

# Code of Student Conduct

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## INTRODUCTION

1. The Code of Student Conduct is built on the principle that all students are expected to maintain a standard of conduct which supports the University's commitment to excellence in education and scholarship and promotes good order and the good name and reputation of the University.
2. In accepting an offer of a place at the University, students agree to be bound by all relevant provisions of the Charter, Statutes, Ordinances and Regulations of the University, which include this Code of Student Conduct.

### Scope

3. The Student Conduct Regulations and Procedures apply in relation to any activities engaged in, or services and facilities enjoyed, as a student of the University, or in the vicinity of any premises owned, leased or managed by the University. Disciplinary action may also be taken against a student in respect of any alleged misconduct wherever and whenever it may have taken place when it is considered necessary to protect the interests and reputation of the University and its members.

### Immigration Status

4. Where a student's proven conduct or evidence considered in relation to the conduct process brings their immigration status into question, the matter shall be referred to the Academic Registrar without delay for consideration under [7.22-7.28](#) in the [General Regulations, Academic Conduct](#) (.pdf).

### Behaviour of Guests

5. Members of the University will be held responsible for the conduct of their guests and for any damage caused by their guests whilst they are on the University site. Guests may only be invited in accordance with the rules and regulations of the University. No person who has been excluded by the Registrar and Secretary from any University site may be invited as a student guest.

### Partner Institutions

6. Students eligible for an award of the University of Essex following a programme of study validated by the University but delivered by a partner institution are registered with the relevant partner institution and come under the jurisdiction of the regulations for student conduct of the partner institution concerned. This code of conduct does not, therefore, apply to students registered at partner institutions.

## BROAD PRINCIPLES

### Standard of Proof

7. The University's Student Conduct Procedures are not a criminal process and therefore allegations of breaches of the Conduct Regulations need not be proved 'beyond a reasonable doubt'. The standard of proof applied is the 'balance of probabilities', which means that, when assessing the evidence objectively, the view is that it is more likely than not that the allegation is true.

### **Zero Tolerance to Sexual Misconduct, Harassment and Hate Crime**

8. The University of Essex does not tolerate any acts of sexual misconduct, harassment, or hate crime. Zero tolerance means that
  - (i) we will take action and
  - (ii) the action will be proportionate to the circumstances of the case.
9. Allegations of sexual misconduct by students reported to the Proctor or Associate Proctor, including sexual assault, sexual violence, dating violence, domestic violence, or stalking are investigated and addressed following the procedures set forth in this Code.

### **Policy on Academic Freedom and Freedom of Speech**

10. In accordance with the duties imposed upon it by Section 43 of the Education (No 2) Act 1986, the Council of the University has instituted a policy to ensure that the University can promote academic freedom and freedom of speech within the law for members of the University (including the staff/and students of the University) and for external speakers invited to make use of University facilities. The Policy can be found at: <https://www.essex.ac.uk/-/media/documents/about/governance/cop-freedom-of-speech.pdf> (.pdf)

### **Alcohol and Drug Use**

11. Being under the influence of alcohol or drugs will not normally be accepted as a mitigating factor or an excuse for behaviour leading to breaches of the Student Conduct Regulations.

### **Mental Health, Illness or Disability**

12. Where there is concern that mental health, illness or disability may have impacted or continues to impact negatively on a student's behaviour and/or conduct, the proceedings may be adjourned at any stage for the matter to be considered by the Academic Registrar, who will determine whether proceedings are resumed under either the *Fitness to Study Policy* (.pdf), the *Code of Student Conduct*, the *Fitness to Practise Procedure* (.pdf) or any other procedure or policy as appropriate.

### **Advice, Support, Representation and Guidance**

13. All students have the right to be accompanied at any stage during the procedure described in the Code of Student Conduct by a fellow student, member of staff or a representative of SU Advice, which provides independent advice, support, guidance and representation for students. Non-members of the University and legal representatives are not permitted to be present at any stage of the conduct process.

### **Criminal Investigations and Convictions**

14. Students are required to notify the Proctor immediately of any conviction of a criminal offence in a court of law or formal caution for a criminal offence by a police officer<sup>1</sup>.
15. In cases of alleged breaches of conduct which would also constitute serious offences under criminal law, the Conduct Procedures will not be invoked or will be suspended until the matter has either been prosecuted, or a decision not to prosecute has been taken, at which time the Student Conduct Officer will decide whether disciplinary action will be taken or continued. Conviction by the Police or in a Criminal Court will be taken as conclusive evidence that the alleged offence has occurred, and no further investigation will be required by the University.
16. Under the circumstances, the focus of any subsequent University conduct proceedings will include an assessment of the risk posed to staff or students. Any penalty imposed by the criminal court will be taken into account.
17. Whilst criminal investigations are underway, the student is obliged to keep the University informed of any progress and/or change in status regarding their case. The Proctor, or nominee, will review the case on a monthly basis and will make recommendations to the Student Conduct Officer if any action is required during this period.
18. Where the victim of an alleged offence chooses not to report the matter to the police or does not co-operate with their inquiries, and irrespective of whether or not a preference for internal disposal has been indicated, the University reserves the right not to invoke the Student Conduct Procedures.

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<sup>1</sup> For the purposes of internal disposal, a conviction includes being put on probation, being given absolute or conditional discharges, being bound over, being given a formal caution or being issued a Penalty Notice for Disorder or being dealt with by way of Community Resolution. Students need not declare parking or speeding offences which are subject to fixed penalties.

