4. The College has zero tolerance to hate-related incidents, which means incidents that are motivated by: Disability, Gender Identity, Nationality, Race/Ethnicity, Religion or Belief, Sex, Sexual Orientation. This means that all hate-related incidents will be fully investigated, subject to section 8.
- 4.5. The College has a right to determine what is considered an act of misconduct (section 16).

² <https://www.southdevon.ac.uk/about-us/safeguarding>

THE DISCIPLINARY PROCEDURE

5 Introduction

- 5.1. The purpose of this disciplinary procedure is to explain how the Student Code of Conduct is followed in practice. It outlines who is authorised to undertake investigations and make decisions as well as explaining the process that is followed. There are up to three main stages to the process:
 - 1) Information gathering, including resolving the matter informally where appropriate
 - 2) Formal resolution
 - 3) Appeal.
- 5.2. See the flowchart on page 3 for ease of reference

6 Supporting students

- 6.1. The College recognises that it can be a distressing time for any student involved with the disciplinary process; be that the reporting student, the responding student, as well as any witnesses or friends, and the College has a wide range of support services for students.
- 6.2. The same support services are available to all students and this can be accessed via Student Hub which can be accessed online, over the telephone or visiting the Student Hub, located by the entrance of the University Centre on the main campus.
- 6.3. Students will be signposted as appropriate by the member of staff that is working with them at any stage in the process.
- 6.4. Support is also available through the SDC Helpzone
- 6.5. At any stage of the process a student can be accompanied by a member of College staff, fellow student. Legal representation may only be considered in cases relating to professional programmes where an outcome could be exclusion from the programme.

7 Receiving the complaint

- 7.1. A complaint about a student can come from a number of sources: a fellow student, a member of staff, a member of the public, the police or any other third party.
- 7.2. When the complaint is received, the complainant will be contacted with a view to understand more about the complaint and explain next steps as well as sign posting to appropriate support services.
- 7.3. If they wish the complaint to be taken forward but to be treated anonymously, then that may be possible depending on the nature of the complaint (section 9).

- 7.4. Any allegations that are made by a student that are not made in good faith and that are knowingly false are likely to be treated as a vexatious complaint and will be looked into using this disciplinary procedure.

8 Consent

- 8.1. When an allegation against a student is made, the details need to be taken from the complainant including how they would like the matter taken forward.
- 8.2. Consent must be obtained from the person making the complaint if they wish the disciplinary procedure to start.
- 8.3. If a complainant wants to retract their name and they want the matter to be taken forward anonymously then this needs to be discussed with the HE Quality Office before any further action is taken (section 9).
- 8.4. If at any stage in the process the complainant wishes to drop the case, the College will try and respect the wishes of the complainant. In some cases, due to the nature of the allegation, the College may decide to continue with the investigation owing to the seriousness of the allegation, for example where there is a safeguarding concern (section 3.10).

9 Anonymous complaints

- 9.1. If the complainant wishes to remain anonymous, their complaint will not normally be investigated as this could undermine the ability for the responding student to defend themselves. The College reserves the right to consider investigating the case if there is evidence that misconduct may have taken place, and keeping the complainant anonymised will not compromise the responding student's ability to defend themselves, for example where there is a safeguarding concern (section 3.10).

10 Confidentiality

- 10.1. Any students involved with the investigation be that a reporting student, the responding student or a witness, must maintain confidentiality. Any breach of confidentiality may itself result in disciplinary action being taken.
- 10.2. The complainant will be kept appropriately updated on the progress of the case. Such communications will take into account data protection and the rights of the responding student for confidentiality.
- 10.3. For the avoidance of doubt, it will not be considered a breach of confidentiality for students to discuss the matter with the individual who is providing them with support (section 6).

11 Keeping the complainant informed

- 11.1. The complainant will normally be kept informed as follows:
- The complaint has been received and is being considered
 - After the initial facts have been considered and whether the complaint is being taken forward
 - And when applicable, where the formal process has concluded and that any appropriate action has been taken.
- 11.2. Where the complainant is a student or a member of staff, then in certain exceptional circumstances, and only after discussion with the HE Quality Office, certain precautionary measures and/or outcomes of a disciplinary matter can be shared with the

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complainant, such as when the penalty has had a direct impact on them e.g. the responding student has been required to make an apology to a reporting student.

