

Sotheby's INSTITUTE OF ART

NON-ACADEMIC MISCONDUCT POLICY AND PROCEDURE

This policy is applicable to all SIA - London students registered with the University of Manchester

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1. Introduction

- 1.1 Sotheby's Institute of Art – London ("the Institute") seeks to maintain an environment which is safe and conducive for all members, whether students or staff, and which supports the wellbeing of all such individuals, as well as fostering the professional development of all students. The Institute therefore expects all students to be familiar with the Non-Academic Misconduct Policy, and maintain good conduct at all times whilst on Institute premises or engaged in any programme-related activities, including in external environments and on study trips. These rules apply during and outside term-time, throughout the whole of the student's registration at the Institute, and the Institute's jurisdiction under this policy and procedures is not limited to its own premises.
- 1.2 This Policy sets out general definitions of non-academic misconduct, including the breach of [Student Code of Conduct](#). It sets out the procedures by which concerns relating to these matters will normally be considered, and the actions that may be taken. It has been drafted in accordance with the UUK's Guidance for Higher Education Institutions on How to Handle Alleged Student Misconduct Which May Also Constitute a Criminal Offence¹, and the OIA's Good Practice Framework for Handling Student Complaints and Academic Appeals².
- 1.3 The Institute recognises that many concerns regarding student conduct can, and should, where appropriate, be dealt with informally by members of staff. This Policy sets out the formal processes by which matters of non-academic misconduct that cannot be dealt with informally will normally be investigated and appropriate outcomes determined.

2. Scope and Definitions

- 2.1 The essence of non-academic misconduct under this Policy is improper interference, in the broadest sense, with the proper functioning or activities of the Institute, or with those who work or study in the Institute, or action which otherwise damages the Institute. The provisions of this Policy define the behaviour which constitutes misconduct as it relates to students of the Institute, and the consequences of that misconduct.
- 2.2 The conduct covered by paragraph 2.9 shall constitute misconduct if it took place on Institute premises or elsewhere (e.g. work placements and off-site sessions, either in the UK or abroad) if the student was involved in an Institute activity, was representing the Institute, or was present at that place by virtue of their status as a student of the Institute.
- 2.3 There is a distinction between non-academic matters (e.g. misconduct involving damage to the Institute's property or reputation) and academic matters (e.g. allegations of plagiarism). Academic matters in relation to misconduct are subject to the [Academic Integrity and Malpractice Policy and Procedure](#). In the event that a concern may relate to both the academic and non-academic conduct of a student, the Institute's Director shall

¹ <https://www.universitiesuk.ac.uk/sites/default/files/field/downloads/2021-07/guidance-for-higher-education-institutions.pdf>

² <https://www.oiahe.org.uk/resources-and-publications/good-practice-framework/handling-complaints-and-academic-appeals/>

determine the appropriate procedure(s) for its investigation and consideration. In some cases, it may be necessary for separate procedures to be followed simultaneously in handling allegations relating to both academic and non-academic misconduct regarding the same student.

- 2.4 All students enrolled on the Institute's postgraduate programmes are expected to adhere to the Institute's [Student Code of Conduct](#). Contravention of the expected standards of behaviour, as outlined in the Student Code of Conduct, may constitute misconduct, and disciplinary procedures may be invoked.
- 2.5 The Institute shall take no account of misconduct prior to enrolling someone as a student, which has subsequently been revealed or is still in the process of being dealt with by other authorities, unless the conduct is of such a serious kind and character that it raises questions about the fitness of the individual concerned to remain a student of the Institute, for example, with regard to the safety of other students (please also see *Misconduct which is also a criminal offence*).
- 2.6 Disciplinary proceedings may be adjourned at any time if it is known or suspected that the student concerned is not fit to participate in them. In such circumstances, the proceedings may be suspended or terminated subject to specified conditions.
- 2.7 The Institute will not normally take action in response to anonymous allegations of misconduct, except where it is satisfied that just cause and/or reasonable grounds exist to do so.
- 2.8 Any reference in this Policy to officers of the Institute is to be read to include as reference in each case to a delegated nominee.

Examples of what is considered misconduct

- 2.9 The examples of behaviours below are unacceptable and will lead to disciplinary action. The given examples of misconduct are **not exhaustive** and disciplinary action may be taken in relation to other unacceptable behaviour.

Every student shall be liable to disciplinary action in respect of conduct which:

- a) Disrupts, or improperly interferes with, the academic, administrative, social or other activities of the Institute, whether on Institute premises or elsewhere;
- b) Obstructs, or improperly interferes with, the legitimate functions, duties or activities of any student, member of staff or other employee of the Institute or any authorised visitor to the Institute;
- c) Involves violent, indecent, disorderly, threatening or offensive behaviour or language (whether expressed orally or in writing, including electronically) whilst on Institute premises or engaged in any Institute activity;
- d) Involves distributing or publishing a poster, notice, sign or any publication (whether printed or in electronic format) which is offensive, intimidating, threatening, indecent or illegal, or is calculated to make others fearful, anxious or apprehensive;

- e) Involves fraud, deceit, deception or dishonesty in relation to the Institute or its staff or students;
- f) Involves action likely to cause injury or impair safety on Institute premises;
- g) Constitutes sexual, racial, religious or any other form of harassment of any student, member of staff or other employee of the Institute or any authorised visitor to the Institute (see Bullying, Harassment, Sexual Misconduct and Victimisation policy for details);
- h) Constitutes the misuse or unauthorised use of Institute premises or items of property, including misuse of computers and the communications network;
- i) Brings the Institute into disrepute;
- j) Involves failure to disclose name(s) and other relevant information to an officer or employee of the Institute in circumstances when it is reasonable to require that such information be given;
- k) Involves disorderly or improper conduct in a room being used for academic purposes;
- l) Fails to comply with a previously-imposed penalty or reasonable instruction under this Policy, or any other Institute rule or regulation, including non-compliance with the Institute's requirements regarding attendance and punctuality (please see the *Student Attendance and Engagement Policy*);

2.10 Any reported/alleged behaviour such as is described above will be investigated in accordance with this Policy and procedures, to determine whether misconduct has occurred, and any appropriate resulting action by the Institute. This also includes:

- Misconduct committed by any means or medium, including via the internet (including via social media);
- Any offence against the criminal law committed by a student whilst on the Institute premises or whilst engaged in Institute/programme-related activity (e.g. whilst on placement or study trips).

