

## **Student Disciplinary Procedures 2020-2021**

### **1 Authority**

#### 1.1 The Articles of Association of Newman University:

##### *13.6*

*Subject to the responsibilities of the Council, the Vice-Chancellor shall be the chief executive of the University and shall be responsible for:*

##### *13.6.6*

*The maintenance of student discipline and, within the rules and procedures provided for within these Articles of Government, for the suspension or expulsion of students on disciplinary grounds and for implementing decisions to expel students for academic reasons.*

##### *21.2*

*In exercise of his or her responsibilities under Article 13.6.6, the Vice-Chancellor may suspend or expel a student on disciplinary grounds or for other good cause, and shall be responsible for implementing a decision of Senate to expel a student for academic reasons.*

##### *21.3*

*The Council, after consultation with Senate and representatives of students, shall make rules with respect to the conduct of students, including procedures for suspension and expulsion.*

- 1.2 Newman University aims to provide a supportive and positive environment for learning and teaching. It is committed to ensuring that the rights of individuals are respected and that each person is treated with dignity, respect and courtesy at all times. In this context, under these regulations, the University has the power to discipline students and to suspend or expel any student for good cause. The Vice-Chancellor delegates his/her responsibility as described by the following procedures.

### **2 Misconduct**

- 2.1 Any student studying or registered at the University shall be subject to disciplinary measures if he or she is found to be guilty of misconduct as defined below.
- 2.2 The purpose of the Student Disciplinary Procedures is to ensure fair and consistent treatment of students by defining the rights and duties of all those concerned. The procedures apply to those students who are enrolled at the University, including those who are suspended for whatever reason.

- 2.3 The procedures are built on the principle that decision-making in relation to allegations of misconduct will be handled in a way that is free from bias or conflict of interest.
- 2.4 The Students' Union offers an [Advice Clinic](#) to provide independent advice to students.
- 2.5 When activated, the processes within these procedures will be given reasonable and appropriate priority, and the staff member leading on the process will strive to avoid delay. Even so, the time required to complete the investigation will be influenced by a number of factors including the nature of the concerns raised, the number and availability of potential interviewees/witnesses, and the volume and nature of evidence to be gathered.
- 2.6 Newman University seeks to ensure that all enrolled students are aware of their obligations with regard to conduct, including acceptable standards of behaviour and performance and of the likely consequences of failure to meet these obligations. Students have a responsibility to be aware of and to comply with the rules and procedures set down in the University's Regulations and other published policies and regulations relating to students, including Dignity at Study, e-Safety, Acceptable Use of IT, Attendance, and the specific regulations and procedures applicable to their particular areas of study, and such amendments as may be made and drawn to their attention from time to time.
- 2.7 These Procedures are designed primarily to help and to encourage students to achieve and maintain acceptable standards of behaviour by dealing with breaches of the rules, regulations and standards of conduct in a supportive manner through proper investigations and explanation. These Procedures also indicate the range of penalties for breaches of discipline.
- 2.8 A breach of discipline is, for the purpose of these procedures, called an "act of misconduct", and this will include, but not be limited to, failure to observe all University rules and regulations including local regulations and codes of conduct in relation to the academic Faculties, Departments and Centres, Professional Services, sporting facilities and University Residences. These procedures shall also apply to acts of misconduct committed outside the University when a student is away in a University context (for example on placement, field trips or study abroad programmes), or when it is found that there is some link to the University or its reputation. Discipline of students within the Students' Union and in relation to Student Union activities shall be subject to the procedures set out by the Students' Union. Examination and other assessment irregularities are dealt with in accordance with the University's Academic Misconduct Procedures.
- 2.9 Examples of misconduct. The following may constitute general misconduct, whether occurring on University premises or elsewhere:
- a) Conduct which constitutes a criminal offence
  - b) Disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the University or the University's partners
  - c) Obstruction of, or improper interference with, the functions, duties or activities of any student or member of staff of the University or University's partners, or any visitor to the University

