

Code of practice for student discipline

Introduction

This document presents the policy and procedures that form the Code of Practice for Student Discipline. The code defines conduct that is deemed by the University to constitute an offence. It also defines penalties, authorities, rights to appeal, and procedural details concerning allegations of misconduct, investigations, disciplinary hearings and appeals.

Individuals and committees with responsibility for administering the code do not have the same powers as a court of law. They work in line with the common-law principles of 'natural justice', which means that decisions will be made fairly and reasonably and that students will be given an opportunity to put forward their version of events before any formal disciplinary penalty is imposed. Students also have rights to appeal as set out in the Code.

Background

The code fulfils a requirement of the University Charter, to make sure that the University maintains academic standards and provides an appropriate learning environment.

The parts of the Charter that relate to the code are Statutes 5 and 16, which state:

The Vice-Chancellor may ... subject to the provisions of these Statutes and any Regulations made thereunder, suspend any person from any course or courses or from the use of certain teaching materials or services and may exclude or authorise the exclusion of any person from any part of the University or premises in use by it. He shall report any such suspension or exclusion to the Senate at its next meeting which shall then consider the matter in relation to the Code of Practice required under Statute 16(23).

(Statute 5(5))

The Senate shall, subject to the Charter and these Statutes, in addition to all other powers vested in it, have the following powers:

to regulate the discipline of the University in accordance with a Code of Practice to be approved by the Council on the recommendation of the Senate.

(Statute 16(23))

to expel any student guilty of grave misconduct after giving him an opportunity to appear personally and to be heard by the body established by the said Code of Practice which shall include the right of a student to be represented at a hearing, to call and to question witnesses and to have reasons assigned (if asked for) for any decisions that may be taken by the Senate leading to the student's expulsion.

(Statute 16(24))

Associated documents

The Code of Practice for Student Discipline should not be read in isolation. It is one of a group of student policy documents containing rules and regulations that apply to all students registered with The Open University. Students are also governed by qualification regulations and module rules.

For a full understanding of the regulations governing the student's relationship with The Open University *all* of the documents contained in the Student Policy Documents website should be accessed (www.open.ac.uk/student-policies, available via StudentHome). In addition, research students should access the policy documents contained in the Research Degrees Student Handbook website (www.open.ac.uk/res-handbook).

Scope

The Code of Practice for Student Discipline applies to all registered or formerly registered students of The Open University, as defined in the Student Regulations. The appropriate authorities may authorise others (delegate their authority) to take action under this code on their behalf. The code does not apply to students in other institutions following modules that are validated by The Open University.

There are separate procedures to cover complaints by students. Information describing the complaints procedures can be accessed from the Resolving your Concerns, Complaints and Appeals website (www.open.ac.uk/student-services/complaints/, via StudentHome) or from the Research Degrees website (www.open.ac.uk/research/research-degrees/information-for-students.php).

SD 1 Offences

The University regards the following as disciplinary offences for which penalties may be imposed by the appropriate authority under this code.

SD 1.1 Unacceptable conduct

Conduct that:

- a disrupts or improperly interferes with the teaching, learning, research, administrative, consultative, social or other activities of the University, whether on University premises or elsewhere
- b obstructs or improperly interferes with the functions, duties or activities of any student, member of staff or other employee of the University, or any authorised visitor to the University
- c is violent, indecent, disorderly, discriminatory or threatening, or involves offensive behaviour or language during any University activity or on University premises
- d is likely to cause injury or jeopardise safety during any University activity or on University premises.

SD 1.2 Associated codes of conduct

Breaking the conditions of any University rule, regulation or code that relates to misconduct under this code.

SD 1.3 Reputation of the University

Conduct that, in the opinion of the University, damages the University's reputation.

SD 1.4 Statements and information: registration, applications, claims, submissions, qualifications

Knowingly making a false statement or fraudulently providing information in the following circumstances:

- a applying to register for any Open University module or qualification
- b applying to be exempt from any Open University module, certificate, diploma or degree requirements
- c applying for a deferral of an examination or an extension for any assessed work or requesting an Examination and Assessment Board to take into account additional information
- d submitting an assignment or anything else that is assessed
- e applying to the University for a grant, bursary, prize, scholarship or any other form of award, allowance, support or refund of fees, including a Disabled Students' Allowance
- f asking for a particular service or services
- g claiming a refund of travel or living expenses
- h making a claim relating to residential school attendance or to an alternative learning experience
- i submitting a progress monitoring report or a thesis submission declaration form, or requesting a suspension or extension of registration (for research students)
- j concerning a degree, diploma, certificate, module credit or other award granted by the University

- k in any other circumstance where the information is used to mislead the University.

SD 1.5 Research qualifications and registration

Conduct that breaches the University's regulations for research qualifications and/or the terms of registration for research students.

SD 1.6 Confidential information

Revealing confidential information without permission, including:

- a information about the proceedings of a university body
- b personal information about applicants, other students, graduates, clients or staff
- c information covered by the University's registration under the Data Protection Act.

Confidential information can be revealed only in line with the conditions of relevant codes of practice that may be issued from time to time.

SD 1.7 Assessment rules and regulations

Conduct that breaches the Code of Practice for Student Assessment.