12 Criminal offences

- 12.1. In the case where the police are carrying out an investigation into a responding student, or there is an investigation by another external official body, then any related College investigation will normally be paused until the external investigation has concluded. However the College is likely to proceed with a risk assessments as outlined in this policy.
- 12.2. The outcome of the police/external investigation does not automatically assume the College's code of conduct has been breached, nor does the absence of any charge or conviction mean the code of conduct has not been breached. The external investigatory process will not dictate the outcome of any College investigation.
- 12.3. Once the police/external body has concluded their investigation, or they are satisfied that the College can take forward the matter, then the College will normally instigate its own investigation under this code and the disciplinary procedure will start.

13 Timeliness

- 13.1. Once an allegation of misconduct against a student has been received and the information gathering process has started, the College intends to arrive at an outcome within 90 College working days. This does not apply in cases where the police/external agency are carrying out an investigation (section 12). The complexity of the case, the number of witnesses and other factors might also affect that timeframe.
- 13.2. Students will be given reasonable notice to attend any meetings. The length of notice will normally be determined by the nature of the meeting.

14 Burden and standard of proof

- 14.1. In College conduct matters, the standard of proof required is lower than that of a criminal case, where 'beyond reasonable doubt' is used. When applying this disciplinary procedure a case will normally be decided on in relation to the evidence presented. Where a matter is not clear-cut then the case will be decided upon using the balance of probability. Balance of probability is higher than simply believing that something may have happened but not at the same level of 'beyond reasonable doubt'.

15 Mitigation and Aggravation

- 15.1. The responding student will have the opportunity to present any mitigating circumstances they believe should be taken into account, such as compelling personal circumstances that may have affected the student's judgement.
- 15.2. Mitigation does not reduce the seriousness of the matter but can be taken into account when considering the penalty.
- 15.3. Aggravating factors will also be considered which could result in a more serious penalty, for example there were underpinning motives that were 'hate' related (section 4.4).

16 Acts of misconduct

- 16.1. The College definition of misconduct is set out in section 4 and the following are typically considered acts of misconduct (one or more may be considered in a conduct case):
- a) Improper interference, in the broadest sense, with the proper functioning or activities of the College or with those who work or study at the College
 - b) Any action which otherwise damages the College, its interests or its reputation
 - c) Violent, indecent, disorderly, threatening or offensive behaviour or language; through any medium, including group chat and social media
 - d) Undertaking Research which requires Ethical Approval, and that Ethical Approval has not been granted, even if the work has not been submitted
 - e) Acts that are considered to be 'hate' motivated (section 4.4)
 - f) A breach of the College's Equality and Diversity policy
 - g) A breach of the College's Student Sexual Harassment, Violence and Misconduct Policy
 - h) Failure to respond to requests to moderate behaviour
 - i) Disruption of, or improper interference with, the academic, administrative, social or other activities of the College
 - j) Fraud, deceit, deception or dishonesty in relation to the College, its staff or fellow students, Such action may (without limitation) include failure to reveal details of an 'unspent' criminal conviction, or failure by a student (who undertakes paid or unpaid activity which brings him or her into frequent contact with children or vulnerable adults whilst in his or her student role) to reveal any conviction or offence, whether committed pre or post-admission
 - k) Action likely to cause injury or impair safety on College premises
 - l) Misuse or unauthorised use of College premises or items of property
 - m) Possession, use or supply of illegal substances
 - n) Behaviour which brings the College into disrepute
 - o) Antisocial or disorderly conduct which causes distress to others; regardless of where this takes place
 - p) Failure to comply with a previously imposed penalty or precautionary action(s)
 - q) A breach of any College code, rule or regulation that may be considered as misconduct
 - r) Vexatious or malicious complaints about a student or member of staff
 - s) Actions that might be treated as a criminal offence
 - t) Any other action that could reasonably be classed as misconduct

17 Information gathering

- 17.1. When consent has been obtained from the complainant (section 8) the allegation of misconduct will normally be passed to the appropriate area to appoint an investigating officer (see appendix 2)
- 17.2. When an allegation of misconduct is received, a meeting will normally need to take place with the complainant and the responding student (separately) to establish further information behind the allegation.
- 17.3. The responding student should be made aware of the allegation(s) that has been made against them, along with any evidence that is available at that time, and will normally be given 3 days' notice to attend the meeting.
- 17.4. The purpose of the meeting will be outlined in the correspondence to the student which will

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include the option for them to provide a written statement in response to the allegation, in addition to or instead of attending the meeting.