- d) Violent, indecent, disorderly, threatening, intimidating, offensive or disruptive behaviour/language to other students or members of staff of the University or University's partners, or any visitor to the University
- e) Sexual, racial or other serious harassment of any student, member of staff of the University or University's partners or any visitor to the University
- f) Popularisation of extremist ideologists, in line with the Prevent Duty
- g) Fraud, deceit, or deception
- h) Theft, misappropriation or misuse of University property, or the property of the University's staff, students, visitors or partners, including computer misuse
- i) The dealing in or use of illegal or banned substances on University premises
- j) Misuse or unauthorised use of University or University's partners' premises
- k) Misuse of fire alarms or other health or safety equipment
- l) Damage to property of the University or University's partners, or the property of the University's staff, students or visitors, caused intentionally or recklessly
- m) Action likely to cause injury or impair safety on University or University's partners' premises
- n) Failure to respect the rights of others to freedom of belief and freedom of speech (as determined by the University's equality and diversity policies)
- o) Breach of the provisions of any University code, rule or regulation
- p) Obtaining a place to study at the University through deception
- q) Failure to disclose personal details to a member of staff of the University in circumstances in which it is reasonable to require that such information be given
- r) Failure to comply with a reasonable instruction relating to discipline, issued with the Vice-Chancellor's authority
- s) Action in contempt of the Disciplinary Procedures

Where offences are committed on the Licensed premises within the University, the regulations of the Licence will apply.

### **3 Serious Offences and the Involvement of the Police and Criminal Courts**

- 3.1 The University has the duty to report any alleged serious criminal offence to the police. A serious offence is one that is likely to attract an immediate custodial sentence if proved in a criminal court or one that can be tried as a criminal offence only at the Crown Court (includes murder, rape and robbery). All serious offences must be reported to the student's Executive Dean of Faculty immediately.
- 3.2 If the Executive Dean (or nominee) regards the alleged offence as a serious criminal offence, no internal disciplinary action other than suspension from the University (by application of the processes to recommend suspension to the Vice-Chancellor) will normally be taken until the matter has been reported to the police, and either a prosecution has been completed or a decision not to prosecute has been taken. The University does not have the capability to investigate and prosecute criminal matters but may refer the case to a Disciplinary Panel once the police action has been completed.
- 3.3 Where a finding of misconduct is made and the student has also been sentenced by a criminal court in respect of the same facts, the court's penalty shall be taken into consideration in determining the penalty under these procedures. As a general principle the University is not bound by the outcome of any police investigation or trial in deciding whether an offence has been committed.

- 3.4 Exceptionally, where a criminal offence has occurred and the student has received a custodial or suspended sentence, the Vice-Chancellor has the power to permanently exclude the student immediately without the Disciplinary Procedures being invoked where a Risk Assessment conducted by the Executive Dean (or nominee) indicates that the student would present an ongoing and unacceptable or unmanageable risk to the University or wider community should they remain enrolled at the University (for example, sentence/licence conditions may make attendance at University unmanageable). The student shall be informed of his/her right of appeal only on the ground that the nature of the criminal offence does not justify the severity of the sanction. The request for such an appeal shall be made in writing, giving full supporting evidence, to the Executive Dean within ten working days of the receipt of the decision of the Vice-Chancellor, and giving the grounds for appeal. Where the Executive Dean is satisfied that there are grounds for appeal, he/she shall be empowered to set aside the decision and convene a Disciplinary Appeals Panel (see Section 10)

#### **4. Suspension**

- 4.1 A student who is the subject of an allegation of serious misconduct or against whom a criminal charge is pending or who is the subject of police investigation, may be suspended from the University by the Vice-Chancellor (through application of the process to recommend suspension to the Vice-Chancellor), pending a disciplinary hearing or trial. The student will be given the opportunity to submit written representations to the Vice-Chancellor within 5 working days of notification on suspension. The suspension will be reviewed as a result of the written representations received.
- 4.2 A student who is suspended is prohibited from entering University premises and from participating in University activities. Suspension may be subject to qualification, such as permission to take an examination. The terms of the suspension will be notified in writing to the student. An order of suspension may include a requirement that the student shall have no contact with a named person or persons.
- 4.3 Orders of suspension pending a disciplinary hearing (including the appeal stage) or trial will normally be used only where necessary to protect a member or members of the University community, or the property of the University or the property of a member or members of the University community. Written reasons for the decision will be recorded and made available to the student.
- 4.4 In cases of urgent or sufficient cause, the Vice-Chancellor shall be empowered to suspend a student with immediate effect. This urgent suspension will be reviewed after 10 working days. As part of the review, the student will be given the opportunity to submit written representations to the Vice-Chancellor within 5 working days of notification on suspension.
- 4.5 Should the suspension continue after the review (of either a suspension pending a disciplinary panel or a suspension with immediate effect), the Vice-Chancellor will review the suspension regularly or on receipt of evidence of altered circumstances which might affect the order.