SD 1.8 Plagiarism

Conduct that breaches the University's policy on plagiarism.

SD 1.9 Encouraging or enabling plagiarism

Making available, selling or advertising for sale student work in any form or by any means (print, electronic, recording or otherwise) so as to enable plagiarism, whether or not the work includes marks, comments or any other materials produced by a tutor, supervisor or other marker, unless prior consent has been given by the University.

The offence of encouraging or enabling plagiarism includes the act of posting student work on to any public website, whether or not it is done with the intention of enabling or encouraging plagiarism.

SD 1.10 Equipment, materials and services

Conduct that involves misuse or abuse of equipment, materials or services that the University has provided to students, including:

- a conduct that contravenes instructions relating to use of this equipment or these materials or services
- b conduct that breaks a software licensing agreement signed by the student or that is unauthorised use of the University's computing or network resources
- c abusing copyright: this specifically includes, but is not limited to, any breach or infringement of copyright or licence, whether owned or controlled by the University or by a third party, by copying, distributing or offering for sale module or assessment materials.

SD 1.11 Other institutions and locations

Conduct on premises provided by another institution for the use of Open University students that breaks the regulations of that institution, including health and safety matters. These premises include any that are used for a tutorial, residential or day school, or as a study or examination centre, or as the location for a graduation ceremony. They also include any library, laboratory, research or other facility.

SD 1.12 Professional practice

Conduct that is likely to render a student unfit to practise any profession to which the student's qualification leads directly.

SD 1.13 Children and vulnerable adults

Conduct that breaches the University's policy Safeguarding and Protecting Children and Young People at The Open University or that breaches the University's duty to provide a safe environment for vulnerable adults.

SD 1.14 Bullying and harassment

Behaviour that breaches the University's Student Code of Conduct for Dealing with Bullying and Harassment.

SD 1.15 Acceptance of and compliance with penalties

Failing to accept and comply with any penalty imposed by a disciplinary authority, in line with the conditions of this code for any right of appeal.

SD 2 Penalties

In line with the conditions of this code and any other guidelines approved by the Senate and the Council that may apply, one or more of the following penalties may be imposed.

There will be no entitlement to any reimbursement of University fees if a student is expelled or subjected to any other disciplinary penalty under this code.

Details of the allocation of powers to impose penalties are given in later sections of the code. Note that suspension and informal caution are not penalties.

SD 2.1 Disallowing or 'capping' marks

- a Disallowing any piece of assessed work, in whole or in part, to be counted for assessment purposes; or
- b awarding any piece of assessed work a 'capped' mark ('capped' means that an upper limit is imposed on the mark); or
- c awarding 'resubmission allowed but with a 'capped' mark' for an assessment that has been approved to be included in the examinable assessment component.

For the avoidance of doubt, if an academic decision has already been taken to exclude work that has been plagiarised a penalty remains an option for the disciplinary authority.

No substitution will be allowed for any assessed work that has been disallowed in whole or in part or been given a capped mark.

SD 2.2 Withholding credit or withdrawing registration

Withholding credit for a module or modules the student has taken or withdrawing registration for a research degree.

SD 2.3 Withdrawing qualification or credit

Withdrawing any academic qualification or module credit.

SD 2.4 Withdrawing credit exemption, transfer or equivalent

Withdrawing any credit exemption, transferred credit or credit that is equal to any period of study or examination.

SD 2.5 Cautions

A written caution. A caution may be either formal or informal. Informal cautions do not fall within the ambit of this code but a student may be cautioned on an informal basis that further misconduct will result in formal disciplinary action being taken.

A formal caution may be delivered in writing, electronically or orally in the presence of at least one witness, but will be confirmed in writing to the student. Formal cautions are recorded on the student's electronic record.

SD 2.6 Compensation

An order to pay compensation covering all or part of the cost of damage to or replacement of property, or of any money paid or loaned by the University to the student.

SD 2.7 Temporary exclusion

Temporary exclusion from any facilities, premises or services that are available to students of the University.

SD 2.8 Permanent exclusion

Permanent exclusion from any facilities, premises or services that are available to students of the University.

SD 2.9 Exclusion from an event

Exclusion from a residential school, day school, alternative learning experience, tutorial, examination or other event (this penalty will not in itself prevent a student from being awarded a module credit).

SD 2.10 Temporary expulsion

Temporary expulsion from the University.

SD 2.11 Permanent expulsion

Permanent expulsion from the University.

SD 2.12 Any other

Any other penalty decided by the Central Disciplinary Committee.

SD 3 Authorities

Suspected infringements of University regulations are dealt with by a range of authorities. These authorities do not have the same powers as a court of law and they work under different procedures. Decisions will be made fairly and reasonably, and students will have an opportunity to put forward their version of events before any formal disciplinary penalty is imposed. Students have the right to appeal against formal disciplinary decisions subject to admissible grounds.

The detailed regulations that make up the Code of Practice for Student Discipline are administered by individuals or committees who have specific responsibilities and remits as executive authorities, disciplinary authorities or appeal authorities. Allocation of power to deal with alleged offences is determined by the nature and circumstances of the event or situation in question. Where immediate action is required, for example, the senior member of the University staff present takes on the role of the executive authority if no disciplinary authority is present. Other circumstances are addressed by disciplinary authorities listed below.