- 17.5. The investigation officer will normally also meet with any named witnesses to gather statements and any evidence.
- 17.6. Any student involved in the process has the right to be accompanied to any meetings (section 6.5) and alternative options should be offered if the student cannot make the meeting, this includes witnesses as well as the reporting and responding students.
- 17.7. Consent to use a witness statement will be requested from each witness.
- 17.8. If a witness does not give consent to use their statement then the investigating officer can decide to consider 'an anonymised statement', if doing so would not compromise the identity of the witness or the ability of the responding student to respond.
- 17.9. In cases where, based on the balance of probability, there is not enough evidence of misconduct then the case will be closed and no further action will be taken.
- 17.10. Where the investigation suggests that an act of misconduct may have taken place, the matter will normally be discussed by the investigation officer with either the Head of Higher Education and Academic Registrar to determine if the matter can be resolved informally (where words of advice, a verbal warning or appropriate restorative action can be given – section 19) or to treat the matter formally where a formal penalty is considered (section 20).
- 17.11. If a responding student does not attend a meeting or does not supply a written statement without good reason, then procedure may still continue and a decision will be made on the evidence available.
- 17.12. In cases where there is more than one allegation against a responding student; there will normally be one investigation with each incident being considered in its own right. If it has been decided that an act of misconduct has taken place on at least one allegation then a penalty will normally be determined based on the most serious act of misconduct.
- 17.13. In cases where there is more than one responding student in relation to the same incident, there will normally be one investigation officer to ensure consistency and the initial meetings will take place on an individual basis as above. The responding students must not talk to each other about the case each other; doing so may result in further disciplinary action being taken. The case will be considered as a whole but each student will have an outcome that is relevant and proportionate to their role in the matter.
- 17.14. If a further act of misconduct takes place at any stage in the process then this will normally be considered at the same time (section 17.12).

18 Risk assessment and precautionary action

- 18.1. An alleged incident can become a matter of possible major misconduct. This can happen when evidence comes forward, witnesses corroborate allegations or the police/external agency provide more information about an incident.
- 18.2. In most cases of alleged major misconduct, a risk assessment will be undertaken by the Tutorial Manager gathering evidence from relevant staff (and other departments as appropriate based on) a panel will assess the risk posed to the complainant, any witnesses, the wider student community, the responding student, College staff and property, as well as the College's reputation.
- 18.3. In cases where a student is subject to a police investigation, a risk assessment will be carried out in relation to any information provided by the police.

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- 18.4. In considering the risk and any precautionary measures, the College will aim to minimise the impact on both the reporting student and the responding student's studies as far as possible.
- 18.5. Where necessary, and if applicable, the College will inform the complainant of any precautionary action taken.
- 18.6. Breaches to any of the restrictions will be viewed as a further act of misconduct and this will be taken into account when considering any penalty.
- 18.7. Precautionary actions may include, but are not limited to:
 - No access to campus or any College buildings
 - Partial campus restriction
 - No contact with named persons or groups
 - No access to their student IT account
 - Any other restriction that justifies the risk that needs to be mitigated
- 18.8. Any precautionary actions imposed will be reviewed on a regular and timely basis.

