

University Accommodation Misconduct Procedure

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Summary/Description:	This procedure specifies the University's process for dealing with instances of misconduct within University accommodation.
Scope:	This procedure and the University Accommodation Rules apply to all registered students living in, visiting or using the facilities of residential accommodation owned or managed by the University of Hull (university accommodation), residents who are not a student of the university but resident under the auspices of a commercial agreement between the university and a partner and students in private accommodation which is part of a nomination agreement or Head Lease portfolio. This includes students who have suspended their studies at the University of Hull, students that have been suspended, and those who have completed their studies but are yet to graduate from the University of Hull.
Collaborative provision:	Please state whether this document is applicable to the university's collaborative partners: <input type="checkbox"/> Mandatory <input checked="" type="checkbox"/> Not mandatory
Assessment: (where relevant)	<input type="checkbox"/> Equality Assessment <input checked="" type="checkbox"/> Legal
Consultation: (where relevant)	<input type="checkbox"/> Staff trade unions via HR <input type="checkbox"/> Students via Hull University Union <input type="checkbox"/> Any relevant external statutory bodies
Relevant legal frameworks:	Education Act 2004; The Office of the Independent Adjudicator.
Related policies/documents:	University Accommodation Rules; Licence to Occupy / Accommodation Contract; University Leased Tenancy Agreement; Student Disciplinary Regulations; Regulations governing Professional Unsuitability and Professional Misconduct; Fitness to Study; Safeguarding policy; OnCampus Hull Disciplinary regulations; Regulation for the investigation and determination of student complaints
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Governance and Compliance**

1. Introduction

- a) Whilst studying at the university, students (including non-students under the auspices of a commercial agreement) **may** reside in accommodation provided by the University of Hull. The university expects all students residing in or visiting university accommodation to adhere to the rules that are set out by the university.
- b) The University Accommodation Rules (Appendix A) which are included in the Licence to Occupy / University Leased Tenancy Agreements and displayed in university accommodation, set out the types of behavior that would constitute misconduct in accommodation that the university owns or manages. This list is not intended to be exhaustive, however, any action which would constitute misconduct, as defined within paragraph 3 of this procedure, **may** be dealt with in accordance with this procedure.
- c) This procedure is designed to:
 - i. deal expeditiously and informally with Category A accommodation offences;
 - ii. allow for sufficient and formal investigation of Category B & C accommodation offences;
 - iii. provide a route to appeal a formal accommodation related disciplinary outcome;
 - iv. include processes to escalate and refer the most serious cases to the University, for consideration under the University Student Disciplinary Regulations or the Regulations governing Professional Unsuitability and Professional Misconduct (see paragraph 13).

2. Scope

- a) This procedure and the University Accommodation Rules apply to all registered students living in, visiting or using the facilities of residential accommodation owned or managed by the University of Hull (university accommodation) and residents who are not a student of the university but resident under the auspices of a commercial agreement between the university and a partner. This includes students who have suspended their studies at the University of Hull, students that have been suspended, and those who have completed their studies but are yet to graduate from the University of Hull. In addition, this procedure also applies to students in private accommodation where a nomination agreement and/or is part of head leased portfolio, where the accused is alleged to have engaged in Category B offences which have had a negative impact on other students sharing the same or adjacent to the privately owned accommodation.
- b) Students living in, visiting or using facilities of university accommodation **must** comply with any rules, policies, or other requirements displayed in the accommodation or otherwise notified to those students. Any student found to have breached any such rule, policy or requirement **may** be subject to this procedure.
- c) Students will be held responsible for the behavior of any person they permit to enter a residence via this procedure.
- d) Students will be held responsible for the behavior of any person whom they incite to engage in misconduct on their behalf.
- e) This procedure does not cover members of staff who are residents (except where a member of staff is also a student of the university)

3. Definitions

- a) Misconduct, for the purposes of this procedure means:

- i. a breach of any rule, policy or requirement displayed in university accommodation or otherwise notified to students living in, visiting, or using facilities of university accommodation; or
- ii. behavior which obstructs, disrupts or adversely affects the functioning or activities or wellbeing of the university, its staff, students, visitors, or any other members of the university community, in relation to accommodation and/or members of the public in the locality of university accommodation; or
- iii. damage to property within university accommodation.

b)

Student	This term applies to all students living in, visiting or using the facilities of residential accommodation owned or managed by the University of Hull (university accommodation). This includes students who have suspended their studies at the University of Hull, students that have been suspended and those who have completed their studies but are yet to graduate from the University of Hull. In addition this includes residents who are not a student of the university but resident under the auspices of a commercial agreement between the university and a partner. In addition students in private accommodation where a nomination agreement and/or is part of head leased portfolio.
Full Exclusion for a fixed period	Restriction of access to all university accommodation for a specified period of time
Partial Exclusion for a fixed period	Restriction of access to specified parts of university accommodation for a specified period of time
Minor offence	Misconduct, which if proven would not reasonably be expected to lead to termination of licence to occupy
Serious offence	Misconduct, which if proven would reasonably be expected to lead to termination of licence to occupy
Accommodation Behaviour Agreement (ABA)	Voluntary agreement entered into by a student and the university, with terms which are proportionate and are reasonably expected to prevent future allegations for a specified period of time. This may include a requirement that a student must have no contact with a named person or persons
Strike	Verbal warning
Absolute discharge	This penalty is appropriate where misconduct is proven but the case officer/panel does not attach blame to the student for his/her action
Deferred penalty	Penalty which is not imposed unless a further act of misconduct is found to be proven within a specified period of time
Written caution	Formally signals to the student that their behaviour is unacceptable. It provides opportunity for the student to learn from the incident to minimise the likelihood of such behaviour reoccurring in the future. The written caution will remain on file for the duration of the current accommodation contract and if the student is proven to have committed misconduct on a subsequent occasion during this timescale this may be deemed an aggravating factor and a more severe penalty imposed

Final warning	To be issued in cases of a serious offences and/or where previous misconduct has found to be proven under this procedure, meaning if further allegations are made this could result in termination of the accommodation contract
Case Officer	A Case Officer is a member of university staff who has received training on handling accommodation misconduct investigations and who is included within the list of Case Officers maintained by the Student Misconduct Officer.
Working day	Any day that is a Monday, Tuesday, Wednesday, Thursday or Friday that is not <ul style="list-style-type: none"> - A Public Holiday - 24 December - 27 December - 28 December - 30 December or - 31 December