University committees who have collective roles as disciplinary authorities, and whose responsibilities can involve investigations, hearings, imposition of penalties and appeals, are:

- the Central Disciplinary Committee
- the Special Appeals Committee of the Senate.

In addition, there is an independent organisation which was set up as a result of the Higher Education Act 2004 to run an independent student complaints scheme in England and Wales:

- the Office of the Independent Adjudicator for Higher Education (OIA).

Regulations in this section of the code identify the authorities and their powers. Later sections explain in detail the procedures according to which the authorities act.

SD 3.1 The Vice-Chancellor

The Vice-Chancellor may, in line with the statutes and regulations of the University, 'suspend any person from any module or modules, or from any qualification, or from the use of certain teaching materials or services, and may exclude or authorise the exclusion of any person from any part of the University or premises in use by it'.

The Vice-Chancellor must report any suspensions or exclusions to the Senate (or to any other person or committee to whom the Senate has delegated its powers) at its next meeting. The Senate (or other person or committee) must then consider the matter in relation to this code.

The Vice-Chancellor has delegated responsibility for students to the Director, Students and to the Vice-Chancellor's Delegate; for research students certain responsibilities as listed in SD 3.3.1 have been delegated to the Pro-Vice-Chancellor (Research). The Vice-Chancellor's Delegate shall be the person or persons appointed by the Vice-Chancellor to exercise his authority under this paragraph and whose appointment has been reported to Senate.

SD 3.2 Executive authorities

An executive authority is the senior University representative who is present at the event or who is providing the service in relation to which the disciplinary offence occurs. Individuals granted executive authority under this code include those in the following roles:

- Senior University representative at a tutorial, day school or research event
- Moderator of an electronic forum
- School Director of a residential school or alternative learning experience
- Senior Invigilator
- Examination Panel chair (for research students)
- Other staff may be deemed to be executive authorities when circumstances necessitate.

SD 3.2.1 Terms of reference

The powers of executive authorities are restricted. Executive authorities act on the delegated authority of disciplinary authorities who have greater powers to initiate disciplinary action and to impose penalties.

Individual executive authorities may act in relation to specific offences as shown below.

Executive authority	Offences (SD 1)
Senior University representative at a tutorial or day school	1.1, 1.2, 1.5, 1.6, 1.7, 1.8, 1.9, 1.11, 1.12, 1.13, 1.14
Moderator of an electronic forum	1.1, 1.2, 1.5, 1.6, 1.7, 1.8, 1.9, 1.11, 1.13, 1.14
School Director of a residential school or alternative learning experience	1.1, 1.2, 1.3, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14
Senior Invigilator	1.1, 1.5, 1.7, 1.8, 1.11, 1.12, 1.13, 1.14

Executive authorities must report all their actions to disciplinary authorities within 10 working days. They can, however, decide to take certain disciplinary action – to initiate such action, impose certain limited disciplinary penalties and/or refer a matter to the appropriate disciplinary authority. They may:

- a informally caution the student (this is not a disciplinary penalty and the student cannot appeal against it)
- b initiate a formal caution (SD 2.5) that will be applied by the appropriate disciplinary authority
- c temporarily exclude the student from facilities, premises or services (SD 2.7)
- d exclude the student from a residential school, day school, alternative learning experience, tutorial, examination or other event (SD 2.9).

In addition, the School Director of a residential school or alternative learning experience may:

- e decide that the student has caused loss of or wilful damage to property, and initiate an order for the student to pay appropriate compensation (SD 2.6).

Electronic forums provided by the University Students' Association (OUSA) are covered by OUSA's Code of Conduct for Conferencing. OUSA also has the right to refer any case of suspected misconduct arising in an OUSA electronic forum to the appropriate executive or disciplinary authority as described in this code.

SD 3.2.2 Mode of operation

Any action taken by an executive authority must be reported as soon as possible and in any event within 10 working days to the appropriate disciplinary authority, who must either approve the action, arrange for the matter to be considered further under this code or take other appropriate action.

When a disciplinary authority approves an action taken by an executive authority an appeal against that action is considered to be an appeal against a penalty imposed by the disciplinary authority.

SD 3.3 University officers as disciplinary authorities

University officers who have individual roles as disciplinary authorities are:

- Director, Students
- Vice-Chancellor's Delegate
- Pro-Vice-Chancellor (Research)
- National Directors
- Director of Teaching and Learner Support
- Director of Learner Support Services

- Director of Associate Lecturer Services
- Assistant or Depute Directors, Student Services
- Academic Conduct Officers: Faculty, Regional and National
- anyone who has been given authority in writing beforehand by the chair of the Central Disciplinary Committee or by any of the other University officers above.

SD 3.3.1 Remit

The table below specifies the offences in relation to which each may act and the penalties they may impose.