19 Informal resolution

- 19.1. Where the act of misconduct is minor in nature, the College will aim to resolve the matter informally. Factors that will normally influence this are:
 - An unprompted apology
 - The incident is not underpinned by 'hate' (section 4.4)
 - The complainant wishes for informal resolution/is looking for an apology
 - There are no previous incidents or penalties in place.
- 19.2. Informal resolution could include one or more of the following:
 - Words of advice
 - Verbal warning
 - Restorative action (such as an apology, undertake training, reflective essay or activities that benefit the College community)
- 19.3. Informal resolution outcomes will normally be conveyed to the responding student in person, giving clear reasons for the decision that has been reached and followed up in writing.
- 19.4. Informal resolutions will be noted on the student's record and the responding student will be informed of their right of appeal (section 23)

20 Formal resolution

- 20.1. Formal resolution will be required where it is not appropriate to resolve an act of alleged misconduct informally.
- 20.2. Prior to making a decision about the nature of any formal resolution, the investigating officer will compile a report that outlines the allegation(s), persons interviewed, facts and evidence established and conclude whether there has been an act of misconduct, and normally submit the report to those authorised to determine a course of action/penalty (see appendix 2), typically:
 - Head of Higher Education and Academic Registrar

- Deputy Head of Higher Education
- 20.3. In cases where there is more than one allegation against a responding student, a penalty will be considered for each allegation. If one or more of the penalties is likely to be more than a written warning, the whole case is likely to be treated as major misconduct.
- 20.4. The investigation outcome will normally be conveyed to the responding student both verbally (if the student takes up this option) and followed up in writing. Where a penalty is issued the responding student will be informed of their right of appeal (section 23)
- 20.5. The outcome and penalty (if applicable) will be confirmed in writing, normally within 10 College working days of the outcome meeting taking place, whether or not the responding student attended the outcome meeting.
- 20.6. The process and indicative agenda for Major Misconduct Hearings is covered in appendix 3.

21 Penalties

- 21.1. Any penalty issued by the College will be proportionate to the offence.
- 21.2. Mitigating and aggravating factors that are presented during the investigation and/or formal meeting/hearing, will be fully considered.
- 21.3. One or more of the following can be issued for cases of minor misconduct but are not limited to:
- Verbal warning (which can be given in the informal resolution stage, section 17.9)
 - Restorative actions: such as an apology, undertake training, reflective essay or activities that benefit the College community (which can be given in the informal resolution stage, section 17.9)
 - Written warning
 - Financial penalty, such as to make good any damage made (up to a limit of £500).
- 21.4. One or more of the following can be issued in the cases of major misconduct but are not limited to:
- Verbal warning, where mitigation is warranted
 - Written warning, where mitigation is warranted
 - Restorative actions: such as an apology, undertake training, reflective essay or activities that benefit the College community
 - Financial penalty to make good any damage made (up to a limit of £1500)
 - A full suspension from the College for the remainder of the academic year, or longer as decided by the panel
 - Exclusion from a programme either temporarily (where a new application to the programme will be required), or permanently
 - Permanent expulsion from the College.
- 21.5. Restrictions may also be imposed as a part of the penalty, as per section 18.7.
- 21.6. Any other penalty can be imposed that is proportionate and appropriate to the offence, such as a fine.
- 21.7. In major misconduct cases relating to a responding student with a Student Visa sponsored by the College, and the penalty imposed is suspension, exclusion or expulsion (21.4), sponsorship will likely be withdrawn.

21.8. Where the student is suspended this will normally mean that the student's IT account and card will be suspended.

22 Monitoring and record keeping

22.1. The College keeps a record of all conduct matters to:

- Monitor consistency in how incidents are dealt with
- Identify trends
- Impose one or more restorative actions and
- Develop response initiatives.

22.2. The College's Student Records System will be updated where the penalty affects the student's status.

23 Appeals

23.1. The responding student has the right of appeal against the outcome of an investigation that has decided that they have committed an act of misconduct and/or against a penalty imposed both at informal and formal resolution stage.

23.2. A reporting student has no right of appeal against a decision taken under the Student Code of Conduct where they have made a complaint of misconduct against another student. If the reporting student considers that the Student Code of Conduct and Disciplinary Procedure was not followed properly, they may wish to consider submitting a complaint using the Student Complaints Procedure

23.3. The original decision made under the Student Code of Conduct and Disciplinary Procedure will stand until the outcome of an appeal process is determined.

