

# Procedure for Investigating Student Conduct Concerns

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# Procedure for Investigating Student Conduct Concerns

## 1 Introduction

- 1.1 All students of the Tavistock and Portman NHS Foundation Trust (the Trust) are expected to conduct themselves at all times in a manner that is not harmful to themselves or fellow students, to maintain a professional and courteous approach to their dealings with others and to comply with the law, both on site and on placement.
- 1.2 If a concern is raised about a student's behaviour where the Trust considers the learning of the student or other students may be at risk, or where the student or any other person may be at risk of physical and/ or psychological harm, or where the reputation of the Trust may be undermined then the Trust will follow the procedure below to investigate the concerns and, where necessary, take appropriate action. A concern may be raised by members of the Trust staff, by other students or by members of the public.

## 2 Purpose

- 2.1 The purpose of this procedure is to set out clear principles and practice in respect of the investigation and resolution of matters of student conduct. These principles are to be applied consistently across the Trust. The procedure sets out clear roles and responsibilities for those involved in these processes and allows students who may come under this procedure to be fully informed of the way in which matters will be handled at both the informal and formal stages of the procedure.

## 3 Scope

- 3.1 This procedure applies to all students undertaking a programme of study within the Directorate of Education and Training, including long courses, continuing professional development and short courses, and Digital Academy courses, and courses delivered at national centres. It applies to any activities undertaken by a student, or services and facilities that they use, as a student of the Trust. In addition, action may be taken under this procedure in respect of any alleged misconduct wherever and whenever it may have taken place when it is considered necessary to protect the interests of the Trust and members of our community.
- 3.2 This procedure will be applied consistently and fairly to all students, based on the circumstances of their case. No-one will be treated less favourably on the grounds of their race, gender, disability, age, ethnic or national origin,

religion or belief, trade union membership or activity, sexual orientation, gender reassignment, medical condition, political affiliation, or marital status.

- 3.3 Students on courses leading to a professional qualification may also have to abide by standards of conduct set by professional regulators, and allegations relating to the fitness to practise of such students will normally be dealt with under separate Professional Suitability to Practice procedures.
- 3.4 Where a student is also an employee of the Trust then the matter may be referred to the Trust's Human Resources department for consideration under the procedures that relate to the student's position as an employee.

## 4 Definitions

- 4.1 **Misconduct** refers to unacceptable or inappropriate behaviour which falls below the expected levels of student conduct, such as antisocial, abusive or threatening behaviour, sexual misconduct, violence, harassment, hate crimes, behaviour likely to bring the provider into disrepute, damage to property or abuse of facilities, causing a health or safety concern, and other behaviour that might also be a criminal offence.
- 4.2 **Office of the Independent Adjudicator (OIA)** is an independent body set up to review student complaints about Higher Education Providers in England and Wales.

## 5 Duties and responsibilities

- 5.1 Responsibility for implementing this policy lies with the Directorate of Education and Training and is overseen by the Chief Education & Training Officer/Dean of Postgraduate Studies.
- 5.2 Although it is intended that the named post holders will undertake the duties and responsibilities outlined in this procedure, there may be special circumstances, including a conflict of interest, where these functions may be carried out by an appropriate nominee. In such cases, the nominee will have had any relevant training and be of appropriate seniority.

## 6 Procedures

### Minor concerns/infringements

- 6.1 In cases of minor concerns or infringements of expected conduct, the Course Lead and Head of Portfolio will meet with the student and seek in the first instance to resolve the matter with the student concerned and any other party that may be affected. The Course Lead/Head of Portfolio will write to the student summarising the outcome of the meeting. A copy of the letter will be retained on the student's file.
- 6.2 The student will be advised at this stage that there is a procedure for investigating concerns about student conduct.

## **Serious concerns**

- 6.3 If the matter cannot be resolved informally, or if the misconduct is of a more serious or repeated nature, then a panel of two senior members of Trust staff will conduct a formal investigation. This will usually be staff from education and training but should include a senior clinician from the service line where a student is on a clinical placement, or any other senior member of staff as appropriate.
- 6.4 All correspondence and the administration of the process will be handled by the DET Operations team. They will write to the student inviting them to an investigation meeting with the panel to discuss the concerns.
- 6.5 The student will be given the opportunity to respond to the concerns in writing before the meeting. The student may be accompanied to this meeting by a representative if they wish; the representative cannot be a member of a legal profession.
- 6.6 The panel at its discretion may:
- review the student's file and previous incidents;
  - talk to other parties concerned with the alleged behaviour;
  - talk to any other parties that the panel feel is relevant to the case;
  - seek relevant professional advice, e.g. a mental health assessment.
- 6.7 The panel will reach a provisional conclusion concerning the alleged conduct and write to the student informing them of this conclusion.
- 6.8 The panel will determine whether there has been an infringement of expected conduct on the part of the student and, if there has, will also determine an appropriate sanction.
- 6.9 The student will be written to normally within 5 days of the decision having been taken and informed of the determination and sanction where there is one.

## **Sanctions**

- 6.10 Sanctions or actions that follow an investigation may include but are not limited to:
- no action taken;
  - a written warning to the student indicating the consequences of future misconduct, that will be entered into the student's file that will normally be removed any time up to three months after the completion of the students' programme, the time to be determined by the panel, provided there are no further instances of misconduct;
  - requiring the student to compensate for or make good any damage caused to Trust property;
  - requiring the student to make appropriate recompense or apology for any offence or harm caused, or any damage done;

- suspending or excluding the student with immediate effect from their course
- setting personal targets to be achieved before being allowed to progress with their course.