Misconduct which is also a criminal offence

2.11 The internal disciplinary process is a civil matter. It is based upon an allegation that a student has breached the Institute's Non-Academic Misconduct Policy and rules. The allegation has to be proven 'on the balance of probabilities', and the most serious sanction that can be applied is permanent expulsion from the Institute.

2.12 The criminal process is an external procedure and deals with allegations that a student has committed a criminal act. The allegation has to be proven in external courts 'beyond reasonable doubt' and the most serious sanction that can be applied is imprisonment. The Institute cannot make a finding of a criminal offence; however, it can consider whether a breach of discipline appears to have occurred and, if so, refer the matter for consideration under this Policy.

2.13 Where the alleged misconduct could also constitute an offence under the criminal law, special provisions will apply and the Institute's own misconduct investigations or proceedings may be delayed until such time as the police and/or courts have completed their investigations and proceedings. In such circumstances, the Director will determine whether:

- any action under this Policy and procedures should commence or proceed, or
- whether the matter should be held in abeyance pending the completion of police and/or court investigations and proceedings, or
- whether any action already underway under this Policy and procedures should be deferred/suspended, and subsequently reviewed.

2.14 The Institute will not normally take any action against a student in respect of any alleged offence which breaches criminal law and on which police action is under consideration, in hand or pending. However, the Institute's Director shall be informed that a student is under police investigation or is subject to criminal proceedings, and the Institute may take any action deemed necessary for safeguarding and to mitigate risk. Precautionary measures may include imposing conditions such as no-contact agreements, suspension from studies, or temporary exclusion from all or part of Institute premises.

2.15 In exceptional circumstances, the Director will refer concerns to the police where they consider it appropriate (e.g. where there is a perceived legitimate risk), or where the Institute is legally obliged to do so, and will co-operate with the police in their investigation of an alleged breach of the law or of any matter that may involve a student of the Institute.

Absence and withdrawal/non-engagement relating to this process

2.16 None of the proceedings outlined in this Policy will be invalidated or postponed by reason of the absence of the student who is required to attend a Preliminary Enquiry interview or a Conduct Review Panel hearing, or a Misconduct Appeal hearing, provided that the student has been given written notice of the interview or hearing within the timescale laid down in this Policy, and provided that those conducting the hearing believe they have sufficient and reasonable evidence and representations. In the event that a student has indicated they will attend but then cannot do so for good reason (e.g. ill-health, bereavement), an adjournment would generally be considered.

2.17 The Institute may commence or proceed with any action or process under this Policy in the absence of the student, if the student withdraws from the Institute and/or if the student does not engage with the process. Where there is good cause to do so, the Institute may place the consideration of a case in abeyance at any stage.

Failure to comply with decisions

2.18 Failure by a student without good reason, in the view of the Institute, to:

- comply with any decision reached, or order issued, by Institute under this Policy (including by the Preliminary Enquiry Officer, a Conduct Review Panel, a Misconduct Appeals Board, or the Director of the Institute), or

- to comply with the terms of a temporary exclusion or suspension made under this Policy and procedures,

may itself constitute an act of misconduct and may therefore be dealt with either in accordance with this Policy, or under the Fitness to Study procedures, as deemed appropriate by the Institute's Director.

Legal context

- 2.19 In all processes under this Policy, the Institute will act in accordance with the provisions of the Human Rights Act 1998, the Data Protection Act 1998, the Equality Act 2010, the General Data Protection Regulations (GDPR), and other relevant legislation.
- 2.20 In all processes under this Policy, a student will be presumed to be innocent of the allegation of misconduct, until the contrary is proved on the balance of probabilities.
- 2.21 In all processes under this Policy, the burden of proof which applies to all decisions reached is the balance of probabilities. The definition of the balance of probabilities is that, based on the evidence, more likely than not there is a 51% chance or more that the alleged events occurred.
- 2.22 In line with the provisions in the Data Protection Act 1998 and the General Data Protection Regulation (GDPR), the Institute may share information regarding a misconduct case with the validating university, as necessary. This may include sharing personal and sensitive/special data regarding individual students. All such information will be treated confidentially by all parties and in line with the Institute's [Student Privacy Notice](#).
- 2.23 In accordance with the Institute's duties under the General Data Protection Regulations (2018) and the Data Protection Act (2018), and in keeping with OIA recommendations, records will be retained for a minimum of 12 months and for no longer than is reasonably necessary (i.e. no longer than 6 years after the final action on the student's case, at which point the individual student file will be destroyed). Some deviation from this schedule can be expected for cases which, in the judgement of the Institute, are unique or complex and therefore require shorter or longer record retention periods.
- 2.24 All misconduct proceedings, including Preliminary Enquiry interviews, Conduct Review Panel hearings and Misconduct Appeals Board hearings, will be held in private.