4. Key principles

- a) Allegations of misconduct considered under this procedure (excluding Category A offences, unless three category A offences have occurred in which case the matter will be handled as a Category B)) **must** be investigated in accordance with the principles of natural justice. The principles of natural justice are, in essence, broad principles of fairness which anyone who decides anything **must** follow. In short, a fair hearing **must** be provided when required in accordance with this procedure and the process **must** be impartial and free from bias. Students **must** therefore be told clearly the nature of the allegations against them, in advance; they **must** be given the chance to put forward their own case; the decision-taking panel/person **must** be unbiased; and procedures **must** be followed consistently in all cases. In terms of bias, both actual and reasonably perceived bias **must** be avoided; the test to consider is whether a reasonable and fair-minded person knowing all the relevant facts would have a reasonable suspicion that a fair trial was not possible. Overall, decisions **must** be reached carefully and fairly, and fair play **must** be ensured. Justice **should** both be done and be seen to have been done.
- b) Those making findings **must** do so on the balance of probabilities. In order to find that an event occurred they **must** therefore be satisfied that it is more likely than not that the event in question occurred. The burden of proof lies with whoever is making the assertion in question.
- c) The university **may** share information provided by students, staff and other witnesses with people involved in the case, including the student under investigation in accordance with the principles of natural justice. A student under investigation for misconduct within university accommodation **should** have the right to review and respond to the evidence against them, and witnesses/complainants **should** be advised of this principle upon submitting evidence. This principle will be enacted in accordance with confidentiality and data protection legislation.
- d) Any alleged act of misconduct directly observed by a member of university staff (including staff employed by the Students' Union, CEG and UPP Ltd.) in the absence of evidence to the contrary will be considered as constituting sufficient proof.
- e) It is each students' responsibility to monitor their university email accounts, which will be used for all communications regarding an investigation under this procedure.

5. University's responsibilities

- a) The university aims to deal with all disciplinary issues in a fair and consistent manner. It recognises that, for the students and staff concerned, involvement in disciplinary procedures can be difficult and stressful. The university will, therefore, ensure that all those involved are made aware of available guidance and support.
- b) Cases of misconduct categorised as a Category A offence **should** be resolved by way of informal resolution, wherever possible, within 5 working days although this timescale may be extended if it is necessary to do so.
- c) Cases of misconduct categorised as a Category B offence **should** be resolved as expeditiously as possible and in any event **should** normally be resolved within 30 working days from which the date a concern is brought to the Student Misconduct/Case Officer's attention.
- d) Cases of misconduct categorised as a Category C offence where investigated under either the university's Student Disciplinary Regulations, Regulations Governing Professional Unsuitability and Professional Misconduct or Fitness to study **should** normally be resolved within 15 working days from the date that proceedings have concluded. In all other cases **should** normally be resolved within 50 working days.
- e) The university will:
 - i. make this procedure, the University Accommodation Rules and any associated guidance material available to all students and staff;
 - ii. deal with accommodation misconduct issues in a proportionate and transparent way, as soon as issues become apparent and/or as soon as it is practicable to do so; and
 - iii. respect the need for confidentiality in relation to disciplinary issues.
- f) The outcome of an investigation conducted under this procedure and any associated documentation, will be retained in accordance with the University of Hull's retention policy.

6. Safeguarding students and wellbeing

- a) If at any stage of proceedings under this procedure it appears that any student is at risk of imminent harm, this **must** be reported to the Head of Accommodation and the University Safeguarding Officer. Upon receipt of this information, the Head of Accommodation **must** adhere to the Safeguarding Policy, reporting any concerns in accordance with that policy, if appropriate. Advice **should** be sought from Student Wellbeing, Learning and Welfare Support, if necessary.
- b) At all stages of any proceedings under this procedure, consideration **must** be given to whether any student is at risk of harm or might otherwise benefit from additional pastoral support. Where it is believed that a student **may** be at risk of harm or might otherwise benefit from pastoral support the student **must** be encouraged and supported to contact Student Wellbeing, Learning and Welfare Support.
- c) Correspondence with all students under this procedure **should** include reference to the availability of advice and support from Student Wellbeing, Learning and Welfare Support.

7. Delegation

- a) Unless specified elsewhere within this procedure, any role within these procedures **may** be delegated to another appropriate member of staff during periods of absence, provided there are no conflicts of interest.

8. Students in Private Accommodation

- a) Alleged misconduct in private accommodation will not be addressed under this procedure unless the accommodation is part of a nomination agreement and/or Head Lease portfolio. In these circumstances the following will apply:

- i) Whilst a student in Private accommodation cannot be bound by the university accommodation rules, they should familiarise themselves with the rules as this provides clarity around what is likely to be deemed acceptable and unacceptable behavior in private accommodation.
- ii) There may be occasions when the conduct of students in private accommodation comes to the attention of the university. For example other students of the university in the same private accommodation or adjacent accommodation report to be affected by the behavior of the student.
- iii) The university will not intervene in Category A offences, although it may at the absolute discretion of the Student Misconduct Officer be deemed appropriate to intervene in the case of a category B offences which have had an impact on other students of the university. Such cases should be handled informally (see paragraph 11 Informal Resolution Category B and C offences)
- iv) In the cases of Category C offences or any behavior which would be a serious breach of the Student Disciplinary Regulations Student Code of Conduct a referral should be made for handling under said regulations (see paragraph 13)

9. Raising a concern

- a) Allegations of misconduct in university accommodation **may** be raised by any member of the university community, but **should** be reported to the relevant Team/Staff member such as; ResLife Team, House Tutors, UPP Ltd or CEG, Site Managers or Accommodation Office, who will either determine:
 - i. that the allegation does not fall within the scope of this procedure, at which point, a referral **may** be made to a more appropriate area of the university;
 - ii. that the alleged offence is deemed to be a Category A offence and therefore suitable for informal resolution (subject to paragraph 10 (f)) and progress this under paragraph 10 of this procedure; or;
 - iii. that the alleged offence is deemed to be a Category B or C offence and therefore informal resolution by front line staff may not be suitable, and they will therefore complete and submit an Accommodation Misconduct Report Form to accdis@hull.ac.uk for the alleged misconduct to be investigated, as appropriate.
- b) An Accommodation Misconduct Report Form **must** be submitted within two working days of being notified of the allegations if, the offence is deemed to be a Category B or C offence, (with the exception of any hate related incidents whereby the Accommodation Misconduct Report Form must be submitted within 3 working hours and the Student Misconduct Officer also notified verbally wherever possible) and;
 - i. the person making the report wants the allegation to be considered under this procedure;
 - ii. the staff member receiving the report considers, having exercised their judgement, that it is in a student's or students' best interests for the allegation to be considered under this procedure; or
 - iii. the staff member receiving the report considers, having exercised their judgement, that it is in the university's best interests for the allegation to be considered under this procedure.
- c) On receiving an Accommodation Misconduct Report Form the Student Misconduct Officer/Case Officer will complete a risk assessment form within 1 working day of receiving the Accommodation Misconduct Report form in order to determine if a case is to be categorized as a High or Low Risk Case. The Risk Assessment Form (Appendix B) shall take into consideration a number of factors such as the alleged impact on others, vulnerabilities of the parties involved and likelihood of the alleged conduct continuing, with a score given against each factor to determine the level of risk

without swift action. Where further information is required in order to complete the risk assessment the Student Misconduct Officer will undertake such enquiries as deemed necessary within 1 working day:

– **High Risk Cases** should receive a priority response with the complainant being contacted within 1 working day of completion of the risk assessment to acknowledge receipt of the report and to notify the complainant of the plan of action and agree any special measures either in terms of the case, or support needs. The Student Misconduct Officer will notify all members of staff as deemed appropriate of any case categorised as High Risk.