23.4. Appeals must fall under one of more of the following:

- The Student Code of Conduct and Disciplinary Procedure was not followed properly
- The decision reached was unreasonable
- The student has new material evidence that they were unable, for valid reasons, to provide earlier in the process
- There is bias, or reasonable perception of bias, during the process
- The penalty was disproportionate, or not permitted under the Student Code of Conduct and Disciplinary Procedure.

23.5. Appeals should be made by completing the appeal form and submitting it, with all supporting evidence, to the HE Faculty Office university@southdevon.ac.uk within 10 College working days of the decision being notified to the student concerned. Advice and guidance regarding appeals is available from the Helpzone

23.6. The HE Faculty Office will acknowledge appeals made against decisions taken under the Student Code of Conduct and Disciplinary Procedure within 10 College workingdays of receipt of the appeal.

23.7. The appeal case will be investigated by Vice Principal Curriculum and Quality (or designated substitute). This may require additional relevant information to be gathered from the student, the curriculum area and/or other staff, as appropriate. A student who is asked to produce additional information in support of their appeal will be given a deadline for submission which, if not adhered to, will result in the appeal being considered as originally submitted. It may sometimes be necessary to share some information submitted as part of the appeal with staff as part of the investigation but where possible, confidentiality will be

maintained.

23.8. Once all relevant information has been gathered, appeals will be considered by:

- The Vice Principal or designated substitute (VP)

The person considering the appeal will not normally have been involved in the decision being appealed against.

23.9. Having considered all the information, the VP will then decide either to uphold (section 23.9) or reject (section 23.11) the appeal.

23.10. If the appeal is upheld, the student will be informed in writing by the VP and the case will be referred back to the relevant stage of the Student Code of Conduct and Disciplinary Procedure to be reconsidered. The person(s) reconsidering the case should, where possible, not have been involved with the initial investigation or decision making. The Student Conduct Team may have been involved in the case previously, in an advisory capacity only.

23.11. If an appeal is upheld, it does not mean that the original decision will be overturned. The case will be reconsidered under the relevant stage of the Student Code of Conduct and Disciplinary Procedure, which might result in a different outcome. Students may not subsequently appeal a decision taken following reconsideration of the case at the relevant stage of the Student Code of Conduct and Disciplinary Procedure and will be deemed to have completed the College's internal procedures. The student will normally be issued with a Completion of Procedures letter to refer their case to the Office of the Independent Adjudicator if they remain dissatisfied (see section 24.1)

23.12. If the appeal is rejected, the student will be informed in writing by the HE Faculty Office within 10 College working days of the decision being made, and will be deemed to have completed the College's internal procedures. The student will be issued with a Completion of Procedures letter to refer their case to the Office of the Independent Adjudicator if they remain dissatisfied (see (section 24.1).

23.13. The College endeavours to conclude appeals against decisions taken under the Student Code of Conduct and Disciplinary Procedure within 525 College working days, however, complex cases may take longer and the student will be advised accordingly and provided with updates.

24 Criminal Allegations, Police and Criminal Courts

24.1. Where a student is the subject of an investigation by the Police or other agency in relation to an alleged criminal offence, they must report this to the Higher Education Faculty Office at the earliest opportunity. The Head of Higher Education and Academic Registry, or designated substitute will report any such disclosure to the Vice Principal Curriculum

24.2. The College may report an allegation of misconduct by a student to the Police or any other agency as appropriate, although it shall be entitled (but not obliged) to take into account the wishes of a victim of the alleged misconduct if they do not want the Police or other agency to be involved)

24.3. A 'serious criminal offence' for the purposes of this Code is one which: a) Is triable only in a Crown Court; b) Is punishable by a custodial sentence; and c) If proven, is likely to result in expulsion or suspension of the student concerned from the College.

24.4. If the Vice Principal Curriculum or designated substitute, considers that the alleged misconduct is not a serious criminal offence within section 24.3 above), they will normally refer the matter to the appropriate Head of Curriculum, or designated substitute to deal with under this Code

24.5. If the Vice Principal Curriculum, or designated substitute considers that the alleged

misconduct is, or may be, a serious criminal offence within section 12.3 above) no internal disciplinary action will normally be taken (other than suspension from or restricted access to the College for a specified period in accordance with section 13 below), until the matter has been reported to the Police or other agency as appropriate and either a prosecution has been completed or a decision not to prosecute has been taken.