Disciplinary authority	Offences (SD 1)	Penalties (SD 2)
Director, Students Vice-Chancellor's Delegate	1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15	2.1 (a, b, c), 2.5, 2.6, 2.7, 2.9
Pro-Vice-Chancellor (Research)	1.1, 1.11, 1.5, 1.7, 1.8, 1.4, 1.6, 1.10, 1.3, 1.2, 1.9, 1.12, 1.13, 1.14	2.5, 2.6, 2.7
National Directors; Director of Teaching and Learner Support; Director of Learner Support Services; Director of Associate Lecturer Services; Assistant Directors or Depute Directors, Student Services	1.1, 1.3, 1.4, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14	2.1 (a, b, c), 2.5, 2.6, 2.7, 2.9
Academic Conduct Officers: Faculty	1.7, 1.8	2.1 (a, b, c), 2.5
Academic Conduct Officers: Regional and National	1.7, 1.8	2.1 (a, b), 2.5

In addition to the penalties listed above, these disciplinary authorities may refer the case to the Central Disciplinary Committee for a hearing and, where appropriate, for a penalty to be imposed.

SD 3.4 Central Disciplinary Committee

This committee has two roles. It acts as a disciplinary authority and as an appeal authority.

SD 3.4.1 Terms of reference

- 1 As a disciplinary authority to consider all alleged offences arising from or involving those matters set out under SD 1 of the code.
- 2 As a disciplinary authority to impose any penalty allowed under the Code of Practice for Student Discipline.
- 3 As an appeal authority, to consider and hear appeals against decisions of other disciplinary authorities.
- 4 As an appeal authority to delegate responsibility for hearing appeals against penalties applied by Academic Conduct Officers under SD 2.1 of the code (penalties relating to assessed work) to three members of the Committee, of which one must be from the student membership defined below.
- 5 As an appeal authority to:
 - set aside or confirm the original finding

- dismiss the appeal
- set aside, reduce, confirm or substitute the penalty, but not to increase the penalty.

SD 3.4.2 Membership

- 1 The Director, Students or a senior member of the academic or academic-related staff drawn from a panel approved by the Vice-Chancellor, to act as chair.
- 2 A member of staff of an academic unit of senior lecturer level or above, drawn from a panel approved by the Vice-Chancellor.
- 3 A National Director, Assistant Director or Depute Director drawn from a panel nominated for this Committee by the Director, Students. This member must not have been involved previously in the case to be heard.
- 4 Three registered students appointed for each case by the secretary from a panel of at least thirteen students appointed by The Open University Students' Association (OUSA). These students must not have been involved previously in the case to be heard.

SD 3.4.3 Mode of operation

- 1 The Committee will meet when necessary and will report its decisions to the Senate every year.
- 2 Four members of the Committee, including at least one but not more than two student members and one member of staff, will make up a quorum.
- 3 The principles, procedures and rules for the Committee that are set out in the Code of Practice for Student Discipline will be followed at all times.
- 4 The Committee will receive regular reports from the members considering appeals against the decisions of Academic Conduct Officers.

Procedural stages are detailed later in this code.

Addresses and websites are given in the appendix.

SD 3.5 Special Appeals Committee of the Senate

SD 3.5.1 Terms of reference

- 1 To consider and hear appeals against decisions of the Central Disciplinary Committee made other than in its role as an appeal authority.
- 2 To:
 - set aside or confirm the original finding
 - dismiss the appeal
 - set aside, reduce, confirm or substitute the penalty, but not to increase the penalty
 - in exceptional circumstances, refer the case back to the Central Disciplinary Committee.

SD 3.5.2 Membership

- 1 A senior member of the academic or academic-related staff drawn from a panel approved by the Vice-Chancellor, to act as chair.
- 2 Two members of the Senate appointed for each appeal by the Vice-Chancellor from a panel of eight Senate members elected by the Senate. These members must not have been involved previously in the case to be heard.

- 3 Two registered students, appointed for each appeal by the secretary from the panel set up by The Open University Students' Association (OUSA) to provide nominees for the Central Disciplinary Committee. These students must not have been involved previously in the case to be heard.

SD 3.5.3 Mode of operation

- 1 The Committee will meet whenever necessary and will report its decisions to the Senate every year.
- 2 Four members of the Committee, including at least one student and one member of staff, will make up a quorum.
- 3 The principles, procedures and rules for the Committee that are set out in the Code of Practice for Student Discipline will be followed at all times.

Procedural stages are detailed later in this code.

Addresses and websites are given in the appendix.

SD 4 Suspected misconduct and investigations

SD 4.1 Investigations by an executive authority

When dealing with a situation in a University context which requires immediate intervention, such as a student creating a disturbance in a tutorial, day or residential school, or a student using offensive language or intimidating another student in a forum, the senior member of University staff present or online at the time may take action to suspend the service the student is misusing, if they consider the situation to be unacceptable, using the powers of executive authority delegated by this code.

If appropriate the student should first receive a warning.

At the first possible opportunity, and in any event within 10 working days, the executive authority must report the incident and action taken to a disciplinary authority.