3. Misconduct Procedures

- 3.1 The Institute recognises that many concerns regarding student conduct can, and should, where appropriate, be dealt with informally by members of staff. However, matters of concern which cannot be dealt with informally will normally be investigated and appropriate outcomes determined as per the following 3-stage procedure:
- **Preliminary Enquiry** deals with initial allegations/reports of suspected misconduct, determining and referring such allegations under the appropriate policy, procedures and regulations, and determines appropriate action for instances of minor misconduct.

- **Conduct Review Panel** determines whether there is sufficient evidence to substantiate and uphold a charge of major misconduct, on the balance of probabilities, and/or determines whether the student is deemed unsuitable to continue studying. It also hears appeals lodged against decisions made at the Preliminary Enquiry stage.
- **Misconduct Appeals Board** reviews the case in accordance with the grounds outlined in paragraph 7.1 in order to determine whether the decisions and findings of the Conduct Review Panel should stand.

4. Preliminary Enquiry

- 4.1 Where there is reason to believe that misconduct may have been committed by a student, the Institute's Director shall be informed and, if they consider it appropriate to do so, they will instigate the non-academic misconduct procedure by appointing a member of staff to act as the Preliminary Enquiry Officer. In some cases they may be supported by an additional investigating officer with specialist knowledge relating to the allegation.
- 4.2 The Preliminary Enquiry Officer will review the information provided regarding the allegation, and will determine whether there is sufficient evidence to proceed under the Non-Academic Misconduct Policy. To reach this determination, the Preliminary Enquiry Officer may make any necessary enquiries to acquire further information, which may include interviewing the student against whom the allegation has been made, or inviting them to make a written response to the allegations. Such interviews are not an obligatory part of the process, and it is at the discretion of the Preliminary Enquiry Officer to determine whether they are necessary. However, in undertaking the investigation, the Preliminary Enquiry Officer should consider whether any interviews of any parties concerned are necessary.
- 4.3 The Preliminary Enquiry Officer will compile a report on completion of the Preliminary Enquiry to confirm the outcome. A copy of the report will be sent to the student, and it will include the following:
- i. details of the allegations made;
 - ii. the established facts following the investigation;
 - iii. the findings (i.e. no case to answer, minor misconduct, major misconduct, alternative procedure referral);
 - iv. the outcome (i.e. whether any further action will be taken and what that action will be).
- 4.4 The Preliminary Enquiry Report will state one of the following decisions:
- a) **There is insufficient or no evidence of any misconduct** on the part of the student, therefore no further action will be taken. The student will be informed accordingly;
 - b) **There is sufficient evidence, on the balance of probabilities, to form the basis of a charge of minor misconduct** (misconduct which constitutes a minor infringement of this Policy). The Preliminary Enquiry Officer may determine that

appropriate action is taken in line with this Policy; the case will **not** proceed to a formal Conduct Review Panel. A record will be kept on the student's file;

- c) **There is sufficient evidence to form the basis of an allegation of major misconduct** (misconduct which constitutes a major infringement of this Policy), therefore the case **will be referred** to the Conduct Review Panel. The Preliminary Enquiry Report will be submitted to the Conduct Review Panel along with any supporting evidence gathered as part of the Preliminary Enquiry process. For the avoidance of doubt, multiple allegations which might otherwise in isolation each be regarded as minor, may be considered as potential major misconduct and referred to the Conduct Review Panel;
- d) **There is sufficient evidence and/or reasonable grounds to refer the matter to another policy as appropriate** (e.g. Fitness to Study), to best manage the matter.

4.5 Where it is determined that there is sufficient evidence to uphold a charge of minor misconduct, the Preliminary Enquiry Officer may impose one or more of the following types of penalty:

- a) A formal warning or a final warning (for a repeated offence);
- b) A formal written reprimand, which will then be added to the student's file;
- c) A requirement to make a verbal/written apology to any party concerned, as, and if, appropriate;
- d) The payment by the student of compensation for damage or loss caused, which shall not exceed the value of any damage caused or loss incurred;
- e) Requirement to remove material published either in hard copy or electronically, which is deemed to be inappropriate;
- f) Set conditions or expectations for the student's future behaviour.

4.6 It is at the discretion of the Preliminary Enquiry Officer to determine the appropriate action, or to award a penalty from the above list, following a finding of minor misconduct.

4.7 The Preliminary Enquiry will normally be completed **within 14 days** of receipt of an allegation, and the student will receive confirmation of the outcome in writing. However, in particularly sensitive cases, this may result in extending the length of the completion of the process. Any student facing an allegation of misconduct will be updated in writing accordingly.

4.8 The student will be able to appeal against the decision(s) and/or outcome(s) of the Preliminary Enquiry by submitting a completed Non-Academic Misconduct Appeal Form to the Registrar, to be received within **14 (fourteen) working days** of receiving the outcome of the Preliminary Enquiry. The appeal will be forwarded to the Conduct Review Panel for consideration if it satisfies one or more of the specified grounds, as below:

- v. procedural irregularity;
- vi. prejudice or bias on the part of a decision-maker;
- vii. the disproportionate nature of the penalty
- viii. new evidence which the student can demonstrate was for good reason not previously available, and which warrants further consideration.