19. In cases where an allegation is withdrawn, the University reserves the right to continue with its investigations and invoke internal Conduct Procedures or refer the matter to the Police as appropriate.
20. In the case of a criminal conviction, where proceedings (including bail conditions, period of time spent on remand, period of time served in custody following conviction) result in a student being absent from their studies for a period of fewer than 12 months the student will normally be required to intermit from their studies for this period. It is the student's responsibility to notify the Student Progress Team of the date of their release from custody and the matter will then be referred to a Student Conduct Committee to determine whether the nature of the offence poses an ongoing risk to the University community, and whether there are any outstanding matters of concern that have not been addressed by the criminal proceedings.
21. In the case of a criminal conviction, where proceedings (including bail conditions, period of time spent on remand, period of time served in custody following conviction) result in a student being absent from their studies for a period of 12 months or more, the student will be deemed withdrawn from the University. The student may then reapply for admission to the University, and as part of the standard readmission process will be required to declare criminal convictions to be considered prior to a decision regarding an offer of a place. For further information on admissions procedures in respect of criminal convictions see: <https://www1.essex.ac.uk/dbs/documents/student-membership-and-dbs-policy.pdf> (.pdf).

#### **Conduct in University-Owned or Managed Accommodation**

22. On entering into a contract for University-owned or administered accommodation, students confirm that they will abide by the terms and conditions of their tenancy agreement. Breaches of these terms and conditions will be dealt with in accordance with the procedures set out in the *Code of Student Conduct in Residential Accommodation* (.pdf).

#### **Conduct in Students' Union premises or during Students' Union organised events**

23. The University of Essex Students' Union has its own disciplinary system. Behaviour on any Students' Union premises or during any Students' Union organised events (wherever held) that may constitute a breach of regulations under this Code may also constitute a breach of Students' Union disciplinary rules. The two processes are not separate. However, appropriate cases may be dealt with under this Code notwithstanding that action is being or has been taken against the student under the Students' Union disciplinary process (and vice versa).

#### **Professional Misconduct**

24. For students subject to the *Fitness to Practise Procedure* (.pdf), conduct which affects professional suitability may also be referred to other relevant University authorities to be handled in accordance with the appropriate procedures.

#### **Conferral of Degrees**

25. Except with the special permission of the Senate, no degree of the University will be conferred upon, or certificate or diploma of the University granted to, a person who is subject to on-going action in accordance with the procedures contained in this Code of Student Conduct, including the hearing of any appeal under the procedures or outstanding criminal investigations or proceedings.

#### **Essex Abroad**

26. Serious breaches or repeated minor breaches of conduct are considered by Student Conduct Committees. Students sanctioned by a Student Conduct Committee for a breach of the Student Conduct Regulations are automatically prohibited from undertaking study abroad as a component of their degree programme. Minor cases considered by the Proctor are not covered by this procedure but can still result in a student being prevented from studying abroad. Students should be aware that Essex Abroad review both minor and serious acts of misconduct and may be unable to nominate students to partner institutions based on visa regulations, national laws and partner institution admissions criteria.
27. Students have a right of appeal against this automatic prohibition and may exercise this right by following the *Procedure for Dealing with Prospective Essex Abroad Students with a record of Serious Misconduct*. Students with concerns about the potential impact of a misconduct outcome should contact Essex Abroad at the earliest opportunity for advice.

### **Confidentiality**

28. The operation of the Student Code of Conduct seeks to protect individual confidentiality at all stages.
29. Throughout the operation of these procedures, the University will seek to ensure that confidentiality is maintained. This approach will not prevent the University from disclosing information where necessary for the discharge of duties or as required by law, nor will it prevent the University, where appropriate, from disclosing information about any outcome under this procedure.

### **Recording of Offences**

30. Records relating to conduct offences will be held by the Student Progress Team on a central database and will not normally be included in the student's centrally held academic file.
31. Records of conduct cases are destroyed by the Student Progress Team six academic years after the academic year in which the incident is dealt with.

### **Monitoring**

32. The members of academic staff, students and other staff involved in the operation of the Code of Student Conduct meet at least annually to review the operation of the Code of Conduct, consistency of decisions and other related matters as well as to undertake relevant training. The Student Progress Team provides annual reports to the Student Experience Committee, the Academic Quality and Standards Committee and Education Committee in relation to conduct and recommendations are considered and made to Senate as appropriate via the Education Committee.

## **ROLES AND RESPONSIBILITIES**

### **Student Progress Team**

33. The Student Progress Team co-ordinates all aspects of the administration and delivery of the Student Code of Conduct across all University campuses. All matters related to Student Conduct should be addressed to this office in the first instance. Contact details can be found at: <https://www1.essex.ac.uk/students/experience/code-conduct.aspx>

### **The Proctor**

34. The Proctor is a permanent member of the Professional Services. They are responsible for investigating alleged breaches of the Student Conduct Regulations and has the power to impose a range of penalties, including the payment of fines and repair/replacement costs for minor offences. More serious cases are referred by the Proctor to the Student Conduct Officer for consideration by a Student Conduct Committee and the Proctor is required to attend to present the case against the student.

### **The Student Conduct Officer**

35. The Student Conduct Officer is appointed by the Council on the recommendation of the Vice-Chancellor and is an Officer of the University and fulfils a number of duties.
36. The Student Conduct Officer chairs the Student Conduct Panel. In addition, they consider all referrals from the Proctor of serious offences and all appeals in the first instance and convenes Student Conduct Committees and Committees of Appeal as appropriate.

### **The Student Conduct Panel**

37. The Student Conduct Panel is a pool of trained staff and student volunteers from which members of Student Conduct Committees are drawn.

### **SU Advice**

38. SU Advice is a 'confidential, independent and impartial' service that is not part of the University. It provides support and guidance to students throughout the process and seeks to ensure that the University procedures are properly adhered to. In addition to advising students on their cases, SU Advice is also able to provide trained advisors to accompany students to meetings with the Proctor and Student Conduct Committees. Students are actively encouraged to engage with the service at every opportunity.