SD 4.2 Investigations by a University officer acting as a disciplinary authority

When dealing with suspected misconduct or a report from an executive authority, a disciplinary authority will take one or more of the following actions:

- a usually within 20 working days of receiving notice of the suspected misconduct, interview or ask for a signed statement from any person who might know the circumstances of the alleged offence
- b decide whether or not there is evidence for a case against the student and whether or not further action should be taken
- c if further action is to be taken, give to the student a copy of the available evidence and seek the student's version of the matter
- d inform the student if no further action is to be taken, which may include confirming the action taken by an executive authority
- e either: tell the student that a penalty is to be imposed and of their right of appeal against the penalty to the Central Disciplinary Committee; or refer the matter to the Central Disciplinary Committee for the Committee to hear the case and decide whether or not the student has offended under the code and, if so, what penalty should be imposed.

SD 4.3 Investigations by a University officer concerning assessment procedures

When dealing with an allegation of conduct that disadvantages assessment procedures under SD 1.7 and SD 1.8, a relevant University officer who has an individual role as a disciplinary authority (listed in SD 3.3) will take the following actions:

- a decide on the evidence before them whether or not further action is to be taken
- b if further action is to be taken, write to the student to explain the issue that is of concern, the disciplinary process and the potential outcome, and ask for the student's comments on the reports of the case. The student's comments must be received within 10 working days of the date of the letter from the disciplinary authority
- c if, after receiving the comments from the student, they decide that no further action should be taken, they must inform the student
- d if, after receiving the comments from the student, they decide that a penalty should be imposed, they must either inform the student of the penalty and tell the student of their right of appeal to the Central Disciplinary Committee, or refer the matter to the Central Disciplinary Committee for the Committee to hear the case and decide whether or not the student has offended under the code and, if so, what penalty should be imposed.

SD 4.4 Investigations by the Central Disciplinary Committee

SD 4.4.1 Informing the student of the investigation

Usually within 30 working days of receiving notice of the suspected misconduct, the secretary of the Committee will, on behalf of the Central Disciplinary Committee:

- a send to the student an account of the alleged misconduct
- b tell the student that they are investigating and that, if there is sufficient evidence of misconduct, the case will be referred to the Central Disciplinary Committee
- c tell the student the date of the next meeting of the Committee that could deal with the case
- d send the student a copy of the current Code of Practice for Student Discipline
- e ask the student for comments.

SD 4.4.2 Informing the student of the outcome of the investigation

Following consultation with the chair of the Committee a decision will be made as to whether or not the case should go forward to a hearing.

The secretary will write to the student to inform them and will endeavour to arrange a date for the hearing that is convenient to the student.

SD 5 Suspension

SD 5.1 Serious complaints of misconduct

Students involved in a serious complaint of misconduct may be suspended by the Director, Students or the Vice-Chancellor's Delegate until the outcome of a disciplinary hearing. In the case of research students the power of suspension extends to the Pro-Vice-Chancellor (Research). The power to suspend must not be used as a penalty.

SD 5.2 Police investigations or criminal charges

If a student is the subject of a police investigation, or if a criminal charge has been made against them, they may be suspended by the Director, Students, the Vice-Chancellor's Delegate or, in the case of research students, the Pro-Vice-Chancellor (Research) until the outcome of the investigation or trial. No action will be taken (other than suspension) under the code for an offence relating to the police investigation or charge until the outcome of the investigation or trial is known, at which time the Director, Students the Vice-Chancellor's Delegate or, in the case of research students, the Pro-Vice-Chancellor (Research) will decide whether or not disciplinary action should be taken under this code.

SD 5.3 In the event of a guilty verdict at trial

If while the student is suspended until the outcome of a trial a guilty verdict is given against them, the Central Disciplinary Committee will review the case and decide whether or not to impose on the student a disciplinary penalty.

SD 5.4 Urgent and necessary action

The Director, Students, the Vice-Chancellor's Delegate or, in the case of research students, the Pro-Vice-Chancellor (Research) may suspend a student immediately when the matter is urgent. The suspected misconduct will then be forwarded to the secretary of the Central Disciplinary Committee for full consideration.

The power to suspend protects individual members of the University as well as the University community in general, and must only be used if the Director, Students, the Vice-Chancellor's Delegate or, in the case of research students, the Pro-Vice-Chancellor (Research) believes that it is urgent and necessary to take such action. Written reasons for the decision must be recorded and made available to the student.

SD 5.5 The student's opportunity to give their account of the case

A suspension is not a disciplinary penalty and therefore the student cannot appeal against it. However, the student will have an opportunity to question whether their suspension was reasonable at the disciplinary hearing at which their alleged misconduct is considered.

SD 6 The student's attendance at hearings

SC 6.1 In person, by telephone, in writing, by any reasonable electronic medium

Subject to prior agreement attendance at disciplinary and appeal hearings by students, witnesses, nominated friends, advisers or representatives may be in person and/or by telephone and/or by any reasonable electronic medium. Written testimony may be presented instead of, or in addition to, attendance at a hearing.

SD 6.2 Failure to attend a hearing

Subject to the student's agreement a disciplinary or appeal authority may proceed with a hearing in the presence of the student's nominated friend, adviser or representative but in the absence of the student. If a mutually convenient date for a hearing cannot be arranged within 60 days of notification to the student that a hearing is needed, a disciplinary or appeal authority may hear a case or an appeal and make a finding in the student's absence. If within 20 working days of the date of the letter inviting the student to a disciplinary hearing no reply has been received, the disciplinary authority will proceed on the basis that the student denies the case. In such circumstances a first hearing of the Central Disciplinary Committee will proceed on the basis that the student denies the alleged misconduct. If a student fails to attend an appeal hearing about which they have been informed without giving notice or without good reason, the Central Disciplinary Committee acting as an appeal body or the Special Appeals Committee of the Senate will consider a student to have abandoned an appeal.