#### **5. Mental Illness**

- 5.1 If it appears to those considering an allegation of misconduct that the student in question is suffering from mental illness or that the root of the allegation appears to relate to mental health issues, any proceedings may be adjourned for the

preparation of a medical report. It may also be that an original suspension under these procedures moves to suspension under the University's Fitness to Study Procedures.

- 5.2 If there is medical evidence that the student is experiencing mental illness or mental instability, those dealing with the case may halt or terminate the proceedings, if it is felt appropriate to do so.
- 5.3 In certain circumstances, it may be necessary to suspend a student from their studies while appropriate means of addressing the situation are considered. Under such circumstances, the University's Fitness to Study Procedures may be used.

## **6 Minor Offences**

- 6.1 Minor offences such as disruptive behaviour in class or in halls or minor damage to property may be dealt with by a Head of Department, Senior Hall Tutor, Programme Leader, or an appropriate member of professional services staff. The person identified above will explain the allegations and ask the student to attend a meeting. This may be either in person at the time of the offence or via email. During the meeting, the officer will give the student all the details of the allegation and ask the student to explain their version of events. If the offence involves disruptive behaviour that is continuing, the staff member may ask the student to leave the premises temporarily, and offer the opportunity to meet to discuss the offence at a later time (ie. the next day).
- 6.2 The student may bring a supporter with them to any arranged meeting. The supporter may only speak with permission. A 'supporter' is defined as a registered student of the University, a representative of the Students' Union, a workplace companion or a family member. A 'supporter' cannot be a member of staff because this may put them into a position of conflict of interest and their relationship with the student may be compromised. The role of the supporter is to act as an observer and give moral support and to assist the student to answer the allegations. The student will normally be expected to speak on their own behalf in their own defence.
- 6.3 The person identified above will then decide if the allegations are upheld and will inform the student of the decision and any penalties via email. The person identified above may award any of the following penalties:
  - a) Temporary request to leave the premises
  - b) Written reprimand
  - c) Final warning
  - d) Fine of up to £100
  - e) Compensation award for damage to or loss of University property of up to £500

A written note of the offence and penalty imposed should be made and sent to the Head of Registry to keep on the student's record.

- 6.4 If at any point it is believed that the offence merits a greater penalty, or that the offence can no longer be classed as minor in accordance with this regulation, then the matter will be referred for a full discipline investigation, and the major offences procedure as set out in the sections on more substantial offences will be initiated.

6.5 Authorised officers should strive for minor offence cases to be resolved informally and as early as possible, particularly if a student admits to a minor offence.

## **7. More Substantial Offences – Summary Procedure**

7.1 More substantial or repeated allegations of misconduct should be reported to the Executive Dean of Faculty (or nominee). The Executive Dean may dismiss the complaint immediately if he/she believes that there is no case for the student to answer, or that it is for some other reason appropriate to do so.

7.2 If the complaint is not so dismissed, the Executive Dean will notify the student and, normally within 14 days, arrange for a Disciplinary Panel to hear the case or may refer the matter to the student's Head of Department or to an appropriate member of the University Operations Team (UOT). If the Head of Department or member of UOT considers it appropriate to do so, and if the student agrees in writing, the matter may be dealt with summarily without recourse to a Disciplinary Panel.

7.3 If the Head of Department or member of UOT does not consider it appropriate to deal with the matter under the Summary Procedure, or if the student does not agree to it being dealt with in that way, then it shall be referred to a Disciplinary Panel under the procedure set out below.

7.4 If the matter is dealt with summarily, the Head of Department or member of UOT will interview the student, who may be accompanied by a supporter (see Section 11). All available evidence should be considered and the student given the opportunity to respond fully to the complaint against them. The Head of Department or member of UOT will find the student guilty of misconduct on the balance of probability. If a finding of guilt is made, he or she may impose any of the following penalties:

- a) Formal admonishment
- b) Formal written caution
- c) Conditional discharge
- d) Fine of up to £200 (to go to a charity of the University's choice)
- e) Required to pay compensation for identified and quantified loss up to £750
- f) Referral of case to a Disciplinary Panel

7.5 At the termination of the proceedings, the Head of Department (or nominee) will write a short report. In the event of a finding of guilt, the report will set out the misconduct alleged, a brief summary of the evidence received, the grounds for the finding of guilt, the penalty imposed and the factors taken into account in deciding the penalty. Copies of the report must be sent to the student and to the Head of Registry. Any penalty imposed at this stage will be formally recorded on the student's record.