### Conflict of Interest

39. Although it is intended that the named post holders will undertake these functions in the majority of cases, there may be special circumstances, including a conflict of interest, where another post holder will be substituted.

### STUDENT CONDUCT REGULATIONS

40. The following behaviour shall be treated as a breach of the Conduct Regulations which may result in disciplinary action being taken:
1. infringing or attempting to infringe a Regulation of the University;
  2. encouraging or assisting others to infringe a Regulation of the University including encouraging or assisting another student to commit an academic offence;
  3. having been convicted of a criminal offence in a court of law or formally cautioned for a criminal offence by a police officer or dealt with for a criminal offence by way of Community Resolution by a police officer<sup>2</sup>;
  4. failing to disclose the conviction of a criminal offence by a court of law or a formal caution by a police officer for a criminal offence<sup>3</sup>;
  5. using, selling or possessing within the University any controlled drug<sup>3</sup>
  6. possessing within the University any offensive weapon<sup>4</sup>
  7. behaving in such a way as may reasonably be deemed to harm the reputation of the University of Essex or its relationship with the local or wider community and/or attracting adverse publicity;
  8. exhibiting threatening, intimidating or violent behaviour;
  9. exhibiting indecent or abusive language or behaviour;
  10. exhibiting disorderly behaviour;
  11. behaving in a manner that amounts to harassment as defined by the University's *Zero tolerance of harassment and bullying*;
  12. creating, or causing to be created, excessive noise which causes discomfort, inconvenience or annoyance to authorised users of the University premises;
  13. behaviour that is discourteous, disrespectful or uncooperative towards a member of the University;
  14. committing theft within the University<sup>5</sup>;
  15. committing or attempting to commit any fraud<sup>6</sup> in relation to any monies due to the University or any debt owed to the University by any student;
  16. behaviour that is likely to cause injury or impair safety on University premises;
  17. misusing fire detection equipment, fire prevention equipment or fire-fighting appliances within the University;
  18. sounding or raising of a fire alarm within the University when it is unwarranted;
  19. failing to immediately evacuate any part of the University or University-owned or administered accommodation, when a fire alarm sounds or returning before being told it is safe to do so by a fire officer or authorised member of the University staff;
  20. interfering with, or impeding, or failing to comply with any member of the University in carrying out their duty or proper function as such;
  21. failing to disclose name and other relevant details to an employee of the University or the Students' Union when it is reasonable to require that such information be given;
  22. interfering with or impeding, by the use of intimidation, violence, threat of violence or physical obstruction, the supply or delivery of any goods or services to the University, or interfering with or impeding the entry into the University of any lawful visitor;

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<sup>2</sup> For the purposes of internal disposal a conviction includes being put on probation, being given absolute or conditional discharges, being bound over, being given a formal caution or being issued a Penalty Notice for Disorder or being dealt with by way of Community Resolution. Students need not declare driving offences which are subject to fixed penalty notices.

<sup>3</sup> As defined in the Misuse of Drugs Act 1971 and the Regulations promulgated thereunder or any legislation for the time being in force modifying or replacing that Act and substances prohibited under the Psychoactive Substances Act 2016;

<sup>4</sup> As defined in the Prevention of Crime Act 1953 or, without good cause, any article as defined in Section 139 of the Criminal Justice Act 1988 and the Regulations promulgated there under or any legislation for the time being in force modifying or replacing that Act

<sup>5</sup> As defined in Sections 1 to 7 of the Theft Act 1968 and relevant case law thereunder

<sup>6</sup> As defined in Section 1 of the Fraud Act 2006

23. interfering with any mechanical, electrical or other services or installations within the University without the authority to do so;
24. causing actual or potential damage to, defacement, misappropriation or unauthorised use of the property of the University and its grounds;
25. disposing of litter inappropriately within the University;
26. behaving in a manner which obstructs, frustrates or disrupts:
  - a. any lecture, class or other instruction, or any laboratory work, or any examinations, authorised to be held, given or undertaken within the University; *or*
  - b. any meeting or other function (including social or sporting activities) authorised to take place within the University; *or*
  - c. the satisfactory conduct of the administrative work of the University or its public or official functions, activities or legal duties;
27. publishing any matter (including expressed orally or in any writing, sign or visible representation, including electronically) which is threatening, abusive or insulting or constitutes harassment or makes others fear violence, including:
  - a. by printing or displaying within the University *or*
  - b. by publishing or distributing to any visitor or member of the University *or*
  - c. by using in any form of instruction, meeting or gathering (including social and sporting activities) *or*
  - d. by broadcasting to any visitor or member of the University;
28. using electronic and social media in a way that constitutes a breach of any other Student Conduct Regulation;
29. misusing the University's name or any University record or document; or forging or falsifying any University record or document; or making any false statement either verbally or in writing in relation to any academic examination or assessment or University administrative function or service; or being party to impersonation in relation to any academic examination or assessment or University administrative function or service. This includes, but is not limited to, the use of false documentation or false statements in the process of gaining admission to the University;
30. behaving in a manner that causes, or is likely to cause, death, unnecessary suffering, harm or distress to any species of wildlife or domesticated or semi-domesticated animal;
31. failing to comply with the terms and conditions of the contract for Accommodation;
32. failing to comply with the '*IT Acceptable Use Policy*';
33. failing to comply with any direction or restriction, imposed by the Librarian in respect of the use of Library facilities;
34. failing to comply with the University's *No Smoking Policy*<sup>7</sup> (.pdf);
35. failing to comply with a resolution previously imposed by the Vice-Chancellor or nominee, the Proctor, the Associate Proctor or their nominee, a Student Conduct Committee or a Student Conduct Committee of Appeal, from the time of the notification of the resolution or such other time as is authorised by the Student Conduct Officer, save that a period of 28 days (or exceptionally, a longer period as specified by the Student Conduct Officer) is allowed for the payment of fines, damages and costs;
36. making an allegation which is deemed to be vexatious, malicious or false;
37. attempting to undermine or undermining the University's obligations in respect of UK Immigration policy;
38. failing to comply with the University's policy and procedures for attendance monitoring or misuse of a student registration card or a 'Count-me-in' electronic reader in relation to attendance monitoring<sup>8</sup>;
39. any other behaviour that is deemed to contravene the general principles of the Code of Student Conduct.