### **Suspension during an investigation**

6.11 In exceptional cases the panel may take the decision that the allegations being investigated are so serious that the student will be suspended from the course during the investigation.

6.12 A student who is the subject of a complaint of misconduct and against whom a criminal charge in relation to that misconduct is pending or who is the subject of police investigation may be suspended or excluded pending the investigation or the trial.

6.13 The student will be informed in writing of the decision to suspend, and the circumstances will be reviewed within five working days.

6.14 The student has the right to make a written representation to the Chief Education and Training Officer/Dean of Postgraduate Studies against suspension within five working days of notification, which will be considered as part of the first review.

6.15 All suspensions will be reassessed every three weeks by the panel. Confirmation of either the continuation or the lifting of suspension will be provided in writing to the student within a week of reassessment.

6.16 In the event that the investigation determines that the allegations are unfounded the student who has been suspended will not be further penalised in respect of completing their course of study.

### **Appeal**

6.17 The student may appeal, within 15 working days of receipt of the outcome, to the Chief Education & Training Officer/Dean of Postgraduate Studies on one or more of the following grounds:

- that failure to follow this procedure properly may have had a material effect on the finding and/or the sanction;
- that a piece of evidence that was not reasonably available at the time of considering the matter investigated and which may have had a material effect on the finding and/or the sanction;
- that the sanction is not proportionate to the finding and/or is unjust.

6.18 The Chief Education & Training Officer/Dean of Postgraduate Studies will consider the grounds of the appeal and conduct any enquiries as deemed appropriate. The outcome of the appeal normally will be communicated to the student within one month. The Chief Education & Training Officer's decision either to uphold or to vary the sanction or actions is final.

## **Office of the Independent Adjudicator for Higher Education (OIA)**

6.19 The Office of the Independent Adjudicator for Higher Education (OIA) provides an independent scheme for the review of student complaints or appeals. When the Trust's internal procedures for dealing with allegations of student misconduct have been exhausted, the Trust 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 twelve 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.

## **7 Training Requirements**

7.1 Staff involved in the investigation of allegations of student misconduct must have knowledge of this procedure and be familiar with the OIA Good Practice Framework in relation to Disciplinary Procedures.

7.2 When needed, staff involved in the investigation of allegations of student misconduct can access Human Resources for advice and guidance regarding complex allegations.

7.3 All staff within the Trust should be made aware of this procedure, and training on identifying and reporting allegations of misconduct, and investigating allegations, should be provided to all staff involved in the delivery of education and training at the Trust.

## **8 Process for monitoring compliance with this policy**

8.1 The Head of DET Operations shall report to the Education & Training Executive on all formal student conduct concerns proceedings on an annual basis. The report will include the number of allegations made, the nature of the allegations, the number satisfactorily addressed at the informal stage, the number which proceeded to a formal Student Conduct Panel, and the number which progressed to appeal.

## **9 References**

- The Good Practice Framework: Disciplinary Procedures (Office of the Independent Adjudicator)
- Universities UK, How to handle alleged student misconduct which may also constitute a criminal offence: [guidance-for-higher-education-institutions.pdf \(universitiesuk.ac.uk\)](https://www.universitiesuk.ac.uk/guidance-for-higher-education-institutions.pdf)
- University of Essex: Code of Student Conduct
- Equality Act 2020
- Health and Social Care Act 2008
- Protection from Harassment Act 1997

## 10 Associated documents<sup>1</sup>

10.1 The expected standards of student conduct are supported by a number of policies and procedures and associated documents, including:

- Student Charter
- Professional Suitability for Training Procedure
- Terms and Conditions of Study
- Course Handbook
- Academic Freedom and Freedom of Speech Policy
- Academic Offences Procedures
- University of Essex Study and Wellbeing Intervention Policy and Procedure
- Grievance Policy and Procedure (Staff)
- Disciplinary Policy and Procedure (Staff)
- Bullying and Harassment Procedure (Staff)

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<sup>1</sup> For the current version of Trust procedures, please refer to the intranet.



## 11 Equality Analysis

<b>Completed by</b>	<b>Isabelle Bratt</b>
<b>Position</b>	<b>Head of DET Operations</b>
<b>Date</b>	<b>January 2023</b>

<b>The following questions determine whether analysis is needed</b>	<b>Yes</b>	<b>No</b>
Does the policy affect service users, employees or the wider community? The relevance of a policy to equality depends not just on the number of those affected but on the significance of the effect on them.		X
Is it likely to affect people with particular protected characteristics differently?		X
Is it a major policy, significantly affecting how Trust services are delivered?		X
Will the policy have a significant effect on how partner organisations operate in terms of equality?		X
Does the policy relate to functions that have been identified through engagement as being important to people with particular protected characteristics?		X
Does the policy relate to an area with known inequalities?		X
Does the policy relate to any equality objectives that have been set by the Trust?		X
Other?		

If the answer to *all* of these questions was no, then the assessment is complete.

If the answer to *any* of the questions was yes, then undertake the following analysis:

	<b>Yes</b>	<b>No</b>	<b>Comment</b>
Do policy outcomes and service take-up differ between people with different protected characteristics?			
What are the key findings of			

any engagement you have undertaken?			
If there is a greater effect on one group, is that consistent with the policy aims?			
If the policy has negative effects on people sharing particular characteristics, what steps can be taken to mitigate these effects?			
Will the policy deliver practical benefits for certain groups?			
Does the policy miss opportunities to advance equality of opportunity and foster good relations?			
Do other policies need to change to enable this policy to be effective?			
Additional comments			

If one or more answers are yes, then the policy may unlawful under the Equality Act 2010 –seek advice from Human Resources (for staff related policies) or the Trust’s Equalities Lead (for all other policies).