5. General Provisions for Conduct Review Panel and Misconduct Appeals Board

- 5.1 All Conduct Review Panel hearings and Misconduct Appeals Board hearings will be closed sessions and not open to the public.
- 5.2 The Institute is committed to ensuring students are properly supported, and recognises that facing an allegation of misconduct can be very stressful for a student. Provisions as follows are therefore made to support students throughout the processes at all stages:
- i. Students have the right to be accompanied
 - ii. Students have the right to call witnesses
- 5.3 The student must give notice in writing to the Secretary of the Panel or Appeals Board at least **three (3) working days** in advance of the hearing of the following:
- iii. If the student is to be accompanied at either a hearing of the Conduct Review Panel or Misconduct Appeals Board, the name(s) of the person(s) who is/are to attend must be received in writing by the Secretary. The student may be accompanied at the hearing by a fellow student or a member of staff of the Institute of their own choice, who is present as an observer only.
 - iv. The name(s) of any witness(es) the student wishes to call.
- 5.4 The Chair of the relevant Conduct Review Panel or Misconduct Appeals Board has the discretion to refuse to permit the student to be accompanied where prior written notice has not been given.
- 5.5 The hearing of a Conduct Review Panel or of the Misconduct Appeals Board may take place either in person or remotely. The student shall be informed that if they do not respond to the notice of the meeting, the meeting may be conducted in their absence on the basis of evidence available to it.
- 5.6 Where the student is unable to attend the hearing for good reason, they may request a deferral of the hearing at the earliest opportunity and in any case **at least one week** before the hearing, by contacting the Secretary of the Conduct Review Panel or Misconduct Appeals Board in writing (this includes via email). The student must state the reason(s) for the request, and the Secretary will forward the request to the Chair. The Chair has the ultimate discretion to grant or refuse a request for a hearing to be deferred.
- 5.7 If the student has any objection to the membership of any person or persons participating on the Conduct Review Panel or the Misconduct Appeals Board, the student may ask for an alternative member or members by submitting a written request to the Secretary to be received not less than one week before the date that the meeting is to be held, giving the reason(s) for the request. The Chair shall have power to decide upon the validity of any such request and may appoint an alternative member or members to the Conduct Review Panel or the Misconduct Appeals Board.
- 5.8 The student may submit any personal written statement and/or supporting evidence/witness statements, to the Conduct Review Panel or the Misconduct Appeals Board for consideration. Any such documentation should normally be submitted by the student to

the Secretary not less than **three (3) working days** before the hearing, to allow for circulation to members for consideration prior to the hearing. Any such documentation submitted after this deadline will only be accepted at the discretion of the Chair of the Conduct Review Panel or the Misconduct Appeals Board, where the Chair is satisfied that it is reasonable to do so and that doing so will not unduly compromise the proceedings.

- 5.9 The ruling of the Chair of either the Conduct Review Panel or the Misconduct Appeals Board shall be final on the admission of all evidence at the hearing, including the admission of written and oral evidence from witnesses or other parties at the appeals hearing. This shall include the power to refuse to admit evidence or hear witnesses on the basis of lack of relevancy. The Chair of the Conduct Review Panel or the Misconduct Appeals Board has the sole discretion to determine to proceed with a hearing or adjourn it, in the absence of any particular witness.

6. Conduct Review Panel

- 6.1 Where a Preliminary Enquiry Officer refers a report of alleged misconduct to a Conduct Review Panel, the report will be referred to the Institute Director, who will appoint members of the Conduct Review Panel. The Registrar shall normally attend as Secretary, who shall act as note-taker and shall advise the Conduct Review Panel regarding procedural matters, but shall not take part in any decision-making.
- 6.2 The following Institute officers will serve on the Conduct Review Panel of suspected non-academic misconduct of the sort described in paragraph 2.9 above:
- a) Head of Quality (Chair) or nominee; and
 - b) Two members of staff, drawn from the Institute;
 - c) If appropriate, a Student Representative from a different cohort to the student.
- 6.3 The Non-Academic Conduct Review Panel shall have a quorum of three members.
- 6.4 No person:
- a) who is the student's Programme Director or Academic Lead; or
 - b) who is party to or is a potential witness at a hearing before the Conduct Review Panel; or
 - c) who has taught the student or assessed the student's work; or
 - d) who has been in any manner closely connected with the case; or
 - e) in respect of whom a conflict of interest would arise or is likely to arise if they were to be a member of the Conduct Review Panel
- shall be a member of the Conduct Review Panel.
- 6.5 The Secretary shall inform the student in writing at least **fifteen (15)** working days in advance of the hearing of:
- details of the alleged misconduct;
 - details of the time, date and place of the hearing;
 - names of Institute members on the Conduct Review Panel, and any witnesses called by the Institute;

- name and contact details of the Secretary to the Panel;
- details of their right to be accompanied to the hearing;
- details of their right to call witnesses, to question those or other witnesses and to submit documentary evidence and/or a statement for consideration.

In addition, the student will be provided with:

- copies of, or access to, the documentation which may be referred to during the hearing; and
- a copy of, or access to, this procedure.

- 6.6 The student has the right to call any witnesses to the Panel, and names of any witnesses should be presented to the Chair (via the Panel Secretary), normally **at least three (3) working days** in advance of the hearing. The Chair of the Panel has the ultimate discretion to admit or refuse any witnesses.
- 6.7 The Conduct Review Panel shall also have power to require the attendance as a witness of any member of the Institute, permanent or contract, who it has reason to believe is able to assist in its inquiry, and it shall be the duty of any such person to attend and give evidence accordingly. It may also request the attendance of any other person if such attendance is material to the case. The Conduct Review Panel may accept a witness's written statement in evidence where the student agrees that the witness need not attend, or where it is impractical for the witness to attend, or where in the opinion of the Conduct Review Panel it is for some other reason in the interests of natural justice to do so.
- 6.8 The student has the right to be accompanied at the hearing by a fellow student or a member of staff of the Institute of their own choice, who is present as an observer only. The student should notify the Chair of the Panel (via the Secretary) of the name(s) of any accompanying person(s), normally at least three (3) working days in advance of the hearing. The Panel retains the right to refuse the choice of companion if the companion's presence could unduly impact the hearing.
- 6.9 When the Conduct Review Panel is ready to commence the hearing, the following procedure will be followed:
- i. The Secretary will call the student (together with any accompanying individual) to the hearing.
 - ii. The Chair will introduce the members of the Panel to all parties, and will ensure all parties attending the hearing introduce themselves.
 - iii. The Secretary will normally present the concerns with regard to the conduct of the student to the Conduct Review Panel first, and call any witnesses.
 - iv. The student facing the allegations of misconduct will be invited to reply to the allegations and may call witnesses. The student shall also be invited to present to the Panel any mitigating circumstances which the student considers to be relevant to the case.
 - v. The student may ask questions of any witnesses called, but these must be addressed through the Chair, who has the discretion to allow or decline any such questions.