<sup>7</sup> *No Smoking Policy* (.pdf) The prohibition on smoking includes the use of electronic cigarettes or 'vaping'

<sup>8</sup> Guidance for students can be accessed at: <https://www1.essex.ac.uk/students/course-admin/attendance.aspx>

## STUDENT CONDUCT PROCEDURES

### Minor Incidents

#### Investigating Allegations

41. When, in the opinion of the Proctor, misconduct may have occurred and action against a student is justified, the Proctor shall supervise an investigation. In investigating the matter, the Proctor will usually convene a series of meetings to formally discuss the allegations with the subject of the complaint, the person making the complaint and any other persons involved. In cases where the alleged offence/s involve/s more than one student, all or any of the cases may be dealt with at the same time.

#### Power of Proctor to impose a temporary non-contact resolution pending the outcome of an investigation

42. Pending the outcome of a conduct investigation, when in the opinion of the Proctor it is necessary for the protection of any person, property, the reputation of the University or the student themselves, the Proctor may impose on any student a requirement that the student has no contact, or restricted contact, with a specified person or persons. Failing to comply with such a requirement, without good reason, shall amount to a breach of *Student Conduct Regulation 35*.

#### Attendance at a meeting with the Proctor

43. Meetings with the Proctor take precedence over all other academic, sporting and social engagements and attendance is mandatory during term-time. The Proctor's time is valuable and students who fail to attend meetings unnecessarily delay investigations. Students who fail to attend a mandatory meeting with the Proctor without good reason will be subject to a fine of £25. Repeated failure to attend meetings or unauthorised absence from a meeting will result in either the Proctor proceeding in the student's absence, including the imposition of an appropriate penalty where necessary or a referral of the matter to the Student Conduct Officer for consideration by a Student Conduct Committee. In order to reduce unnecessary delays to the investigation, students may attend a meeting with the Proctor voluntarily during a vacation if they wish to do so and the Proctor is available.

#### Joint Hearings

44. If two or more students are involved in related misconduct, the Proctor may at their discretion deal with the cases together.

#### Advice, Support, Representation and Guidance

45. All students are permitted bring a student or employee of the University or a representative of SU Advice to the meeting with the Proctor and are actively encouraged to do so.

#### Penalties

46. Following investigation, the Proctor will determine the severity of the breach. The Proctor may deal with minor breaches regardless of whether the student admits or denies guilt. It is at the Proctor's discretion what constitutes a minor breach of the Regulations. In such cases, the Proctor has the power, on behalf of Senate, to make one or more of the following resolutions:
  - a. That the allegation should be dismissed and no further action taken.
  - b. To issue a formal written warning to the student.
  - c. To require the student to make an apology and/or restitution to the parties affected by the breach of regulations.
  - d. To confiscate without compensation, any item prohibited by the rules and regulations relating to the possession of offensive weapons on University premises.
  - e. To require the student to have no contact, or restricted contact, with a specified person or persons.
  - f. To impose a fine not exceeding £250, except in relation to allegations of the unwarranted sounding or raising of a fire alarm within the University, for which the Proctor has the authority to impose a maximum fine of £500.
  - g. To require the student to pay the whole or part of the cost of repair to, or replacement value of, any property that has been damaged or stolen.

- h. To require a student to attend a specified course or programme and to pay a reasonable cost for such a course or programme which shall be non-refundable in the case of a student who fails to attend without good reason.
  - i. To require the student to move to alternative University accommodation.
  - j. To recommend to Accommodation Essex that the student should be refused University accommodation in the future.
  - k. To exclude the student from the whole or any specified part or parts of the University and its precincts for a defined period or periods, including suspension of any non-academic facilities.
  - l. Any other proportional action specified by the Proctor as they think proper.

#### **Penalties Relating to Minor Criminal Convictions**

47. In relation to a case referred as a consequence of a student being convicted of a minor criminal offence in a court of law or formally cautioned for a minor criminal offence by a police officer, the Proctor will take into account the safety of persons and property and good order in the University and its precincts, when imposing one or more of the following resolutions:
- a. That the charges against the student should be dismissed and no further action taken;
  - b. To issue a formal written warning to the student;
  - c. To confiscate without compensation, any item prohibited by the rules and regulations relating to the possession of offensive weapons on University premises;
  - d. To require the student to attend a specified course or programme and to pay a reasonable cost for such a course or programme;
  - e. To recommend to Accommodation Essex that the student may not be allocated accommodation in the future;
  - f. To exclude the student from the whole or any specified part or parts of the University and its precincts for a defined period or periods, including suspension of any non-academic facilities;
  - g. Any other proportional action specified by the Proctor as they think proper.
48. The Penalty or penalties imposed will be determined by reference to the facts of the case, precedent in similar previous cases, any aggravating and mitigating factors, and the student's conduct history. Penalties will not last beyond the student's current programme of study. The imposition of a penalty, or part thereof, may be suspended on any reasonable terms decided by the Proctor.