7.6 A student has the right to appeal against a finding of guilt or a specific penalty imposed by the Summary Procedure or a Minor Offence decision. Intention to appeal must be notified to the Executive Dean (or nominee) within 28 days of the conclusion of the proceedings and the student must set out in writing the grounds on which the appeal is based.

7.7 Allowable grounds for appeal are:

- a) Availability of new evidence which could not reasonably have been revealed

- during the Summary Procedure
- b) Procedural error in the previous process
- a) That the penalty imposed was not appropriate or proportionate to the offence

7.8 The Executive Dean (or nominee) will decide whether there are grounds for appeal and if so, arrange for the appeal to be heard by a Disciplinary Panel.

## **8. Disciplinary Panel**

8.1 More serious offences should be reported to the Executive Dean for consideration by a Disciplinary Panel. Disciplinary Panels may be drawn from the following:

- Members of the University Operations Team
- Members of Senate
- Heads of Department
- Other experienced staff nominated by the Executive Dean
- Members nominated by the Students' Union

8.2 The Executive Dean will appoint a panel of three from the above for each case and invite a member of UOT to act as Chair. The members will normally include a representative from the Students' Union. All members of the Panel must have had no previous involvement with the case.

8.3 An experienced University administrator or member of the Secretariat will act as clerk to the Panel and will arrange for a note of the proceedings to be taken. If two or more students are involved in related misconduct, the Panel may at its discretion deal with their cases together. The University would normally seek to hold a Disciplinary Panel within 28 days of the receipt of a formal complaint.

8.4 A copy of the case and evidence will be sent to the student at least one week before the Hearing of the Disciplinary Panel. If the student is unable to attend the Hearing for good reason, an alternative date will be arranged. However the Disciplinary Panel has the right to hear the case in absentia if the student agrees in writing or if it is reasonably felt that a student is attempting to avoid judgment.

8.5 The student may be present at the Disciplinary Panel Hearing and may be accompanied by a supporter (see Section 11).

8.6 The Panel will rely only on evidence presented at the Hearing, all of which must be revealed to the student. The evidence presented at the Hearing may be written evidence or given by witnesses appearing in person.

8.7 The Panel may ask for additional enquiries to be undertaken and may call for additional witnesses to attend. The Panel shall have power to adjourn a Hearing to another date, as it thinks fit.

8.8 The Panel must ensure that the student's case is heard fully and fairly but may impose limits on oral addresses and submissions if it is necessary to ensure good order at the Hearing. The Panel may refuse to admit evidence that is, in its opinion, irrelevant to the issues raised.

8.8 At the conclusion of the hearing, all persons other than the Panel and its Secretary shall withdraw and be released.

- 8.9 The Panel shall reach its decision in private and shall communicate its decision in writing to the student normally within 5 working days of the Panel.
- 8.10 The Panel will normally find a student guilty of misconduct on the balance of the probability of the evidence. If the members of the Panel cannot agree, the verdict of the Panel will be that of the majority of its members.
- 8.11 At the termination of the proceedings, notes of the proceedings will be prepared giving a brief summary of the case, the student's defence and other evidence received, the grounds for the finding of guilt or innocence, the penalty imposed (if any), and the factors taken into account in deciding the penalty. A copy of the report will normally be sent to the student within 14 days of the initial notification of the decision of the Panel (see 8.9).
- 8.12 The University may decide to inform the student's employer, sponsor or placement provider of impending or other disciplinary action.

## **9. Penalties**

- 9.1 If a student is found guilty of general misconduct, one or more of the penalties set out below may be imposed by the Disciplinary Panel. The student or his or her supporter shall be entitled to make representations in mitigation before the penalty is decided.

When determining penalties, consideration will be given to the seriousness of the misconduct, the circumstances of the misconduct, and the means and general personal circumstances of the student. Penalties must be appropriate and proportionate to the offence and consistent with penalties imposed for similar offences. Guidance will be offered by the Executive Dean and the Faculty will maintain a log of all penalties.