- vi. The Panel may ask questions of all those present at the hearing at any point during the proceedings.
 - vii. At the conclusion of all presentations and questions, the student facing the charge(s) of misconduct may address the Panel and make a closing statement. At their discretion, the Chair of the Panel may also make a closing statement.
 - viii. The Panel will then declare the hearing closed, ask all parties to leave the hearing, and will enter into deliberations. The deliberations of the Panel are confidential, and will be held in private, with only the Secretary and the Panel present. The Panel will determine on the balance of probabilities its findings and decision(s).
 - ix. A decision of the Conduct Review Panel will be reached by a majority vote of the members of the Panel present at the hearing, but will be announced as a decision of the Panel. The votes of the individual Panel members will be treated as confidential.
- 6.10 The Conduct Review Panel will endeavour to reach a decision and findings without adjournment. However, in the event that the Panel determines at any point during proceedings that it needs further information in order to reach a decision or for other good cause, it shall adjourn the case.
- 6.11 The decision of the Conduct Review Panel may be that:
- The allegation is not proven on the balance of probabilities and that it should be dismissed.
 - The allegation is proven on the balance of probabilities and that a penalty should be applied in line with these procedures.
- 6.12 As part of its decision-making, the following factors may be taken into consideration by the Conduct Review Panel in reaching findings and determining an appropriate penalty:
- The severity of the offence, including any aggravating factors resulting from its impact
 - The student's engagement with the Institute during the misconduct process
 - Whether there is any evidence of malicious intention
 - The number of previous and/or contemporaneous misconduct offences, both non-academic and academic
 - Whether the student has had any concerns about conduct drawn to their attention prior to this instance
 - Whether the student is in receipt of any formal warnings, or any other Institute sanctions
 - Any mitigating circumstances and/or aggravating factors which are accepted by the Panel.
- 6.13 The Conduct Review Panel also has the authority to make any reasonable orders (e.g. including referring the student under different procedures) or make any recommendations to the Academic Board in accordance with its findings.

Penalties and Hearing Outcome Letter

- 6.14 Where the Conduct Review Panel determines that an allegation of misconduct has been substantiated on the balance of probabilities, the Panel may impose one or more of the following measures listed in the ‘Table of Penalties’ below.
- 6.15 The penalties are listed as ‘Category 1’ or ‘Category 2’. ‘Category 1’ penalties may be awarded when the Panel deems the misconduct to be a more minor offence; more serious offences may receive a ‘Category 2’ penalty. Penalties will only be considered and applied after the Panel has determined on the balance of probabilities that misconduct has occurred.
- 6.16 Penalties listed in the ‘Table of Penalties’ are non-exhaustive and will be applied on a case-by-case basis, taking into account the circumstances of each offence, including any aggravating or mitigating factors, and of any established precedents. For repeated or multiple offences, ‘Category 2’ penalties will normally be considered. More than one penalty may be applied simultaneously from either category as deemed appropriate by the Conduct Review Panel. The Conduct Review Panel may determine that both a Category 1 penalty and a Category 2 penalty be applied simultaneously for the same offence(s).

| Table of Penalties |
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| Category 1 Penalties |
| <ul style="list-style-type: none"> a. A formal warning or a final warning (for a repeated offence); b. A formal written reprimand, which will then be added to the student’s file; c. A requirement to make a verbal/written apology to any party concerned, as, and if, appropriate; d. The payment by the student of compensation for damage or loss caused, which shall not exceed the value of any damage caused or loss incurred; e. Requirement to remove material published either in hard copy or electronically that is deemed to be inappropriate; f. Set conditions or expectations for the student’s future behaviour. |
| Category 2 Penalties |
| <ul style="list-style-type: none"> g. Restricted ability to contact the complainant, where the complainant is a student or member of staff of the Institute; h. Requiring that the student does not represent the Institute in a paid or unpaid capacity for a specified period of time. This could include employment by the Institute on a contractual or casual basis, engaging in placement activities, representing the Institute at events, or voluntary roles, such as student representative; i. Conditions for the continuation of student status; j. Exclusion from, or restrictions concerning, participation in specified activities (including external programme-related activities) or use of specified facilities at the Institute for a stated period. Conditions for return to those activities may be specified; k. The suspension of the student’s studies, in whole or in part, for a specified period or until an agreed review date; |

- l. Expulsion from the Institute, with or without the right to re-register for any further programme of study with the Institute;
- m. Such other penalty as may be deemed appropriate, provided that the penalty is both proportionate and relevant to the offence.