25 **Suspension and Restricted Access to College Pending Conclusion of Investigation**

- 25.1. The Vice Principal Curriculum, or designated substitute at his or her discretion may suspend a student from the College or restrict the student's access to the College if:
- 25.2. The Vice Principal Curriculum, or designated substitute considers that the misconduct which the student concerned is alleged to have committed is serious and is satisfied that such suspension or restriction is necessary to protect the students or staff of the College or their (or the College's) property; or

The student's presence at the College (or part of the College) may inhibit a proper investigation of the misconduct alleged against him or her.

- 25.3. Written reasons for the decision shall be recorded and made available to the student. The document containing the written reasons shall also set out the terms of any suspension or restriction(s) (which may include a requirement that the student shall have no contact with a named person or persons) and the procedures by which the student may request the decision to be reviewed.
- 25.4. Unless the matter is deemed to be urgent by the Vice Principal Curriculum, or designated substitute, no student shall be suspended or subject to an access restriction unless they has been given an opportunity to make representations to the Vice Principal Curriculum, or designated substitute. The representations may be made in person (at a time and venue to be agreed between the student and the Principalship Office) or in writing (as the student chooses), and may be put forward by the student or by a representative on the student's behalf.
- 25.5. In cases deemed to be urgent by the Vice Principal Curriculum, or designated substitute, a student may be suspended or have their access to specified facilities or persons restricted with immediate effect. An opportunity will be given to the student to make representations (in the manner mentioned above) as soon as reasonably practicable thereafter.
- 25.6. A decision to suspend a student, or to restrict his or her access, shall be subject to review by Vice Principal Curriculum, or designated substitute, at the request of the student, after a period of 4 weeks following the original decision. Such a review will not involve a hearing, but the student, either personally or through his or her representative, will be entitled to make written representations.
- 25.7. In addition to the initial review, the Vice Principal Curriculum, or designated substitute shall review the suspension or access restriction on receipt of fresh evidence or any change in

circumstances which might affect the original decision.

26 Office of the Independent Adjudicator (OIA)

26.1. If a student remains dissatisfied with the outcome of their appeal, in some cases they may refer their case to the Office of the Independent Adjudicator (OIA) within 12 months of the date of their Completion of Procedures letter. The OIA runs an independent scheme to review student complaints and the College is a member of this scheme. Further information about making a complaint to the OIA, what it can and can't look at, and what it can do to put things right can be found at <https://www.oiahe.org.uk/students>.

APPENDIX 1 Examples of minor or major misconduct

Matters of minor or major misconduct are not always straight forward and this table aims to serve as a guide but it is not definitive.

- Any penalties issued will be proportionate to the offence
- Mitigating factors that are presented during the investigation and or formal meeting, will be fully considered, as well as aggravating factors.

The College has a zero tolerance to hate-related incidents (incidents motivated by: Disability, Gender Identity, Nationality, Race/Ethnicity, Religion or Belief, Sex, Sexual Orientation). In these cases, once the information gathering has taken place, and it is probable that the incident did occur, the matter will be treated as a formal conduct matter.