#### **Formal Notification**

49. Students will be formally notified in writing of the outcome of the Proctor's investigations and subsequent decision and advised of the procedure for submitting an appeal.
50. All outcomes are monitored by the Student Conduct Officer.

#### **Serious Incidents**

##### **Referral to the Student Conduct Officer**

51. If the Proctor determines the case to be of a more serious nature or where there has previously been a series of minor offences, the case will be referred to the Student Conduct Officer. This does not prevent the Proctor from referring the case to the police.
52. Students will be formally notified in writing, of the referral, the allegation/s and draw their attention to the Conduct Procedures.
53. Upon receiving a referral from the Proctor the Student Conduct Officer may convene a Student Conduct Committee to consider the charges against the student.

##### **Temporary Exclusion from Accommodation**

54. When, in the opinion of the Proctor it is necessary for the protection of any person, property, the reputation of the University or the student themselves, the Proctor may request the student to leave University student accommodation immediately or request the student to move to alternative University Student Accommodation pending the outcome of conduct proceedings. In such cases conduct proceedings will be initiated at the earliest opportunity. The Proctor may not suspend or relocate a student unless the student has been given the opportunity to make

representations in person to the Proctor. Where for any reason it appears to the Proctor that it is not practicable for the student to attend in person, the Student will be entitled to make written representation.

#### **Temporary Suspensions and Exclusions Pending a Conduct Hearing or Criminal Trial**

55. The Vice-Chancellor or nominee may, pending a conduct hearing or a criminal trial, suspend or exclude 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 a police investigation.
56. Suspension or exclusion pending a hearing is not used as a penalty. The power to suspend or exclude under this provision is designed to protect a member or members of the University community and will only be used where the Vice-Chancellor or nominee is of the opinion that it is in the best interests of either the student or any member of the University community. Written reasons for the decision will be recorded and notified to the student. 'Suspension' includes a total prohibition by the University on attendance at or access to the University and on any participation in University activities.
57. 'Exclusion' involves selective restriction on attendance at or access to the University, or prohibition on exercising the functions or duties of any office or committee membership in the University or Students' Union, the exact detail to be specified in writing.
58. Suspension should only be used where exclusion from specified activities or facilities would be inadequate and as far as is possible, arrangements will be put in place to reduce the impact of suspension on the student's studies. The impact will however depend on the discipline.
59. 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.
60. The Vice-Chancellor or nominee may temporarily suspend or exclude a student with immediate effect. A student who has been temporarily suspended or temporarily excluded by the Vice-Chancellor may make representations in person or in writing to the Vice-Chancellor or nominee. Such representations must be made within five working days of the date of the letter notifying the student of the temporary suspension or exclusion or as soon as practicable thereafter, if there is good reason why the student was prevented from making their representations within the deadline. Where the student attends in person they may be accompanied by a fellow student or member of staff from the University of Essex or a representative from SU Advice.
61. A decision to temporarily suspend or exclude a student will be kept under review by the Proctor who will report any significant changes in the circumstances of the case to the Vice-Chancellor. Should the holding of a disciplinary hearing or criminal trial be delayed for whatever reason, and where the suspension or exclusion has continued for at least four weeks, the student may request a review of the decision. A review will be conducted by three independent members of the Senate and the student will be given the opportunity to submit written representations and to make representations in person. Should the suspension or exclusion continue after the review, it will remain under constant review by the Proctor who will report any significant changes in the circumstances of the case to the Vice-Chancellor or nominee and, at the request of the student, be subject to further independent reviews at four-weekly intervals thereafter, until a disciplinary hearing or criminal trial is held.
62. Breach of a suspension or exclusion order as noted above, will also be regarded as a breach of conduct regulation 35 and may result in an immediate referral to a Student Conduct Committee, who may issue an appropriate penalty commensurate with their powers.

#### **Convening a Student Conduct Committee**

63. The Student Progress Team will inform each student in writing that their case has been referred to a Conduct Committee and the substance of the referral. Details of the practical arrangements for the hearing will be included together with a reply slip which must be returned to the Student Progress Team, within five days of the date of the letter, indicating whether they admit to having committed the cited breach/es and whether they have any objection to any of the members of the

Committee. The grounds for any objection must be clearly stated and the Student Conduct Officer will rule whether the objection is valid.

64. If two or more students are involved in related misconduct, the Student Conduct Officer may determine that the cases are considered together by the same Committee.

#### **Attendance at Student Conduct Committees**

65. Students are required to attend any meeting of a Student Conduct Committee appointed by the Student Conduct Officer. The Conduct Committee will proceed in the student's absence, should they fail to attend the hearing without good reason.

#### **Advice, Support, Representation and Guidance**

66. All students are permitted to bring a student or employee of the University or a representative of SU Advice to help them in presenting their case to the Committee and are actively encouraged to do so.

#### **Evidence**

67. Evidence will normally be presented orally but written evidence or electronic evidence may also be submitted for examination. The Chair has the power to determine whether any material appears irrelevant or appears unduly repetitive.

#### **Witness Evidence**

68. It is the responsibility of the student charged and the Proctor to arrange for their respective witnesses to give oral evidence or to submit any written statements. A witness giving oral evidence may be cross-examined. A witness not available for cross-examination may submit evidence in writing, but written evidence may be given less weight than evidence presented in person. The Committee may choose to disregard evidence from witnesses who are not prepared to have their names revealed to the Committee.

#### **Composition of a Student Conduct Committee**

69. A Student Conduct Committee will consist of two appointed members of the Student Conduct Panel (who shall constitute the quorum) and one student member of the University selected from a pool of trained student volunteers. One of the two appointed academic members of the Committee will act as Chair of the proceedings and will have an additional casting vote upon a tie. No member of the Student Conduct Committee will be from the same Department, School or Centre as the student subject to the proceedings.