– **Low Risk Cases** should receive a normal response with the complainant (if any) being contacted within 5 working days of the risk assessment to acknowledge receipt of the report and where deemed appropriate to notify of the plan of action and agree any special measures.

- d) The Student Misconduct Officer will create a secure electronic case file and ensure that all relevant information and evidence is collated into the case file. Where the Student Misconduct Officer is unable to accept a case an alternative Case Officer will normally be appointed within 3 working days. .
- e) Whilst categorisation for an offence (A, B or C) will initially be determined by the member of staff submitting the report form, the Student Misconduct Officer/Case Officer may re-categorise the Misconduct as deemed appropriate. Particular consideration when determining if the matter is a Category B or C offence should be given to; the impact the alleged misconduct has had on other students and any other mitigating or aggravating factors deemed relevant by the Student Misconduct Officer/Case Officer.
- f) The Student Misconduct Officer will notify all members of staff as deemed appropriate of any case categorised as C and/or High Risk in order to safeguard other members of the university community. Such members of staff may include but are not limited to Director of Campus and Accommodation, Assistant Director of Campus and Accommodation Services, Head of Accommodation and the Manager of ResLife.

10. Informal Resolution Category A offences

- a) Informal resolution normally applies to Category A offences as outlined within the University Accommodation Rules and means no further action will be carried out under this procedure with the exception of repeated low level behaviour (Category A) see paragraph 10 (f). Informal resolution in respect of Category A offences may be carried out by an appropriate front line member of staff such as the ResLife Team, a Site Manager, UPP Ltd, CEG or staff in the Accommodation Office
- b) Front Line Staff may use their discretion when deciding upon an appropriate means of Informal Resolution, which may include but is not limited to:
 - i. Words of advice to one or more parties
 - ii. Issuing a reminder of the university accommodation rules
 - iii. Voluntary Flatmate/House Agreement
 - iv. Restorative Practice, Mediation or Conciliation reaching a written outcome agreement, where the staff member has received relevant/sufficient training and feels able to carry this out effectively
 - v. Requirement to pay cost incurred as a result of misconduct (up to the value of £250)
 - vi. Creation of a no-alcohol or no music zone in communal areas for a defined period as deemed fair and proportionate, for example; in cases of parties in communal kitchens
- c) Irrespective of the method of Informal Resolution chosen the member of Front Line staff should also issue a strike, wherever possible the student **should** be informed verbally about the strike at

the time of the incident. The member of staff **must** then notify the Student Misconduct Officer so that a central record of the strike may be kept and a written confirmation of the strike can be sent to the student confirming which element of their behaviour was unacceptable; what actions, if any, need to be taken to rectify this behaviour; and to confirm the number of strikes that have been issued. This written notification **should** also signpost the students to areas of support.

- d) Students will be required to pay the costs incurred (for example; damages, repairs and additional cleaning) up to the value of £250 arising as a result of neglect, antisocial behaviour, accident or wilful act occurring within either within their own residence or in communal areas. In the case of communal areas where the individual responsible cannot be identified, the charge of putting right the fabric of the accommodation will be shared amongst all students who have access to the area. Students will be informed by email that they will be charged for the cost of putting right the fabric of the accommodation. Staff reporting any damage/repairs or additional cleaning, **must** ensure that photographic evidence is taken before rectifying the fabric of accommodation. This evidence **must** be included in any communication with students. An administration fee of £25.00 will be added to the direct cost of rectifying the fabric of the accommodation. A copy of the invoice **should** be made available to any student who requests it. Where it is likely that the cost will exceed £250 the matter should be treated as a category B offence and an Accommodation Misconduct Report Form be submitted.
- e) There is no right of appeal against actions taken under informal resolution, a student can however request a review of the action taken on the grounds that the student feels the action taken was disproportionate. A student can request a review by the Student Misconduct Officer/Manager of the ResLife Team via email to accdis@hull.ac.uk within 5 working days of the Information Resolution taking place. The Student will then receive notice of the outcome of the review within ten working days, specifically if the Informal resolution was deemed appropriate or any remedial action that is to be taken.
- f) In cases of repeated low level (Category A) behaviour, strikes will be counted on a cumulative basis, regardless of who has issued the strike. If a student receives three strikes within any one accommodation contract period the behaviour may be re-categorised by the Student Misconduct Officer to a Category B offence requiring an investigation.
- g) Strikes will not be carried over into a new accommodation contract period.

11. Informal Resolution Category B and C offences

- a) On receipt of an Accommodation Misconduct Report Form and throughout any subsequent investigation, the Student Misconduct Officer/Case Officer **must** consider whether informal resolution might reasonably resolve the problem to the satisfaction of all parties involved without the need for a full Accommodation Misconduct Investigation to be initiated in accordance with paragraph 18 of this procedure. Where informal resolution is considered to be an appropriate option, the Student Misconduct Officer/Case Officer or any person that he/she deems appropriate **must** explore this with the individuals involved.
- b) The Student Misconduct Officer/Case Officer may use their discretion when deciding upon an appropriate means of Informal Resolution, which may include but is not limited to:
 - i. Restorative Practice, Mediation or Conciliation, reaching a written outcome agreement
 - ii. Words of advice to one or more parties
 - iii. Issuing a reminder of the university accommodation rules
 - iv. Accommodation Behaviour Agreement
- c) Where all parties are agreeable to informal resolution, no further action will be taken under this procedure. The Case Officer **must** record this decision on the case file.