Act of misconduct - examples	Probable classification/resolution approach
<p>Physical assault:</p> <ul style="list-style-type: none"> • Which doesn't result in an injury for example intentionally pushing someone over but there is no physical injury • Which results in minor injury such as pushing someone over that causes an injury but does not require medical attention, such as a slight graze or bruise • Which results in serious injury, such as pushing someone over and requires medical intervention such as a deep cut or sprain. 	<p>Informal or Minor</p> <p>Minor</p> <p>Major</p>
<p>Verbal or online abuse:</p> <ul style="list-style-type: none"> • One off incident that causes upset • One off incident that uses terms that could be classed as hate speech/or use of hate images – for example, using a homophobic term • More than one incident. 	<p>Informal or Minor</p> <p>Minor or Major</p> <p>Minor or Major</p>
<p>Online offensive behaviour:</p> <ul style="list-style-type: none"> • For example, group chat where a student makes a report of being offended by what they have seen or read (this does not have to be aimed at a particular person), for example sexually explicit 'banter' starts in group chat that becomes offensive to one or more members of the group. 	<p>Informal, Minor or Major – depending on the explicit nature of the content and whether it was aimed at someone, or if it was a general 'conversation', or 'hate' motivated.</p>
<p>Sexual misconduct or violence:</p> <ul style="list-style-type: none"> • Sexual undertones in verbal or online communication • Touching or kissing without consent • Forcibly touching or kissing without consent • Sharing of sexual material such as pictures or videos without consent • Penetrative sexual act without consent. 	<p>Informal, Minor or Major</p> <p>These are all extremely sensitive matters and how they are the treated depends on a number of factors, such as the impact on the complainant and the context. Please refer to the Sexual Violence and Misconduct Policy for further guidance¹⁰</p>
<p>Damage or misuse of College property or property within College managed halls:</p> <ul style="list-style-type: none"> • Smoking in areas that are not designated for smoking • Misuse of Fire Doors • Use of College equipment for financial gain. 	<p>These will be formally investigated as a minor matter in the first instance and escalate to Major for a repeat offence</p> <p>Major</p>

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<p>Drugs or any other illegal material:</p> <ul style="list-style-type: none"> • In possession for personal use, for example cannabis • Dealing drugs. 	<p>Minor (can escalate to Major if use continues) Major and the matter will be reported to the police.</p>
<p>Antisocial behaviour</p> <ul style="list-style-type: none"> • Reported drunken behaviour • Noise complaints – these can be from students, staff or members of the public. 	<p>Both examples can be treated informally and can escalate if behaviour is not modified.</p>
<p>Bringing the College into disrepute: Generally any act of misconduct that strays into the public domain can fall under this category and can compound the seriousness of the matter resulting in a more serious penalty, for example:</p> <ul style="list-style-type: none"> • Noise complaints that have been reported to the local newspaper • Antisocial behaviour in a Society Social that is reported to the press. 	<p>Both of these examples may have been treated informally but could escalate to a Minor or Major misconduct matter.</p>

APPENDIX 2 Authorised persons

All authorised persons will be trained by the Head of Higher Education before undertaking any of the roles mentioned below:

Information gathering and informal resolution

Investigation officers	Information gathering and informal resolution
HE Lead or Curriculum Head,	Alleged misconduct in relation to a student OR where more than one student is involved the Head of Higher Education will decide the most appropriate person to carry out the information gathering meeting.
Tutorial Manager	Any incident, when appropriate, such as complex cases or sensitive matters.

Persons authorised to decide on cases of minor misconduct

Who	Normally investigates and authorised to make decisions on
Higher Education Coordinator and Curriculum Heads	Alleged minor misconduct in relation to a student OR when appointed the lead authorised person to make a decision where more than one student is involved.
Tutorial Manager	Any incident, when appropriate, such as complex cases or sensitive matters

Persons authorised to sit on a major misconduct panel

Position held within the College	Role on the panel
Head of Higher Education and Academic Registrar	Chair
Assistant Principals	Panel member
Member of staff from Academic Registry	None; in attendance to take minutes of the meeting.

Note: Members of the panel must have no prior involvement with the investigation; nor should the panel member be from the responding student's School. If an AP is in on the panel then they must be from a different Department.

Exceptions will normally only be made in complex cases and or cases that involve more than one responding student.