#### **Order of Proceedings**

70. The order of proceedings for a Student Conduct Committee will normally be as follows:
- a. Introduction of those present;
  - b. The Proctor sets out the allegation/s of misconduct;
  - c. The student responds to the allegation/s and is present with their representative whenever oral evidence is being heard by the Committee;
  - d. The Committee has the opportunity to question both the Proctor and the student;
  - e. Either party may call witnesses who shall attend only to present their evidence and to answer any questions that the Committee or the other party may put to them through the Chair. Once their evidence has been heard and there are no more questions, witnesses are required to withdraw;
  - f. The Proctor sums up the allegation/s;
  - g. The student provides a final summary;
  - h. The Proctor and the student withdraw whilst the Panel reach their verdict;
  - i. The Proctor and the student return for the delivery of the verdict;
  - j. If the Committee finds the student guilty of a breach of the Conduct Regulations, the student is given the opportunity to put forward a case for mitigation of penalty;
  - k. The Proctor informs the Committee of any previous breaches of the Student Conduct Regulations by the student;
  - l. The Proctor and the student withdraw whilst the Committee consider an appropriate penalty;
  - m. The decision of the Committee is then presented orally to the student.

### **Alternative verdicts**

71. Where, having heard and carefully considered all of the evidence presented by the Proctor and by the accused student(s), the Committee determines that the evidence does not support the charge or charges put forward by the Proctor but does support a breach of some other conduct regulation, the Committee may find the student(s) guilty of breaching that other regulation and may impose a penalty for that breach notwithstanding that it was not included in the original list of charges in the Proctor's case against the student.

### **Adjourning a Student Conduct Committee**

72. The Committee may, where it is appropriate to do so, adjourn consideration of a student's guilt or subsequent penalty in order to enable the student charged and/or their representative to be present. The Committee may adjourn a hearing in order to request that the Student Conduct Officer requires a witness to attend for cross-examination. The Committee may postpone its deliberations where a witness that the Committee considers to be a vital witness, fails to attend. The Committee may also adjourn where it is of the opinion that its proceedings are being impeded by any circumstances beyond its control.
73. The Committee will meet to consider an adjourned case, as soon as it is feasible and not later than three months after the adjournment, although the case does not need to be determined at the resumed meeting. Where it is not reasonably practicable for the same members to attend the Committee reconvened to hear an adjourned case, the Student Conduct Officer may co-opt up to three additional members to replace those unable to attend and, if necessary, may appoint from among those co-opted members a new Chair. Where two or more additional members are co-opted, the reconvened hearing will proceed as a new hearing. Where only one additional member is co-opted and the student charged requests it, the reconvened hearing will take the form of a new hearing.

### **Penalties**

74. A Conduct Committee has the power, on behalf of the Senate, to make one or more of the following resolutions:
- a. That the charges against the student should be dismissed and no further action taken;
  - b. To issue a formal written warning to the student;
  - c. To require the student to make a written apology and/or restitution to the parties affected by the breach of Regulations;
  - d. To confiscate without compensation, any item prohibited by the rules and regulations relating to the possession of offensive weapons on University premises;
  - e. To require the student to have no contact, or restricted contact, with a specified person or persons;
  - f. To impose a fine;
  - g. To require the student to pay the whole or part of the cost of repair to, or replacement value of, any property that has been damaged or stolen;
  - h. To require the student to attend a specified course or programme and to pay a reasonable cost for such a course or programme;
  - i. To require the student to move to alternative University accommodation;
  - j. To recommend to Accommodation Essex that the student should be refused University accommodation in the future;
  - k. To exclude the student from the whole or any specified part or parts of the University and its precincts for a defined period or periods, including suspension of any University academic, residential, social or sporting facilities<sup>9</sup>;
  - l. To expel the student from membership of the University<sup>10</sup>.

### **Penalties Relating to Serious Criminal Convictions**

75. In relation to a case referred to it as a consequence of a student being convicted of a serious, or repeated minor criminal offence(s) in a court of law or formally cautioned for a serious criminal offence by a police officer, a Committee will take into account the safety of persons and property

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<sup>9</sup> A student expelled or excluded as a result of conduct proceedings shall have no right to a refund.

<sup>10</sup> Expulsion from the University is compulsory permanent withdrawal from the University and means that the student is no longer eligible to be registered for a programme of study or a component of a programme of study; or to be awarded a degree or exit award from the University or to reside in University Accommodation. Earned credits which have already been ratified by a Board of Examiners can be recorded on a transcript.

and of good order in the University and its precincts, and make one or more of the following resolutions:

- a. That the charges against the student should be dismissed and no further action taken;
- b. To issue a formal written warning to the student;
- c. To confiscate without compensation, any item prohibited by the rules and regulations relating to the possession of offensive weapons on University premises;
- d. To require the student to attend a specified course or programme and to pay a reasonable cost for such a course or programme;
- e. To recommend to Accommodation Essex that the student may not be allocated accommodation in the future;
- f. To exclude the student from the whole or any specified part or parts of the University and its precincts for a defined period or periods, including suspension of any University academic, residential, social or sporting facilities<sup>20</sup>;
- g. To expel the student from membership of the University<sup>20</sup>.

76. The penalty or penalties imposed will be determined by reference to the facts of the case, precedent in similar previous cases, any aggravating and mitigating factors, and the student's conduct history. Penalties will not last beyond the student's current programme of study. The imposition of a penalty, or part thereof, may be suspended pending on any reasonable terms decided by the Committee.

#### **Formal Notification**

77. Students will be formally notified in writing of the outcome of the committee's deliberations and decision and advised of the procedure for submitting an appeal.