- d) If the accused student fails to participate in Informal Resolution, or expressly requests the matter to be investigated by the university, the Student Misconduct Officer/Case Officer **must** conduct an investigation in accordance with paragraph 18 below.
- e) If the complainant is not agreeable to informal resolution, the Student Misconduct Officer/Case Officer must consider if it is proportionate to continue with a full Accommodation Misconduct investigation, where it is decided this would not be proportionate the Student Misconduct Officer/Case officer may continue with Informal Resolution and notify the complainant of this decision.
- f) Category C offences and any other offence which might result in suspension or exclusion from accommodation, termination of an accommodation contract, and cases which might constitute a criminal offence are not suitable for informal resolution.
- g) Where it is determined that informal resolution is not appropriate, then the Student Misconduct Officer/Case Officer **must** conduct an investigation in accordance with paragraph 18.

12. Escalation/De-escalation

- a) At any point during an investigation under this procedure, the Student Misconduct Officer/Case Officer **may** escalate a matter for consideration as a higher category offence, if there are grounds to do so.
- b) Equally, at any point during an investigation under this procedure, a Student Misconduct Officer/Case Officer **may** de-escalate a matter for consideration as a lower category offence, if there are grounds to do so.
- c) Where a re-classification occurs after the student has been notified of the case being deemed minor or serious the student should be informed of the re-classification within two working days to their university email account

13. Referral to related policies and regulations

- a) Where an allegation of misconduct in university accommodation raises concerns regarding a student's suitability as a member of the university community or professional suitability the Student Misconduct Officer/Case Officer must liaise with the Head of Accommodation and other relevant department in order that a referral may be made for handling the matter under the appropriate policy/regulation; such as:
 - **Professional unsuitability and professional misconduct** - Where an allegation of misconduct in university accommodation is of a sufficiently serious nature that it raises concerns about a student's professional suitability, given the nature of the student's programme of study (normally a Category C offence and/or repeated Category B offences), the Student Misconduct Officer/Case Officer **must** notify the Head of Accommodation and liaise with the student's Head of School, in cases of professional suitability.
 - **Student Disciplinary Regulations** – Where an allegation of misconduct in university accommodation is of a sufficiently serious nature (normally a Category C Offence and/or repeated Category B offences) that it raises concerns about a student's general suitability as a member of the university community the Student Misconduct Officer/Case Officer must notify the Head of Accommodation and liaise with the Deputy Director of Governance and Compliance
 - **Fitness to Study** – Where an allegation of misconduct in university accommodation raises significant concerns regarding the wellbeing of a student specifically their fitness to study and suitability as a member of the university community the Student Misconduct Officer/Case Officer must notify the Head of Accommodation and liaise with the Head of Wellbeing and Deputy Director of Governance and Compliance.
 - **CEG (OnCampus) Disciplinary Regulations** – Where an allegation of misconduct in university accommodation is made against a CEG student and is of a sufficiently serious nature (normally a

Category C Offence and/or repeated Category B offences) that it raises concerns about a student's general suitability as a member of the university community the Student Misconduct Officer/Case Officer must notify the Head of Accommodation and liaise with an appropriate member of CEG.

- **CEG (OnCampus) Fitness to Study** - Where an allegation of misconduct in university accommodation raises significant concerns regarding the wellbeing of a CEG student specifically their fitness to study and suitability as a member of the university community the Student Misconduct Officer/Case Officer must notify the Head of Accommodation and liaise with an appropriate member of CEG.
- b) In the event that the university is unable to reach an agreement as to which procedure or regulation to follow, the decision will be referred to the University Registrar and Secretary, whose resolution will be final.
- c) A decision **may** be taken to conduct an investigation solely under one procedure or regulation, or to conduct concomitant investigations. In such cases where it is decided that an investigation **should** be conducted under the University's Student Disciplinary Regulations, Regulations governing Professional Unsuitability and Professional Misconduct, CEG Disciplinary Regulations or Fitness to Study *and* this accommodation misconduct procedure, then the main university investigation will usually supersede this procedure. This would not preclude precautionary action being taken under this procedure in accordance with paragraphs 15 and 16 and/or any other action as deemed appropriate from being carried out in the Case of Fitness to Study whereby those proceedings are at Stage 1 or 2 and the Head of Wellbeing (or an appropriate member of CEG in the case of CEG students) is in agreement that this would be appropriate.
- d) Where an investigation for the same offence has been conducted in accordance with the Student Disciplinary Regulations, the Regulations governing Professional Unsuitability and Professional Misconduct, CEG Disciplinary Regulations, or Fitness to Study, the outcome of that investigation will be relied upon as conclusive for the purpose of conducting an Accommodation Misconduct Panel under this procedure. In such cases where misconduct for the same offence is proven, the student **should** be taken to have committed that offence unless the contrary is proven.
- e) At any point during an investigation under this procedure, the Student Misconduct Officer/Case Officer or Panel **may** refer the matter for consideration under the Student Disciplinary Regulations, CEG Disciplinary Regulations, Professional Standards Regulations or Fitness to Study for investigation, if appropriate.

14. Misconduct which might constitute a criminal offence

- a) Upon receiving an Accommodation Misconduct Report Form regarding an allegation, which, if proven, might constitute a **serious** criminal offence, the Student Misconduct Officer/Case Officer **must** inform the Head of Accommodation, who will notify the University Registrar and Secretary. In such cases, the matter **should** normally be referred for consideration under the University's Student Disciplinary Regulations.
- b) Where the alleged misconduct is likely to be a **serious** criminal offence and is committed against the university, such as vandalism or theft, it will be for the University Registrar and Secretary's discretion as to whether to report an incident to the police.
- c) The university **should** encourage any student, member of staff or visitor to the university who has been the victim of an alleged criminal offence to report this to the police, and, if relevant, to the university.
- d) Where alleged misconduct is likely to be a **serious** criminal offence and the alleged victim is a student or staff member at the University of Hull but does not wish to report the matter to the police, the University Registrar and Secretary will normally respect the alleged victim's wishes, but **may** report any suspected offence to the police **should** he/she see fit.

- e) Any student under investigation for, or who has been found guilty of, a criminal offence **should** make this known to the University's Criminal Conviction Panel.