- 6.17 The findings and decisions of the Conduct Review Panel will be communicated to the student, the Institute Director, and any other interested parties as deemed appropriate by the Chair of the Panel, and in accordance with the General Data Protection Regulations 2018 (GDPR).
- 6.18 The Secretary to the Conduct Review Panel will send a **Hearing Outcome Letter** to the student, normally within **ten (10) working days** of the date of the hearing. The Conduct Review Panel Hearing Outcome Letter will set out the decision(s) of the Panel and the reasons for the decision(s), and provide information on the right of appeal.
- 6.19 A copy of the Hearing Outcome letter containing the finding(s) and decision(s) of the Panel will be placed on the student's file.
- 6.20 The student has the right of appeal (under specific grounds) against a decision and/or findings of the Conduct Review Panel. Where a student wishes to complain about, or disagrees with, a decision or finding(s) of the Conduct Review Panel, they must submit an appeal in accordance with paragraphs 7.1 – 7.4. An appeal must be made under one of the stated grounds, normally within **fourteen (14) days** of the date of the Hearing Outcome Letter. The decision of the Conduct Review Panel stands until and unless it is overturned following a successful appeal.

7. Misconduct Appeals Board

Grounds of Appeal

- 7.1 Following a hearing of the Conduct Review Panel, a student may submit an appeal against the decision(s) of the Panel, under one or more of the following grounds:
- a) procedural irregularity;
 - b) prejudice or bias on the part of a decision-maker;
 - c) the disproportionate nature of the penalty
 - d) new evidence which the student can demonstrate was for good reason not previously available, and which warrants further consideration by a Misconduct Appeals Board.

Appeal submissions

- 7.2 The student may submit a request for an appeal, including a statement of the grounds on which the appeal is being made, in writing to the Secretary to be received within **fifteen (15) working days** of the date of the Hearing Outcome Letter. A request for an appeal received after this time with good cause shown for its late submission shall only be granted at the discretion of the Director.
- 7.3 The Institute's Director may dismiss an appeal in writing to the student within **five (5)**

working days if they consider the appeal to be outside the scope outlined above. In such cases, a Completion of Procedures Letter will be issued by the Secretary.

- 7.4 To make an appeal, a student should submit a completed Non-Academic Misconduct Appeal Form, together with any supporting documentation/evidence which they consider should be taken into account. Students must include with their appeal all documentation that they wish to be considered, including any information relating to mitigating circumstances.
- 7.5 The Secretary will consider whether there is sufficient evidence that the appeal may meet one or more of the grounds as stated in paragraph 7.1, or that there is some other good cause to merit further consideration of the appeal. If the Secretary finds that the appeal submission discloses grounds, they will refer the appeal to the Institute's Director, who will appoint members of the Misconduct Appeals Board.
- 7.6 Where it is found that the appeal submission does not disclose grounds, the appeal will normally be rejected. The reasons will be set out in the Appeal Outcome Letter, and the original decision(s) and finding(s) of the Conduct Review Panel will stand. The Appeal Outcome Letter will be sent normally **within 21 days** of receipt of the appeal submission, and either simultaneously or shortly after, the student will be issued with a Completion of Procedures Letter, normally **no more than 14 days** after the date of the Appeal Outcome Letter.
- 7.7 Where the appeal submission discloses grounds, the Secretary shall convene a Misconduct Appeals Board to hear the appeal of the student. The Appeals Board shall not re-hear the case afresh, but shall consider whether the initial hearing and outcome were fair by:
 - a) reviewing the procedures followed; and
 - b) establishing whether the appellant has presented any new evidence that could not reasonably have been expected to be presented to the original hearing and that this evidence is material and substantial to the findings; and
 - c) reviewing the penalty imposed.
- 7.8 The following Institute officers shall serve on the Appeals Board:
 - a) one nominated member drawn from the Academic Board (Chair);
 - b) two members of staff, drawn from the Institute;
- 7.9 The Appeals Board shall have a quorum of three members. The Registrar shall normally attend as Secretary, who shall act as note-taker and shall advise the Appeals Board regarding procedural matters, but shall not take part in any decision-making.
- 7.10 No person:
 - a) who served on the Conduct Review Panel which dealt with the matters under appeal, or was otherwise involved in the proceedings; or
 - b) who is party to or is a potential witness at a hearing before the Appeals Board; or
 - c) who has taught the student or assessed the student's work; or

- d) who has been in any manner closely connected with the case; or
- e) in respect of whom a conflict of interest would arise or is likely to arise if they were to be a member of the Appeals Board

shall be a member of the Appeals Board.

7.11 The Secretary shall inform the student in writing at least **fifteen (15)** working days in advance of the hearing of:

- details of the alleged misconduct;
- details of the time, date and place of the hearing;
- names of Institute members on the Misconduct Appeals Board, and any witnesses called by the Institute;
- name and contact details of the Secretary to the Appeals Board;
- details of their right to be accompanied to the hearing;
- details of their right to call witnesses, to question those or other witnesses and to submit documentary evidence and/or a statement for consideration.

In addition, the student will be provided with:

- copies of, or access to, the documentation which may be referred to during the hearing, including:
 - all the documentation submitted to and considered by the Conduct Review Panel
 - a copy of the Conduct Review Panel Hearing Outcome letter
 - a copy of the student's appeal
- a copy of, or access to, this procedure.

7.12 A decision of the Misconduct Appeals Board will be reached by a majority vote of the members of the Board present at the hearing but will be announced as a decision of the Board. The votes of the individual Board members will be treated as confidential. The Chair may vote and shall have, in addition, a casting vote. Misconduct Appeals Board may elect an alternate Chair.

7.13 The Misconduct Appeals Board will endeavour to reach a decision and findings without adjournment. However, in the event that the Board determines at any point during proceedings that it needs further information in order to reach a decision or for other good cause, it shall adjourn the case.