SD 7 Nominated friend, adviser or representative

The student may nominate a friend, adviser or representative to attend a disciplinary or appeal hearing either to accompany them or to attend in their place. The person nominated may not be a solicitor or a barrister. The University reserves the right to ask the student to nominate an alternative friend, adviser or representative if it considers that the person originally nominated is obstructing the proceedings.

SD 8 Witnesses

The Central Disciplinary Committee, the Special Appeals Committee and students may request witnesses who have direct knowledge of the alleged misconduct to attend disciplinary and appeal hearings and to question any witness called.

However, the University does not have the power to order any person called as a witness to attend either a disciplinary or an appeal hearing.

The chair of the relevant Committee has the authority to decide whether or not witnesses are relevant to the case.

SD 9 First hearings by the Central Disciplinary Committee

The term 'first hearing' is used here to distinguish this disciplinary aspect of the Central Disciplinary Committee's administration from its powers as an appeal authority.

Once it has been decided that there is a case that needs to be referred to the Committee the case will be heard at the next available opportunity, in accordance with SD 4.4. The committee must, unless otherwise agreed with the student, follow the procedures in SD 9.1 and SD 9.2.

SD 9.1 Before the hearing

The secretary of the Central Disciplinary Committee will notify the student in writing of the date of the hearing arranged in accordance with SD 4.4, giving the student notice of their right to present their side of the case and to call witnesses, and informing them when they can expect to receive the following (usually 15 working days before the date of the hearing):

- a copies of the documents that will be presented to the Committee
- b a list of any witnesses that the University expects to call, who have a direct knowledge of the alleged misconduct

- c any information and guidance requested by the student that the University considers to be reasonable.

The student will send to the secretary of the Committee no later than 10 working days after they have been sent confirmation that there will be a disciplinary hearing:

- a the names of any relevant witnesses they wish to call
- b the names of any nominated friend, adviser or representative they wish to attend.

SD 9.2 At the hearing

- a The student has the right to attend the hearing and to nominate a friend, adviser or representative. Subject to prior agreement attendance at hearings by students and nominated friends, advisers or representatives may be in person and/or by telephone and/or by any reasonable electronic medium and/or they may present a written statement. If the student decides not to attend, the hearing may take place in their absence or with only their nominated friend, adviser or representative attending (in line with SD 6.2).
- b The student or their nominated friend, adviser or representative will be given the chance to present their case at the hearing in person and/or by any of the means listed in SD 6.1, subject to prior agreement. The student (but not their nominated friend, adviser or representative unless permission has been given by the student) may be asked questions by the Committee.
- c Both the student and the Committee have the right to question any witness called. Witnesses may present their evidence in person and/or by any of the means listed in SD 6.1, subject to prior agreement.
- d The Committee may set time limits on verbal statements and on the time spent questioning any witnesses.
- e The Committee may postpone the hearing to another date if it decides that this is necessary.
- f The student (if present) and any nominated friend, adviser or representative must withdraw while the Committee considers its findings and the appropriate penalty, if any.
- g When considering any penalty, the Committee may use any information from the student's record that it considers relevant.
- h The decision of the Committee is by a simple majority. If there are equal votes the decision will be in the student's favour.
- i The Committee's decision must be sent to the student in writing.
- j The Committee must tell the student in writing about any right to appeal and to refer their case to the Office of the Independent Adjudicator for Higher Education (OIA).

SD 10 Rights to appeal

SD 10.1 Right to appeal to the Central Disciplinary Committee

The student has a right to appeal to the Central Disciplinary Committee against:

- the findings of an executive authority
- the findings of another disciplinary authority
- any formal disciplinary penalty imposed.

The chair of the Central Disciplinary Committee has the power to determine whether or not an appeal is admissible.

The student may (except as explained in SD 10.3) appeal only once against the findings or the penalty.

SD 10.2 Right to appeal to the Special Appeals Committee

The student also has a right to appeal to the Special Appeals Committee against the Central Disciplinary Committee's decisions other than those made when the Committee is acting as an appeal body.

The chair of the Special Appeals Committee has the power to determine whether or not an appeal is admissible.

SD 10.3 Decisions that cannot be appealed against

The student cannot appeal against the following decisions:

- decisions of the Central Disciplinary Committee acting as an appeal body relating to the findings of another disciplinary authority
- decisions of the Special Appeals Committee.

SD 10.4 Right to complain to the Office of the Independent Adjudicator for Higher Education (OIA)

All higher education institutions in England and Wales are required to comply with the rules of the OIA, whose role is to review individual complaints by students against universities. It has no regulatory powers over universities, however, and cannot punish or fine them. The OIA website contains information for both students and universities.

Open University students in Northern Ireland and Scotland under special arrangements can complain to the OIA.