15. Immediate Precautionary action by Front Line Staff

- a) There may be occasions where it is necessary for Front line Staff such as the Security Team, Accommodation Staff, Site Managers and/or the ResLife Team to take immediate precautionary action until a case of misconduct can be reported and investigated. Such pre-cautionary action may be taken on the following grounds:
- To provide immediate protection to members of the university community
 - To provide immediate protection to others
 - To prevent misconduct taking place
 - That it is reasonable to believe the student(s) have engaged in Misconduct and an Accommodation Misconduct Report form is to be submitted
- b) Such immediate precautionary action may include but is not limited to
- Direction to leave university accommodation (not including a student's own residence) and not return for a specified period (not more than 7 consecutive days)
 - Confiscation of any sound making equipment (including but not limited to; stereo, TV, record player, radio, wireless speakers, games consoles) for example in cases of excessively loud music where this has reasonably caused a nuisance others. This should only be considered following a verbal warning being issued to the student and a repeat occurrence taking place within a 24 hour period. Where equipment is confiscated photographs should be taken and a receipt issued to the student. Further the equipment should be stored in a secure location.
- c) Where immediate precautionary action is taken, an accommodation misconduct report form must also be submitted. The member of staff taking the action must also confirm in writing to the student the action taken, the reasons for the action and details of when actions will cease/how and when items may be returned, this should be done within 1 working day and a copy sent to accdis@hull.ac.uk.
- d) The failure of a student to comply with Immediate Precautionary Action by Front Line Staff will be deemed a Category B offence
- e) There is no right of appeal against actions taken under Immediate Precautionary Action, a student can however request a review of the action taken on the grounds that the student feels the action taken was disproportionate. A student can request a review by the Student Misconduct Officer/Manager of the ResLife Team via email to accdis@hull.ac.uk within 5 working days of the Immediate Precautionary Action taking place. The Student will then receive notice of the outcome of the review within ten working days, specifically if the Immediate Precautionary Action was deemed appropriate or any remedial action that is to be taken.

16. Precautionary Action

- a) Where an allegation of misconduct in university accommodation is of a sufficiently serious nature and/or initial enquiries suggest the alleged misconduct has had or is capable of having a significant negative impact on other members of the university community, the Student Misconduct Officer/Case Officer in conjunction with Campus and Accommodation Services reserves the right to take precautionary action on the following grounds:
- to protect members of the university community;
 - to protect others;
 - to protect the student in question; and
 - to ensure evidence related to an investigation into alleged misconduct is not prejudiced.

- b) Such Precautionary Action may include but is not limited to:
- Accommodation Behaviour Agreement (ABA)– This **should** be the preferred option (unless the circumstances of the case require a partial or full exclusion) on the basis that it is the least disruptive, although this must be entered into voluntarily by the student; such an agreement must be proportionate for example the agreement should contain sufficient conditions that would prevent a repeat of the alleged behaviour; further the agreement may also contain a term that the student will not enter specified university accommodation (other than their own residence). The Agreement must clearly state that the student is required to abide by the terms until the outcome of the investigation at which time the agreement will be reviewed.
 - Confiscation of any sound making equipment (including but not limited to; stereo, TV, record player, radio, wireless speakers, games consoles) for example in cases of excessively loud music where this has reasonably caused a nuisance to others. This should be considered in instances whereby an ABA cannot be agreed with the student
 - Partial Exclusion which may include the students current accommodation, however the university will provide alternative similar accommodation in an alternative location. An Accommodation Behaviour Agreement may also be implemented in conjunction with a Partial Exclusion.
 - Full Exclusion from all university accommodation, should be considered in exceptional circumstances only, meaning the student would be unable to continue to reside in current accommodation and no alternative accommodation will be provided. An Accommodation Behaviour Agreement may also be implemented in conjunction with a Full Exclusion.
- c) If, during the course of an investigation, the Student Misconduct Officer/Case Officer determines that the nature of the allegation might mean that a partial or full exclusion from accommodation would be appropriate then they **should** notify the Head of Accommodation by completing the Accommodation Exclusion Form
- d) Consideration **should** be given to the implications of exclusion on the student’s ongoing studies and welfare.
- e) The decision to exclude a student from their own or all university accommodation **must** be taken by the Head of Accommodation, or an equal or more senior member of staff from within the directorate during periods of absence. Where possible, the student **should** be notified of this action in person and this will be followed up by email within 2 working days. This written notification **must** include the reason for the action being taken and, if appropriate, timescales for the student to be able to return to their original accommodation.
- f) Any precautionary accommodation exclusion **must** be reviewed by the Head of Accommodation every 20 working days.
- g) A student **may** request a review of the precautionary accommodation exclusion by writing to the Assistant Director of Campus and Accommodation Services (unless they took the decision to implement precautionary action due to staff absence, in which case, the request for review will be considered by the Director of Campus and Accommodation Services). When making his/her decision whether or not to uphold the precautionary action taken, the Assistant Director of Campus and Accommodation Services **must** review:
- i. the Accommodation Exclusion Form;
 - ii. any written representation, if made; and
 - iii. and the written notification to the student informing them of the precautionary action.
- His/her decision will be final.
- h) The Head of Accommodation **must** write to the student to confirm the arrangements for cessation of the precautionary accommodation suspension and/or exclusion within 2 working days of an

outcome being reached under this procedure. However, this **may** mean further exclusion, or the termination of the student's accommodation contract **should** an Accommodation Misconduct Panel determine that such penalty is appropriate.

- i) The failure of a student to comply with Precautionary Action will be deemed a Category C offence which if proven could result in the termination of the accommodation contract.

17. Confiscation of items

- a) Any member of university staff (including those employed by UPP Ltd) have the right to remove any item that is prohibited within university accommodation.
- b) Before removing any item, photographic evidence **must** be taken, unless there are concerns regarding health and safety, in which case a member of the Site Management Team **must** be contacted immediately.
- c) Once an item, or items, have been removed they **must** be taken immediately to a place for safe storage and if appropriate, removal/destruction.
- d) An Accommodation Misconduct Report Form **must** be completed and submitted on the same working day, ensuring that photographic evidence is included in the report.
- e) **Should** a student want to request the return of a confiscated item, they **should** do so in writing to the Head of Accommodation within 5 working days of the item's confiscation.
- f) Confiscated item(s) will not normally be returned to a student, unless they can prove extenuating circumstances that necessitate the item(s) return, and the university would not be committing a criminal offence in returning the item(s).

18. Misconduct Investigation – obtaining the students response to the allegations

- a) If two or more students are involved in related misconduct the issue may be dealt with together or separately at the absolute discretion of the Student Misconduct Officer/Case Officer.
- b) The Student Misconduct Officer/Case Officer **must** make such enquiries as he/she deems necessary and proportionate, to understand the nature of the allegation(s) against the student. In some cases, this **may** include obtaining further information from any witnesses, or victims of, the misconduct. The Student Misconduct Officer/Case Officer **must** keep a record of all enquiries.
- c) The Student Misconduct Officer/Case Officer **must** set out the allegations against the student clearly in writing, using the Accommodation Misconduct Investigation Form. The Case Officer **must** provide the student with a copy of the Accommodation Misconduct Investigation Form by sending it to the student's university email account) and **must** ask the student to complete the form. The student **must** ensure that the Case Officer receives the completed Accommodation Misconduct Investigation Form within 3 working days of the date on which it is provided to the student. If a student fails to engage at this stage of the Misconduct Investigation, then the Case Officer **should** attempt to contact them on one further occasion to try to encourage engagement.
- d) The Student Misconduct Officer/Case Officer may also choose to issue the Accommodation Misconduct Investigation Form to the student in person (in addition to via email), particularly where the case is deemed High Risk and/or it is believed the alleged misconduct is ongoing in order that words of advice may also be issued to the student.