- 9.2 The Disciplinary Panel can impose one or more of the following penalties:
- a) Absolutely discharged, which means that although the student may be technically guilty of the misconduct alleged, no blame should be attached to his or her actions
  - b) Admonished
  - c) Formal caution that if the student is found guilty of misconduct on a subsequent occasion in the following twelve months, or some other specified period, he or she will then be dealt with for both offences
  - d) Conditionally discharged, which means that no penalty is imposed, subject to the student fulfilling certain stipulated conditions including future good behaviour over the following twelve months or some other specified period. If the conditions are not met, a penalty may be imposed following a further Hearing
  - e) Required to pay a reasonable sum by way of compensation for identified and quantified loss up to the value of £1500
  - f) Fine of up to £500 (to go to a charity of the University's choice)
  - g) Required to perform unpaid services for the University community to a maximum of 40 hours
  - h) Exclusion from part of the University or its facilities (but removal from accommodation will need to conform to legal requirements)
  - i) Order to refrain from contact with particular person(s)
  - j) Recommendation to the Vice-Chancellor that the student be suspended from the University for a fixed period of time, up to a maximum of twelve months. A



student who is suspended is prohibited or restricted from entering University premises, and from participating in University activities. Suspension may be subject to qualification, such as permission to take an examination. The terms of the suspension will be notified to the student in writing. An order of suspension may include a requirement that the student shall have no contact with a named person or persons

- k) Recommendation to the Vice-Chancellor that the student is subject to suspended automatic exclusion ie he/she may remain in the University but any further misconduct will automatically lead to exclusion. In this case further misconduct will be reported directly to the Vice-Chancellor and there will be no further right of appeal
- l) Recommendation to the Vice-Chancellor that the student be expelled from the University, which means that the student ceases to be a member of the University and loses all rights and privileges of membership.

## **10 Appeals**

10.1 A student has the right to appeal against a finding of guilt or a specific penalty imposed as a result of a Disciplinary Panel Hearing. Intention to appeal must be notified to the University Secretary and Registrar (or nominee) within 28 days of the notification of the outcome of the Disciplinary Panel and the student must set out in writing the grounds on which the appeal is based.

10.2 Allowable grounds for appeal are:

- a) Availability of new evidence which could not reasonably have been revealed to the Disciplinary Panel
- b) Procedural error in the previous process
- c) That the penalty imposed was not appropriate or proportionate to the offence

10.3 The University Secretary and Registrar (or nominee) will review the appeal and decide whether there are grounds for appeal and if so, arrange for the appeal to be heard by an Appeal Panel. An appeal will always be allowed where the penalty is exclusion, suspended exclusion or suspension. Appeal Panels will normally meet within 21 days of the receipt of the request for an appeal.

10.4 An Appeal Panel will consist of three staff not previously involved in the case. The Appeal Panel must be chaired by an academic member of the University Leadership Team so far unconnected with the case. If a penalty of exclusion or suspension is involved, then a Council member must be present on the Appeal Panel.

10.5 Membership will be drawn from the following:

- a) The University Leadership Team
- b) All other members of UOT
- c) Representatives of the Students' Union
- d) External Council members

10.6 The student has the right to present the appeal in person or in writing as he or she chooses, and may be accompanied by a supporter (see Section 11). The member of staff who made the summary judgment or the Chair of the Disciplinary Panel may make a response if appropriate.

- 10.7 The Appeal Panel may uphold or repeal the finding of guilt and/or may increase, uphold, reduce or remove the penalty.

## **11 The Role of the Supporter**

- 11.1 The student or any witness may bring with them a supporter who may accompany them in front of the Panel. The supporter may only speak with the permission of the Chair. A 'supporter' is defined as a registered student of the University, a representative of the Students' Union, a workplace companion or a family member. A 'supporter' cannot be a member of staff because this may put them into a position of conflict of interest and their relationship with the student may be compromised. The role of the supporter is not to be an expert witness. The role of the supporter is to act as an observer, give moral support and to assist the student to make their case (although he/she may speak with the permission of the Chair). In addition, where reasonable adjustments are required, a student may be accompanied by another support individual to provide these adjustments, e.g. a sign language interpreter or a note taker, and a student with difficulty in understanding English may be accompanied by an interpreter.
- 11.2 The University does not permit students to be legally represented at Panels, except in exceptional circumstances. For the avoidance of doubt, the definition of "exceptional circumstances" in this context is a matter for determination by the University. Where this does occur at least 5 days' notice is required and the University may take legal advice and may have a legal advisor present at the Panel.

## **12. Record Keeping, Monitoring and Evaluation**

- 12.1 Newman University will monitor and evaluate the cases that go through these Procedures and reflect upon the outcomes for enhancement purposes. Faculties and the Registrar & Secretary will keep a log of all cases accordingly.

## **13 Office of the Independent Adjudicator for Higher Education**

- 13.1 Following the completion of any internal disciplinary procedures, a letter confirming completion will be issued to the student who will be notified of their right to appeal to the Office of the Independent Adjudicator for Higher Education ([www.oiahe.org.uk](http://www.oiahe.org.uk)).