The OIA requires that when a student has been through all stages of an appeal they should be notified of the right to have the process reviewed by it, and that the University should supply the student with a Completion of Procedures Letter:

“Once a student has finished the university's internal complaints or appeals procedures, the university must promptly send the student a Completion of Procedures Letter. This Letter should set out clearly what issues have been considered and the university's final decision. Our review will focus on this final decision.”

SD 11 Lodging an appeal

SD 11.1 Lodging an appeal to the Central Disciplinary Committee

The student should lodge an appeal by writing to the secretary of the Central Disciplinary Committee within 20 working days of the date of the letter telling them of a disciplinary decision. The penalty will apply until the hearing of the appeal.

Admissible grounds for appeal are:

- procedural errors
- new evidence not previously available to the disciplinary authority
- the unreasonable nature of the penalty.

The student cannot appeal just because they disagree with the decision already made.

The student must present their appeal to the secretary of the Committee as a written statement in which they give the reason or reasons for their appeal.

If a student gives no reason for appealing, their appeal cannot be accepted.

The student should provide detailed information about the reason or reasons for their appeal and, wherever possible, include evidence to support their reasons for appealing.

When the student presents their written statement giving the reason or reasons for their appeal they should send to the secretary of the Committee the names of any witnesses they expect to call.

The chair of the Committee following relevant consultation and having reviewed the student's grounds for appeal has the right to decide if the final reasons the student has given for lodging an appeal are admissible and should be allowed to progress to an appeal hearing.

The chair of the Committee has the power to determine whether or not an appeal is admissible. The chair of the Committee has the power to dismiss an appeal before it is presented to the Central Disciplinary Committee if the grounds are inadmissible.

Where the decision is that the appeal should be heard the secretary will write to the student to inform them.

The secretary will endeavour to arrange a date for the hearing that is convenient to the student.

SD 11.2 Lodging an appeal to the Special Appeals Committee of the Senate

The student should lodge an appeal by writing to the secretary of the Special Appeals Committee within 20 working days of the date of the letter telling them of a disciplinary decision of the Central Disciplinary Committee. The penalty will apply until the hearing of the appeal.

Admissible grounds for appeal are:

- procedural errors
- new evidence not previously available to the Central Disciplinary Committee.
- where on the application of an appellant the Chair of the Special Appeals Committee believes a penalty imposed by the Central Disciplinary Committee may have been excessive

The student cannot appeal just because they disagree with the decision already made.

The student must present their appeal to the secretary of the Committee as a written statement in which they give the reason or reasons for their appeal.

If a student gives no reason for appealing, their appeal cannot be accepted.

The student should provide detailed information about the reason or reasons for their appeal and, wherever possible, include evidence to support their reasons for appealing.

When the student presents their written statement giving the reason or reasons for their appeal they should send to the secretary of the Committee the names of any witnesses they expect to call.

The chair of the Committee following relevant consultation and having reviewed the student's grounds for appeal has the right to decide if the final reasons the student has given for lodging an appeal are unsuitable to progress to an appeal hearing.

The chair of the Committee has the power to determine whether or not an appeal is admissible. The chair of the Committee has the power to dismiss an appeal before it is presented to the Special Appeals Committee on the grounds that:

- there is no evidence presented on procedural error
- there is no new evidence relevant to the case.

Where the decision is that the appeal should be heard the secretary of the Committee will write to the student to inform them.

The secretary will endeavour to arrange a date for the hearing that is convenient to the student.

SD 12 Appeal hearings by the Central Disciplinary Committee

Once determined as admissible by the chair of the Central Disciplinary Committee an appeal will be heard within 40 working days of the secretary of the Committee receiving the student's appeal, unless a later date is agreed by the student and the Committee or the student is considered to have abandoned the appeal. The Committee must, unless otherwise agreed with the student, follow the procedures in SD 12.1 and 12.2.

SD 12.1 Before the hearing

The secretary of the Central Disciplinary Committee will notify the student in writing of the date of the appeal hearing arranged in accordance with SD 11.1, giving notice of the student's right to present their side of the case and to call witnesses, and informing them when they can expect to receive the following (usually 10 working days before the date of the hearing):

- a copies of the documents that will be presented to the Committee
- b a list of any witnesses that the University expects to call, who have a direct knowledge of the alleged misconduct
- c any information and guidance requested by the student that the University considers to be reasonable.

The student will send to the secretary of the Committee not less than 10 working days before the scheduled date of the disciplinary hearing:

- a the names of any relevant witnesses they wish to call
- b the names of any nominated friend, adviser or representative they wish to attend.

SD 12.2 At the hearing

- a The student has the right to attend the hearing and to nominate a friend, adviser or representative. Subject to prior agreement attendance at hearings by students and nominated friends, advisers or representatives may be in person and/or by telephone and/or by any reasonable electronic medium and/or they may present written testimony. If the student decides not to attend, the hearing may take place in their absence or with only their nominated friend, adviser or representative attending (in line with SD 6.2).
- b The student or their nominated friend, adviser or representative will be given the chance to present their case at the hearing in person and/or by any of the means listed in SD 6.1, subject to prior agreement. The student (but not their nominated friend, adviser or representative unless permission has been given by the student) may be asked questions by the Committee.
- c Both the student and the Committee have the right to question any witness called. Witnesses may present their evidence in person and/or by any of the means listed in SD 6.1, subject to prior agreement.