### **STUDENT CONDUCT APPEALS PROCESS**

#### **Grounds for Appeal**

78. A student has the right of appeal to the Student Conduct Officer, against any resolution of the Proctor or a Student Conduct Committee on one or more of the following grounds:

- A. That there is evidence now available, which for good reason was not previously available to the Proctor or the Conduct Committee, which might have materially affected the outcome; or
- B. That the Proctor or Conduct Committee departed from the Student Conduct Procedures in a manner that may be prejudicial to the interests of the accused student; or
- C. That on the balance of probabilities, the facts of the case did not warrant the decision that the student had breached conduct regulations; or
- D. That the penalty imposed by the Proctor or Conduct Committee was unreasonable with regard to all the circumstances of the case.

#### **Written Notice of Appeal**

79. A student may exercise their right to appeal by completing an Appeal Form, setting out concisely the grounds for appeal (as described above) and sending it to the Student Progress Team at studentconduct@essex.ac.uk within ten working days of the date on the letter containing the official notification of the outcome of conduct proceedings. The Student Conduct Officer has absolute discretion to extend this submission deadline to 20 working days from the date on the official outcome letter, providing that the student is able to show to the satisfaction of the Student Conduct Officer, that circumstances beyond their control prevented the standard time limit being adhered to and that injustice would result from adhering to it.

80. Students are strongly encouraged to contact SU Advice for advice and guidance before completing the form.

#### **Minor cases where the Proctor determined guilt and imposed a penalty**

81. Upon receipt of an appeal, the Student Conduct Officer will review all the evidence in the case and determine whether or not the grounds set out in the appeal form have merit or should be dismissed. If the appeal is dismissed the student will be notified in writing normally within 15 working days from receipt of the appeal.

82. Where the Student Conduct Officer determines that the finding(s) of guilt was/were **not justified** by the evidence or that the Proctor departed from the Student Conduct Procedures in a manner that may be prejudicial to the interests of the accused student (grounds of appeal A, B and / or C), the Student Conduct Officer will void the finding(s) of guilt and dismiss the charges(s) against the student and any penalty or penalties imposed will be revoked. Where the appeal has been made under ground of appeal A (new evidence) the Student Conduct Officer may, at their sole discretion, convene a Student Conduct Committee of Appeal to adjudicate the appeal. The student will be informed of the Student Conduct Officer's decision normally within 15 working days from receipt of the appeal.
83. Where the Student Conduct Officer determines that the finding(s) of guilt was/were **justified** by the evidence, but that the penalty imposed by the Proctor was unduly harsh (ground of appeal D), the Student Conduct Officer will refer the case back to the Proctor setting out their reasons and instructing the Proctor to reconsider the penalty/penalties in light of the Student Conduct Officer's reasoning. If the Proctor accepts the Student Conduct Officer's reasoning, the Proctor will impose an alternative (lesser) penalty. If the Proctor does not accept the Student Conduct Officer's reasoning and believes that the original penalty/penalties should be maintained, the case will be automatically referred to a Student Conduct Committee of Appeal (in which case the procedure described below will apply). The student will be informed of the Student Conduct Officer's decision normally within 15 working days from the receipt of the appeal.

#### **Acquittal in a Court of Law**

84. A student acquitted in a court of law of an offence related to an incident for which a penalty has been already imposed under the arrangements set out in this document shall have the right of appeal to a Conduct Committee of Appeal provided that such appeal is lodged in writing with the Student Conduct Officer within thirty working days of the date on which the verdict in the court of law is delivered.

#### **Appeals against the outcome of a Student Conduct Committee**

85. Upon receipt of an appeal, the Student Conduct Officer will determine whether the grounds set out in the appeal merit referral to a Student Conduct Committee of Appeal, or whether the appeal should be dismissed. The student will be informed of the Student Conduct Officer's decision normally within ten working days from receipt of the appeal.
86. On referring the case to a Conduct Committee of Appeal, the Student Conduct Officer will request from the Chair of the original Conduct Committee or the Proctor, against whose decision the appeal is made, a Statement of Case, which will include details of the charge or charges in respect of which the decision was made, a brief summary of the evidence and of the relevant findings, the decision, details of any penalty imposed, a brief comment as to the reason for such findings, decision and penalty and any further information which the Proctor or Committee Chair concerned considers to be relevant.
87. Within 15 days of the notification of the Student Conduct Officer's decision to refer the appeal to a Student Conduct Committee of Appeal, the Student Progress Team will provide the student with a copy of the Statement of Case, details of the practical arrangements for the hearing and the names of members of the Student Conduct Committee of Appeal, together with a reply slip which must be returned to the Student Progress Team, within five working days of the date of the letter. The student has the right to object to any member of the proposed Conduct Committee of Appeal and the grounds for any objection must be clearly stated and the Student Conduct Officer will rule whether the objection is valid.

#### **Withdrawing an Appeal**

88. The student may, within five days of the despatch of the Statement of the Case by the Student Conduct Officer, withdraw the appeal. A student who fails to withdraw the appeal within this period must proceed with it unless the Student Conduct Committee of Appeal gives permission for its withdrawal.

### **Attendance at Student Conduct Committees of Appeal**

89. Students are required to attend any meeting of a Student Conduct Committee of Appeal. Students who fail to attend a Student Conduct Committee of Appeal without good reason will be subject to a fine and the appeal will automatically be dismissed.

### **Advice, Support, Representation and Guidance**

90. All students are permitted to bring a student or employee of the University or Students' Union to help them in presenting their appeal to the Committee and are actively encouraged to do so.