Decisions and outcomes

7.14 The Misconduct Appeals Board shall determine in private whether the appeal has met the grounds and therefore whether it should be *upheld, partially upheld, or rejected*. Once this finding has been reached, the Appeals Board will take any relevant action, as articulated below in 7.15 – 7.16.

7.15 In the event that the appeal is **upheld** or **partially upheld**, the Appeals Board may:

- a) **Confirm, set aside, reduce or increase the penalty** previously imposed.

- b) **Refer the case back for consideration** by the original or a newly constituted Conduct Review Panel if the student presents new evidence that is material and substantial to the Misconduct Appeals Board.

- 7.16 In the event that the appeal is **rejected**, the original findings and decisions of the Conduct Review Panel will stand. However, the Misconduct Appeals Board has the authority to make any reasonable orders (e.g. including referring the student under different procedures) or make any recommendations to the Academic Board in accordance with its findings.
- 7.17 The findings and decisions of the Misconduct Appeals Board are final. This includes the finding that the original findings and/or decisions of the Conduct Review Panel should stand.
- 7.18 As part of its decision-making, the Misconduct Appeals Board may take the following into account:

In reaching finding(s)

- Whether the evidence is of sufficient significance to cast doubt upon the reliability of the finding(s) and/or decision(s) arrived at by the original Conduct Review Panel;
- whether there are any other or further concerns which have emerged which should be taken into account, or which require further investigation or warrant referral under another procedure (e.g. Fitness to Study)

In reaching decision(s)

- Whether any penalties previously handed down to the student warrant amendment (including an increase in severity, where fair and reasonable in the event of new evidence or information), or rescindment
- any action deemed necessary by either the student and/or the Institute
- whether there are any matters which should be referred under alternative procedures

General Board considerations when determining findings and reaching decisions

- The severity of the offence, including any aggravating factors resulting from its impact
- The student's engagement with the Institute during the misconduct and appeal process
- Whether there is any evidence of malicious intention
- The number of previous and/or contemporaneous misconduct offences, both non-academic and academic
- Whether the student has had any concerns about their conduct drawn to their attention prior to this instance of misconduct concerns
- Whether the student is in receipt of any formal warnings, or any other sanctions
- Any mitigating circumstances and/or aggravating factors which are accepted by the Board.

Hearing Outcome letter and the OIA

- 7.19 The Chair shall inform the student in writing within **ten (10) working days** of the hearing of the Misconduct Appeals Board's decision by sending them an Appeal Hearing Outcome Letter, which will set out the decision(s) of the Board and the reasons for the decision(s). A Completion of Procedures Letter will also be issued by the Secretary.
- 7.20 The Misconduct Appeals Board shall send a copy of the decision of the appeal to the Institute's Director at the same time as it sends the decision to the student.
- 7.21 Following receipt of the decision of (a) the Misconduct Appeals Board (unless paragraph 7.15(b) applies) or (b) a reconstituted or newly constituted Conduct Review Panel following a referral by the Misconduct Appeals Board under paragraph 7.15(b), the student shall have the right to request a review of the decision by the Institute's validating organisation, the University of Manchester. This will be subject to the regulations and policies of the University. The student should refer to the University of Manchester's Teaching and Learning Support Office for details of procedures for appeal, and for the relevant staff contacts, which are set forth at: <http://www.tlso.manchester.ac.uk/appeals-complaints/>
- 7.22 In the event that a student has appealed to the University of Manchester for a review and the issue remains unresolved to their satisfaction, the student is entitled to ask the OIA (Office of the Independent Adjudicator) to review their complaint about the outcome of the Institute's misconduct process. The student should make any such complaint to the OIA within 12 months of the date of issuing of a Completion of Procedures Letter by the University of Manchester. For further information go to: <https://www.oiahe.org.uk/students/>

8. Director's Powers

- 8.1 In the event that it proves impracticable to convene the Non-Academic Conduct Review Panel or the Misconduct Appeals Board because of the unavailability of a sufficient number of individuals who are eligible to serve on such panels, the Institute's Director (or their Deputy) may appoint such other person or persons to serve on such panels as they see fit.

9. Suspension or exclusion pending a hearing

- 9.1 A student who is the subject of a complaint of misconduct, or against whom a criminal charge is pending, or who is the subject of police investigation, may be suspended or excluded by the Director or Head of Quality pending the disciplinary hearing or the trial.
- a) **Suspension** involves a total prohibition on attendance at or access to the Institute and on any participation in Institute activities, but it may be subject to qualification, such as permission to attend for the purpose of an examination.
- b) **Exclusion** involves either total or selective restriction on attendance at or access to the Institute or prohibition on exercising the functions or duties of any office or

committee membership in the Institute; the exact details to be specified in writing by the Director.

- 9.2 An order of suspension or exclusion may include a requirement that the student should have no contact of any kind with a named person or persons.
- 9.3 The powers of temporary suspension or exclusion granted to the Director or Head of Quality under paragraph 9.1 shall be exercised only where necessary. This would usually be to protect a member or members of the Institute community, or the property thereof, or where the student's continued presence might be a source of disruption to the Institute or any part thereof. Written reasons for the decision shall be recorded and made available to the student.
- 9.4 Unless the matter is deemed to be urgent by the Director or Head of Quality, no student shall be suspended or excluded unless they have been given an opportunity to make representations to the Director or Head of Quality. The representations may be made in person or in writing, as the student chooses, and may be put forward by the student, or through their personal tutor or representative. In cases deemed by the Director or Head of Quality to be urgent, a student may be suspended or excluded with immediate effect. In such circumstances, an opportunity will be given to the student to make representations as soon as reasonably practicable.
- 9.5 The Director or Head of Quality shall review the suspension or exclusion **every twenty (20) working days** in the light of any developments and of any written representations made by the student either personally or through their representative.
- 9.6 A student may appeal to the Institute's Director against an order of suspension or exclusion pending a hearing.