- d The Committee may set time limits on verbal statements and on the time spent questioning any witnesses.
- e The Committee may postpone the appeal to another date if it decides that this is necessary.
- f The Committee may also ask for, or take account of, any other evidence that has emerged since the first hearing of the case or that the Committee considers to be relevant to the appeal.
- g The student (if present) and any nominated friend, adviser or representative must withdraw while the Committee decides the outcome of the appeal.
- h When considering any penalty the Committee may use any information from the student's record that it considers relevant.
- i The decision of the Committee is by a simple majority. If there are equal votes the decision will be in the student's favour.
- j The Committee's decision must be sent to the student in writing. If the student is present, they may also be told the decision after the hearing.
- k The Committee must tell the student about their right to refer their case to the Office of the Independent Adjudicator for Higher Education (OIA).

SD 13 Hearings by the Special Appeals Committee of the Senate

Once determined as admissible by the chair of the Special Appeals Committee an appeal will be heard within 50 working days of the secretary of the Committee receiving the student's appeal, unless a later date is agreed by the student and the Committee. The committee must, unless otherwise agreed with the student, follow the procedures in SD 13.1 and SD 13.2.

SD 13.1 Before the hearing

The secretary of the Special Appeals Committee will notify the student in writing of the date of the hearing arranged in accordance with SD 11.2, giving the student notice of their right to present their side of the case and to call witnesses, and informing them when they can expect to receive the following (usually 10 working days before the date of the hearing):

- a copies of the documents that will be presented to the Committee
- b a list of any witnesses that the University expects to call, who have a direct knowledge of the alleged misconduct
- c any information and guidance requested by the student that the University considers to be reasonable.

The student will send to the secretary of the Committee not less than 10 working days before the scheduled date of the appeal hearing:

- a the names of any relevant witnesses they wish to call
- b the names of any nominated friend, adviser or representative they wish to attend.

The documentation that will be sent to the student will normally include all the documents considered by the Central Disciplinary Committee, the record of the Central Disciplinary Committee meeting prepared by its secretary and approved by its chair, and any documents the student has provided setting out their reasons for appeal.

The chair of the Special Appeals Committee will make a decision on any questions relating to whether or not a document or the evidence of a particular witness can be allowed to be brought to the Committee hearing in line with the procedures in this code.

SD 13.2 At the hearing

The procedures listed below must be followed.

- a The student has the right to attend the hearing and to nominate a friend, adviser or representative. Subject to prior agreement attendance at hearings by students and nominated friends, advisers or representatives may be in person and/or by telephone and/or by any reasonable electronic medium and/or they may present written testimony. If the student decides not to attend, the hearing may take place in their absence or with only their nominated friend, adviser or representative attending (in line with SD 6.2).
- b The student or their nominated friend, adviser or representative will be given the chance to present their case at the hearing in person and/or by any of the means listed in 6.1, subject to prior agreement. The student (but not their nominated friend, adviser or representative unless permission has been given by the student) may be asked questions by the Committee.
- c Both the student and the Committee have the right to question any witness called. Witnesses may present their evidence in person and/or by any of the means listed in SD 6.1, subject to prior agreement.
- d The Committee may set time limits on verbal statements and on the time spent questioning any witnesses.
- e The Committee may postpone the hearing to another date if it decides that this is necessary.
- f The Committee may also ask for, or take account of, any other evidence that has emerged since the first hearing of the case or that the Committee considers to be relevant to the appeal.
- g The student (if present) and any nominated friend, adviser or representative must withdraw while the Committee decides the outcome of the appeal.
- h When considering any penalty the Committee may use any information from the student's record that it considers relevant.
- i The decision of the Committee is by a simple majority. If there are equal votes the decision will be in the student's favour.
- j The Committee's decision must be sent to the student in writing. If the student is present they may also be told the decision after the hearing.
- k The Committee must tell the student about their right to refer their case to the Office of the Independent Adjudicator for Higher Education (OIA).

SD 14 Recording and reporting penalties

All disciplinary offences and penalties imposed by the Central Disciplinary Committee will be recorded on the student's electronic record. Every disciplinary authority of the University, the secretary of the Central Disciplinary Committee and the secretary of the Special Appeals Committee must report, in writing, to the Senate or other authorised person on the penalties imposed during the period between meetings of the Senate and on any disciplinary cases heard and dismissed.

Appendix Addresses and websites

Central Disciplinary Committee:	Secretary of the Central Disciplinary Committee Office of the Director, Students The Open University Walton Hall Milton Keynes MK7 6AA
Special Appeals Committee of the Senate:	Central Secretariat The Open University Walton Hall Milton Keynes MK7 6AA
Student Policy Documents:	www.open.ac.uk/student-policies/ available via StudentHome
Research Degrees Student Handbook:	www.open.ac.uk/res-handbook/
Resolving your Concerns, Complaints and Appeals:	www.open.ac.uk/student-services/complaints/ available via StudentHome
Research Degrees website:	www.open.ac.uk/research/research-degrees/information-for-students.php