APPENDIX 3 Major misconduct hearings

- The responding student will normally be given at least 5 College working days' notice of the hearing date and will be sent a pack of information that will be referred to in the hearing.
- On receipt of the invitation and documentation relating to the complaint which will be considered by the Panel, the student will have a further opportunity to make a written statement ahead of the hearing; this should be submitted no later than 3 College working days prior to the hearing.
- In addition, and no later than 3 College working days before the hearing, the responding student must notify the student conduct office:
 - If they will be attending
 - If they intend to call any witnesses, providing the name and position held within the College, if they are a member of staff
 - The name of the person accompanying them, if relevant.
- After the hearing, the panel will deliberate to decide if the code of conduct has been breached.
- If the panel decide that misconduct has taken place, the following will be considered when determining the appropriate penalty:
 - Any mitigation the responding student put forward
 - The impact on the responding student's studies
 - The impact on the College's reputation
 - Consistency of penalties
 - The proportionality of the penalty to the act(s) of misconduct
 - Why a penalty of lesser impact is not suitable.
- In the issuing of a penalty, the panel will also consider the practicalities of the penalty such as the stage of study of the responding student.
- The responding student will normally be called back into the hearing to be informed of the outcome, and the chair will explain the reason for the decision. In some cases a decision may not be able to be made on the day as further information may be needed.
- The outcome of the hearing will normally sent in writing within 10 College working days of the hearing.

Indicative Agenda for Major Misconduct Hearing:

A major misconduct hearing will typically take between 1 to 2 ½ hours, depending on the complexity and number of witnesses.

The hearing will usually follow the following order but the Chair reserves the right to adjust the format as necessary:

- a) The chair will introduce all those present
- b) The chair will outline the purpose of the hearing and state the misconduct allegations that have been made and investigated
- c) The chair will invite the person making the case against the responding student (this is normally the investigating officer) to outline the investigation: the process they followed; who they spoke to; the evidence they found; confirm the witnesses they are calling
- d) The panel will ask questions of the investigating officer
- e) The responding student will have the opportunity to ask questions of the investigating officer
- f) College witnesses, one witness at a time, will be called and asked to state their involvement, what they witnessed. Other witnesses must not be present.

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- g) The panel will ask questions of the witnesses
- h) The responding student will ask questions of the witness
- i) The witness will be asked to leave
- j) The chair will ask the responding student if they would like to make a statement. If the responding student is inviting witnesses to speak then the chair will clarify with the responding student the order of who is speaking
- k) The panel will ask questions of the responding student
- l) The investigating officer will be invited to ask questions of the responding student
- m) The chair will ask the responding student to call any of their witnesses, one witness at a time. Witnesses will be prompted by the responding student (or chair or companion, if the responding student wishes) and asked to state their involvement, what they witnessed. Other witnesses must not be present.
- n) The panel will ask questions of the witness
- o) The responding student will ask questions of the witness
- p) The witness will be asked to leave
- q) The chair will ask the investigating manager to make any final statement
- r) The chair will ask the responding student to make any final statement
- s) The chair will ask the investigating manager, the responding student and their companion to leave
- t) The panel will then deliberate on what they have heard.
- u) The responding student will be invited back into the room and be informed of the outcome of the hearing, if the panel has been able to reach a conclusion
- v) The student will be expected to maintain reasonable confidentiality about the outcome of their particular case (section 10).

In cases where there is more than one responding student:

Hearings involving more than one responding student may run into a full day; planning such hearings will take that into account. The documentation and information provided for the hearing will be the same for all the responding students.

The hearing will broadly follow the same as above but the following differences:

- a) At the start of the hearing, all responding students will be present when the chair opens the hearing
- b) All responding students will be present when the investigating manager outlines the investigation.
- c) The panel will ask questions of the investigation officer with all responding students present.
- d) The responding students will then be asked to leave
- e) The responding students will be expected to wait in the same room, in which there will be a member of staff to ensure that there are no discussions in relation to the hearing
- f) If any of the responding students discuss the hearing whilst the hearing is ongoing, this may result in further disciplinary action being taken
- g) The chair, under the advisement of the investigating officer, will have determined the order in which each responding student will be invited back into the hearing; a timeframe will have been provided to each student in advance with the understanding the timings are subject to change on the day.
- h) Each responding student will then be recalled and the agenda order will follow 'e' to 's' as above.
- i) The panel will deliberate in one sitting but will review each responding student's misconduct charge(s) individually.
- j) Each responding student will be informed of the outcome of the hearing individually, without any other student present, if the panel has been able to reach a conclusion
- k) Each responding student is expected to maintain reasonable confidentiality about the outcome of their particular case, (section 10).