10. Monitoring and Assurance

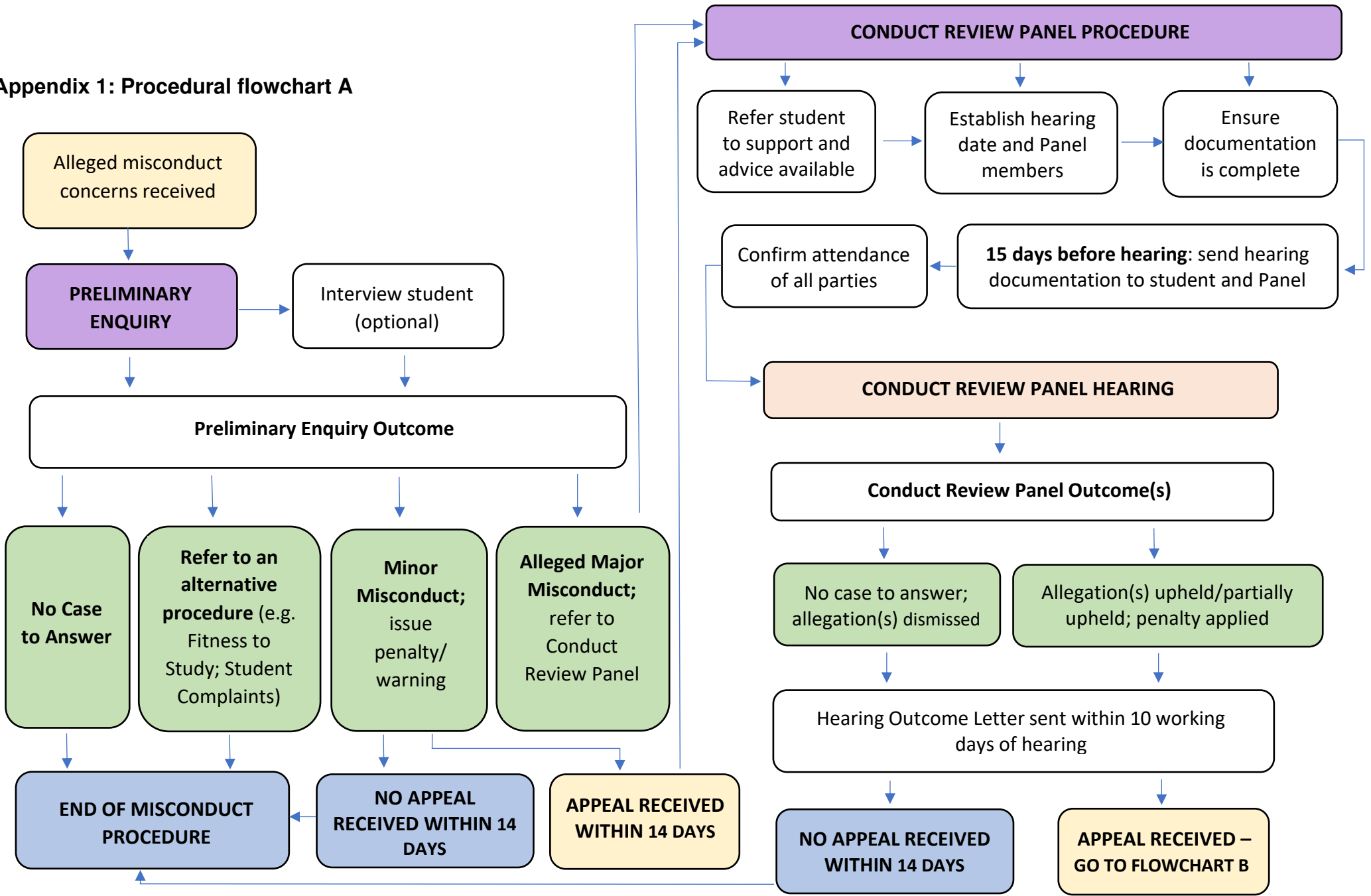
- 10.1 A Conduct Review Panel or Misconduct Appeals Board may refer matters relating to individual student cases to the Academic Board. The Academic Board will also, as part of its monitoring and quality assurance duties, monitor disciplinary matters, statistical data, or related issues arising from these procedures.
- 10.2 With reference to this policy, the Academic Board should:
- Review urgent recommendations made by the Conduct Review Panel and/or Misconduct Appeals Board expediently;
 - Monitor outcomes of cases, and any recommendations arising from panels;
 - Review annually all cases, recommendations and outcomes arising from the misconduct process and panel proceedings, as part of its annual monitoring, review and quality assurance processes;
- 10.3 Where misconduct has been established in a case, or where a student has been temporarily suspended or excluded, or expelled under this policy, copies of the summary record and the outcome letter shall be placed on the relevant student's file and a record

Non-Academic Misconduct Policy and Procedure

of the proceedings of every Conduct Review Panel and Misconduct Appeals Board shall be kept centrally in the Institute for record and monitoring purposes. Both records shall be retained in accordance with the Institute's records management policy.

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| Title | Non-Academic Misconduct Policy and Procedure |
| Date first implemented | 2023 |
| Approving body | Academic Board |
| Version | October 2023 |
| Effective | From 2023 - 2024 |
| Supersedes | N/A |
| Next review date | Summer 2026 |
| Frequency of review | Every three years |
| Policy owner | Quality Team |

Appendix 1: Procedural flowchart A



Appendix 2: Procedural flowchart B