19. Process for investigating and hearing Category B cases

- a) Where the student has indicated on the Accommodation Misconduct Investigation Form that he/she admits the allegation(s) in full, the Student Misconduct Officer/Case Officer **must** consider whether any mitigating evidence submitted by the student would, if substantiated, materially affect the likely penalty. Where the likely penalty would be materially affected or in any other case where the Student Misconduct Officer/Case Officer sees fit, they **may** proceed within an investigation in accordance with the process outlined from paragraph 19(d) to 19(r). In all other

cases, the Student Misconduct Officer/Case Officer **should** proceed to consider an appropriate penalty pursuant to paragraph 18 of this procedure. This **should** normally be communicated to the student within 10 working days of receiving the completed form.

- b) Where the student indicates that he/she partially denies the allegation(s) the Student Misconduct Officer/Case Officer **must** consider whether the elements of the allegations that are denied would, if proven, materially affect the likely penalty. Where the likely penalty would be materially affected or in any other case where the Student Misconduct Officer/Case Officer sees fit, the denied elements of the allegation(s) **may** be determined in accordance with the process outlined from paragraph 19(c) to 19(t). In all other cases, the Case Officer **should** proceed to consider an appropriate penalty pursuant to paragraph 18 of this procedure. This **should** normally be communicated to the student within 5 working days of receiving the completed form. In the event the student indicates that he/she partially denies the allegation(s) however the Student Misconduct Officer/Case Officer considers that in fact a full admission has been made but mitigating circumstances cited the Student Misconduct Officer/Case Officer should act in accordance with paragraph 19 (a).
- c) Where the student has failed to respond, or has indicated that he/she denies the allegation(s), the Student Misconduct Officer/Case Officer **must** undertake a proportionate investigation and make such enquiries as he/she deems appropriate.
- d) Such investigation may include but is not limited to the taking of witness statements from any person deemed relevant, reviewing/obtaining CCTV, audio evidence and/or photographic evidence.
- e) There may be occasions where witnesses are reluctant to provide a named statement for fear of reprisals. In exceptional circumstances in particular where there are reports of Category C offences, the Student Misconduct Officer/Case Officer may permit hearsay evidence (anonymous statements) on the advice of the universities legal team. However, the Student Misconduct Officer/Case Officer shall remain mindful of natural justice and therefore a case shall not be built solely on hearsay evidence, such hearsay evidence shall only be used to support other more substantial evidence and be given a lesser weighting when considering if on the balance of probabilities the conduct is proven or not proven.
- f) Where further allegations are made in addition to the original allegations made at the outset of the case the Student Misconduct Officer/Case Officer may at their discretion choose to:
 - a. Issue a revised Accommodation Misconduct Investigation Form detailing the additional allegations
 - b. Open a new case file to deal with the new allegations separately from the ongoing case
- g) Where an error has been made on a misconduct investigation form or as a result of an investigation the nature of the allegation has changed or requires amendment/clarification the Student Misconduct Officer/Case Officer may at their discretion issue a revised Accommodation Misconduct Investigation Form
- h) When that investigation is complete, the Student Misconduct Officer/Case Officer **must** arrange a hearing with the student, at which the Student Misconduct Officer/Case Officer will determine whether the allegation(s) are proven.
- i) Where practicable, efforts will be made to agree a mutually convenient time for the meeting. In any event, 5 working days' written notice of the hearing **must** be provided to the student by sending written confirmation of the date to the student's university e-mail address.
- j) A copy of any written evidence which the Case Officer will consider at the meeting **must** be sent to the student's university e-mail address no less than 5 working days before the meeting.
- k) Another Case Officer, member of of the ResLife Team, House Tutor, Site Manager or staff in the Accommodation Service **must** be present to take notes.

- l) The Student Misconduct Officer/Case Officer **must** consider written or oral evidence as he/she thinks fit. Where oral evidence is heard the student **must** have the opportunity to ask questions of any witnesses. Where a witness (including a complainant) is vulnerable, the Student Misconduct Officer/Case Officer **may**, with the Head of Accommodation's approval, permit the witness to give oral evidence via video-link.
- m) The student **must** have an opportunity to speak in his/her own defence.
- n) The student **may** be accompanied by a friend, family member, or HUU Staff Member, who is not involved in the case, although this should be in a supporting role only and will be unable to speak on behalf of the student.
- o) The student is not normally permitted to be accompanied by a practicing member of the legal profession, employed to act on his/her behalf at the meeting. The university's procedures are not intended to emulate the legal justice system and such representation is deemed unnecessary for both the student and the university.
- p) Where a student fails to attend, the meeting **may** go ahead in his/her absence or **may** be rescheduled. This decision is at the discretion of the Student Misconduct Officer/Case Officer. The Student Misconduct Officer/Case Officer **should** take into account the reasonableness of any explanation given by the student for his/her non-attendance and the student's engagement with the disciplinary process to date.
- q) At the conclusion of the hearing the Student Misconduct Officer/Case Officer **must**:
 - i. pronounce whether he/she finds the misconduct proven or not proven, and proceed to consider appropriate penalty; or
 - ii. confirm that he/she will inform the student in writing:
 - Whether he/she finds the misconduct proven or not proven; and
 - If the misconduct is proven, what penalty will be imposed.
- r) In all cases the Student Misconduct Officer/Case Officer **must** confirm the outcome of the meeting in writing to the student's university e-mail address within 5 working days and **must** send a copy to the Head of Accommodation.
- s) In the event of an investigation whereby the student partially denied the allegations, if the Student Misconduct Officer/Case Officer has been unable to evidence the elements denied they may conclude the investigation in advance of a hearing and **should** proceed to consider an appropriate penalty in respect of the elements admitted pursuant to paragraph 22 of this procedure. This **should** normally be communicated to the student within 10 working days of the conclusion of the investigation
- t) Where it is not possible to carry out and conclude an investigation by the end of the same academic year in which the alleged misconduct took place, proceedings may be carried over to the next academic year if it is deemed appropriate to do so.

20. Process for investigating and hearing Category C cases

- a) In such cases where:
 - i. the nature of the offence means termination of the licence to occupy and/or temporary or permanent exclusion from accommodation **may** be deemed appropriate,, and it has been agreed that the alleged offence will be considered within the scope of this procedure (in accordance with paragraph 13, above); or
 - ii. where a final warning has been issued, but a further allegation(s) of accommodation misconduct has been made,

The matter **should** be referred to an Accommodation Misconduct Panel for consideration of an appropriate penalty.