### **91. Composition of a Student Conduct Committee of Appeal**

A Student Conduct Committee of Appeal will consist of two appointed members of the Student Conduct Panel (who shall constitute the quorum) and one student member of the University selected from a pool of trained student volunteers. One of the two appointed academic members of the Committee will act as Chair of the proceedings and will have an additional casting vote upon a tie. No member of the Student Conduct Committee of Appeal will be from the same Department/School/Centre as the student subject to proceedings. No member of the original Student Conduct Committee will be a member of the Student Conduct Committee of Appeal.

### **Order of Proceedings**

92. The order of proceedings for a Student Conduct Committee of Appeal will normally be as follows:
- a. Introduction of those present;
  - b. The Chair determines on what grounds the student is appealing and which charges/penalties are being appealed;
  - c. The Proctor sets out their view regarding the original resolution of the Proctor or Conduct Committee;
  - d. The student presents the case for the appeal and is present with their representative whenever oral evidence is being heard by the Committee;
  - e. The Committee has the opportunity to question both the Proctor and the student;
  - f. Either party may call witnesses who shall attend only to present their evidence and to answer any questions that the Committee or the other party may put to them through the Chair. Once their evidence has been heard and there are no more questions, witnesses are required to withdraw;
  - g. The Proctor and student are invited to provide a final summary;
  - h. The Proctor and the student withdraw whilst the Panel reach their verdict upon guilt where this is being appealed;
  - i. The Proctor and the student return for the delivery of the verdict upon guilt where this is being appealed;
  - j. If the Committee confirms the decision to find the student guilty of a breach of the Conduct Regulations, the student is given the opportunity to put forward a case for mitigation of penalty;
  - k. The Proctor informs the Committee of any previous breaches of the Student Conduct Regulations by the student;
  - l. The Proctor and the student withdraw whilst the Committee consider whether the penalty under appeal appropriate;
  - m. The decision of the Committee is then presented orally to the student.

### **Student Conduct Committee of Appeal Resolutions**

93. A Conduct Committee of Appeal will make one or more of the following resolutions:
- a. Rescind the resolution of the Proctor or Conduct Committee, that the student be found guilty and that any consequential penalties should also be rescinded;
  - b. Confirm that the student be found guilty;
  - c. Either confirm or amend a penalty issued by either a Conduct Committee or the Proctor, provided that any amendment is consistent with the powers of the Proctor or the Conduct Committee which made the original resolution. It should be noted that this means that penalties may be increased as well as decreased.

### **Procedural Irregularity**

94. Any appeal following the formal conclusion of the Student Conduct Committee of Appeal may be made on the grounds of procedural irregularity only, specifically that the Committee departed from the prescribed procedures. A student who wishes to appeal against the outcome of these

procedures on the grounds of procedural irregularity should write to the Academic Registrar within 20 working days of the date of the Student Conduct Committee of Appeal hearing, setting out in detail the nature of the evidence to support the claim that there were procedural irregularities in the process. If there is irrefutable evidence to support the claim then the case will be reviewed by the Pro-Vice-Chancellor (Education). If the Pro-Vice-Chancellor determines that there were procedural irregularities in the process then the case will be referred to a new Student Conduct Committee of Appeal.

#### **The Office of the Independent Adjudicator (OIA)**

95. The Office of the Independent Adjudicator for Higher Education (OIA) provides an independent scheme for the review of student complaints or appeals. When the University's internal procedures for dealing with complaints and appeals have been exhausted, the University will issue a Completion of Procedures letter. Students wishing to avail themselves of the opportunity of an independent review by the OIA must submit their application to the OIA within 2 months of the issue of the Completion of Procedures letter. Full details of the scheme are available on request and will be enclosed with the Completion of Procedures letter.

<b>Title</b>	Code of Student Conduct
<b>Version number</b>	1.0
<b>Document author</b>	Roy Clark, Proctor
<b>Original document author</b>	Roy Clark, Proctor
<b>Document owner</b>	Roy Clark, Proctor
<b>Approved by</b>	Senate
<b>Date of approval</b>	June 2018
<b>Effective date</b>	1 October 2018
<b>Frequency of review</b>	Annual
<b>Date of last review</b>	June 2018
<b>Date of next review</b>	June 2019
<b>Document status</b>	Published
<b>Document classification</b>	Public
<b>Questions and queries</b>	<a href="mailto:studentconduct@essex.ac.uk">studentconduct@essex.ac.uk</a>
<b>Related policies</b>	<ul style="list-style-type: none"> <li>■ <a href="#">Code of Student Conduct in Residential Accommodation (.pdf)</a></li> <li>■ <a href="#">IT Acceptable Use Policy (.pdf)</a></li> <li>■ <a href="#">No Smoking Policy (.pdf)</a></li> <li>■ <a href="#">Academic Freedom and Freedom of Speech (.pdf)</a></li> <li>■ <a href="#">Fitness to Study Policy (pdf)</a></li> <li>■ <a href="#">Fitness to Practise Procedure (.pdf)</a></li> <li>■ <a href="#">Zero tolerance of harassment and bullying (.pdf)</a></li> <li>■ <a href="#">Student membership and DBS policy(.pdf)</a></li> <li>■ <a href="#">Attendance guidance for students</a></li> <li>■ <a href="#">Students - The Code of Student Conduct</a></li> <li>■ <a href="#">Student membership and DBS policy (.pdf)</a></li> </ul>
<b>Supersedes</b>	Code of Student Conduct 2017-18
<b>Superseded by</b>	Not Applicable

## Further information

- [Charter, Statutes and Ordinances](#)
- [University Regulations](#)
- [Appeal Form\(doc\)](#)
- [Incident Report Form \(rtf\)](#)
- [Attendance guidance for students](#)
- [Students - The Code of Student Conduct](#)
- [Office of the Independent Adjudicator](#)