- b) Where an investigation for the same offence has been conducted in accordance with the Student Disciplinary Regulations or the Regulations governing Professional Unsuitability and Professional Misconduct, or Fitness to Study the outcome of that investigation will be relied upon as conclusive for the purpose of conducting an Accommodation Misconduct Panel under this procedure. In such cases where misconduct for the same offence is proven, the student **should** be taken to have committed that offence unless the contrary is proven.
- c) Where no investigation into the alleged offence has been conducted under any other procedure, the Student Misconduct Officer/Case Officer **should** conduct a proportionate investigation into the allegation(s) and present a written report for consideration by the panel. In the event the Student failed to respond to the allegations, the Student Misconduct Officer/Case Officer should arrange a meeting with the Student in order to attempt to gain their response.
- d) Where a final warning has been issued to a student, but a further allegation(s) of accommodation misconduct has been made, the outcome of all prior investigations will be relied upon as conclusive for the purpose of conducting an Accommodation Misconduct Panel under this procedure.

Panel Membership

- e) A panel **should** be convened and a secretary appointed by the Head of Accommodation (HoA), unless the HoA has authorised any precautionary action (exclusion) in which case this will be delegated to an equal or more senior member of staff from within the directorate. Members of the panel will be drawn from a list established for the purpose by the Head of Accommodation. The panel **should** normally comprise:
 - i. The Head of Accommodation (or an equal or more senior member of staff from within the directorate);
 - ii. A senior (by status or length of service) member of professional services staff within the Student Services Directorate; and
 - iii. A member of staff (professional services or academic) from elsewhere within the university.
- f) Another senior (by status or length of service) member of professional services staff within the Student Services Directorate will normally act as the secretary for the panel. The secretary is responsible for keeping the minutes of the proceedings of the panel but **must** not otherwise participate in the making of decisions by the panel.
- g) No person who has been involved in the making, witnessing or investigation of the allegation shall be a member of the panel.
- h) The Head of Accommodation (or an equal or more senior member of staff from within the directorate) will normally act as chair of the panel.

Informing the Student of the hearing

- i) At least 10 working days before the panel hearing, the student **must** be sent the following information in writing by the panel secretary:
 - i. the time, date and venue of the hearing of the panel;
 - ii. the name and position of the panel members;
 - iii. a copy of any written evidence that will be received by the panel, including:
 - any witness statements submitted in advance;

- a copy of the report and information considered following conclusion of proceedings under the Student Disciplinary Regulations or the Regulations governing Professional Unsuitability and Professional Misconduct,
 - the Student Misconduct Officer/Case Officer's summary report;
 - a copy of any prior outcomes reached under this procedure for instances of alleged accommodation misconduct; and
 - a list of any witnesses obtained by the Student Misconduct Officer/Case Officer who will be giving oral evidence (whose statements **must** be included in the documents referred to in (iii) above).
- j) Upon receipt of this information, the student will be invited to submit a statement and any additional evidence using the form provided, for consideration by the panel. This information, including the student's confirmation of attendance at the panel hearing **must** be submitted to the panel secretary within 7 working days of the hearing.
- k) If the student responds indicating a legitimate reason for being unable to attend on the specified date, the hearing **should** be rearranged. If no legitimate reason (as determined by the chair of the panel) is given for not attending, the hearing **should** take place on the date notified.
- l) Upon receipt of the student's submission, the panel secretary will prepare a panel information pack for distribution 5 working days in advance of the hearing. The panel information pack **must** contain:
- i. confirmation of the names of the panel members, the secretary and any other witnesses / individuals permitted to attend the hearing;
 - ii. an agenda for the hearing;
 - iii. the names of any witnesses supplied by either the Student Misconduct Officer/Case Officer or the student, who will be invited to speak;
 - iv. any witness statements submitted in advance
 - v. any other written evidence, including:
 - a copy of the report and information considered following conclusion of proceedings under the Student Disciplinary Regulations or the Regulations governing Professional Unsuitability and Professional Misconduct; or
 - the Student Misconduct Officer/Case Officer's summary report.
 - vi. the student's submission, including any additional evidence

Objections to panel membership by the student

- m) The student **may** object in writing to the proposed panel membership by emailing the panel secretary no later than 7 working days before the hearing, with details of the grounds for his/her objection(s).
- n) The chair of the panel has discretion to determine the validity of such objections, and **may** direct that the panel proceed with the proposed membership or direct that an alternative panel member be sought. If the objection relates to the chair of the panel, then the Director of Campus and Accommodation Services will decide on the validity of the objection. The hearing **may** be postponed where necessary to facilitate this. The student **must** be informed in writing of the decision.

Conducting the Panel hearing

- o) The student **must** attend the hearing.
- p) The student **must** have the opportunity to be heard in person by the panel, and to be accompanied by a fellow student, a HUU Staff Member, a member of staff (of the student's own choosing) or a family member. That person **should** not speak on behalf of the student or otherwise participate in the hearing, unless invited to do so by the chair of the panel.
- q) The student is not permitted to be accompanied by a practicing member of the legal profession, employed to act on his/her behalf at the meeting. The university's procedures are not intended to emulate the legal justice system and such representation is deemed unnecessary for both the student and the university.
- r) Once the panel is satisfied that sufficient evidence has been presented and that the student has been given fair and reasonable opportunity to respond, the panel **must** consider the penalty or penalties to be imposed.
- s) The decision of the panel **should** be unanimous, but a majority decision is acceptable if unanimity cannot be achieved.
- t) The secretary **must** inform the student in writing of the penalties imposed. This information **should** be confirmed by the chair and provided within three working days.
- u) All proceedings of the panel **must** be minuted by the secretary. The student is entitled to request a copy of the minutes for his/her own records.

Failure to attend

- v) Where a student fails to attend a hearing, in breach of paragraph 20(o), above, the hearing **may** be conducted in his/her absence, at the discretion of the chair.

21. Investigations relating to CEG (OnCampus) Students

- a) For issues that occur on the wider university campus or in university accommodation, this procedure **may** take precedence over CEG (OnCampus) Disciplinary Policy and Procedure, although CEG may decide to conduct a concomitant investigation. Where it is decided that an investigation under the CEG Disciplinary Policy and Procedure, and this Procedure is to be undertaken, then an agreement will be reached between the Student Misconduct Officer and an appropriate member of CEG staff regarding the approach deemed most suitable.
- b) Where a Category B or C report is received relating to a CEG student, the Student Misconduct Officer/Case Officer shall notify CEG of the report in order that the process under 21 (a) can be followed.

22. Penalties

- a) If the Student Misconduct Officer/Case Officer or Accommodation Misconduct Panel is satisfied, in accordance with this procedure, that it is more likely than not that the alleged misconduct occurred, then the allegation is proven. In all such cases the Student Misconduct Officer/Case Officer or Accommodation Misconduct Panel **must** proceed to determine whether to impose a penalty in respect of the misconduct.
- b) The following penalties **may** be imposed by Student Misconduct Officer/Case Officers, Accommodation Misconduct Panels and Appeal Panels:
 - i. an Accommodation Behaviour Agreement, if the student agrees to such an agreement being put in place;
 - ii. absolute discharge, to acknowledge that although misconduct **may** technically have been committed, no blame is attached to the student;

- iii. attendance on a course or programme at cost to student;
 - iv. a requirement upon the student to pay for any costs incurred as a result of his/her misconduct;
 - v. a deferred penalty (see paragraph 25);
 - vi. a fine of up to £200 (see Appendix C for tariffs);
 - vii. a final warning in relation to previous repeat misconduct, upon which any further proven misconduct will then be referred to an Accommodation Misconduct Panel for determination of further penalty;
 - viii. a requirement to send one or more letters of apology to, or to engage in another suitable form of restorative communication with, any person affected by the misconduct;
 - ix. a written caution issued by the Student Misconduct Officer/Case Officer/panel. This may also require the student to have no or restricted contact with a specified person and/or to cease specific actions/activities (for example playing of loud music)
- c) The following penalties **may** only be imposed by the Accommodation Misconduct Panel:
- i. temporary or permanent exclusion from all or part of university accommodation; and
 - ii. termination of the accommodation contract.
- d) For the avoidance of doubt, more than one of the penalties listed above **may** be imposed in any case of misconduct.
- e) In all cases, the Student Misconduct Officer/Case Officer or panel **may** establish whether the student has previously been subject to penalty under these procedures and obtain details of the penalty imposed.
- f) The Student Misconduct Officer/Case Officer or panel **should** turn their minds to the following factors in determining the penalty to be applied:
- i. The degree of culpability: was there intent, recklessness, or knowledge of the risks entailed by misconduct? What was the motivation for committing the misconduct?
 - ii. The degree of harm actually caused, intended to be caused, or that might foreseeably have been caused as a result of the misconduct.
 - iii. Whether the misconduct was premeditated or spontaneous.
 - iv. Any abuse of power involved in the misconduct (for example, if the student was in a position of responsibility).
 - v. Any admission of guilt, and the stage at which guilt was admitted.
 - vi. Any remorse shown by the student.
 - vii. Any restorative action taken by the student and notified to the Case Officer or panel.
 - viii. Any personal circumstances advanced by or on behalf of the student as a mitigating factor and notified to the Case Officer or panel.
 - ix. Any misconduct previously admitted or found proven under this procedure.
 - x. Any statement by way of explanation or mitigation offered by the student, and the extent to which this statement is corroborated by documentary or other evidence.
 - xi. The outcome of any criminal investigation relating to the act of misconduct.
 - xii. The outcome sought by any complainant/victim/witness in the case
- g) The Student Misconduct Officer/Case Officer or panel is referred to paragraph 6 above in respect of safeguarding students.

- h) The Student Misconduct Officer will ensure that a log of precedents of misconduct penalties applied in past cases is held. The log **should** be used as a reference source to ensure consistency in decision-making when faced with similar cases. It will be made available to Case Officers and panels on request.

23. Right to Refuse Accommodation

- a) The Head of Accommodation will be notified of the outcome of all cases of misconduct and where a student is found to have committed a Category C offence or repeated Category B offences, the Head of Accommodation may at their absolute discretion choose to reject a future application for accommodation on the basis of the proven misconduct.
- b) In the case of CEG students, CEG will be notified of the outcome of all cases relating to CEG students and where a CEG student is found to have committed a Category C offence or repeated Category B offences, CEG may at their absolute discretion choose to reject a future application for accommodation on the basis of the proven misconduct.

24. Category B Damages, repairs and additional cleaning charges (Over £250)

- a) Students at the University of Hull, living in, visiting or using the facilities of residential accommodation owned or managed by the University of Hull will be expected to pay for any damages/repairs or additional cleaning needed that occur as a result of anti-social behaviour. Where individual students can be identified as being responsible for this behaviour they will be informed by email that they will be charged for the cost of putting right the fabric of the accommodation. This **may** be undertaken in accordance with further action under this procedure.
- b) If the behaviour occurs in a communal area and no one individual can be identified, the charge of putting right the fabric of the accommodation will be shared amongst all students who have access to the area. Students will be informed of this by email and will have the opportunity to provide mitigation as to why they **should** not be charged.
- c) Staff reporting any damage/repairs or additional cleaning, **must** ensure that photographic evidence is taken before rectifying the fabric of accommodation. This evidence **must** be included in any communication with students.
- d) An administration fee of £25.00 will be added to the direct cost of rectifying the fabric of the accommodation.
- e) A copy of the invoice **should** be made available to any student who requests it.

25. Deferred Penalties

- a) A deferred penalty is one which does not take effect immediately but which is postponed for a period of time during which the student's conduct will continue to be monitored. When the Case Officer or panel imposes a deferred penalty then the written statement informing the student about the penalty will specify the period of the deferral and explain what will happen if the penalty needs to be put into effect. This information will also be shared with the ResLife staff on site and site service staff. During the period of the deferred penalty, if the student's conduct is further called into question then the student will receive a statement in writing that this allegation relating to their conduct will be reported to the Student Misconduct Officer/Case Officer.
- b) Evidence of the misconduct will be sent to the Student Misconduct Officer/Case Officer who will write to the student in accordance with paragraph 18. Upon receipt of a response from the student, the Student Misconduct Officer/Case Officer or panel chair, who awarded the deferred penalty, will decide whether the deferred penalty **should** be put into immediate effect; or, given

the nature of the new allegation, whether further investigation is required to determine whether any additional penalties **should** be implemented

- c) If the student's conduct is not called into question during the period of the deferred penalty then, at the end of the period, the Student Misconduct Officer / Case Officer / panel secretary will confirm to the student that the penalty will not be imposed.

26. Appeals

- a) A student **may** appeal against:

- i. a finding that misconduct is proven; or
- ii. the penalty imposed by the Case Officer or Accommodation Disciplinary Panel,

On one or more of the following grounds:

- i. there is new evidence available which could not reasonably have been expected to be presented to the original hearing and which might reasonably be expected to have materially affected its decision;
 - ii. the student feels that the penalty is disproportionate; or
 - iii. the student can evidence that due process has not been followed.
- b) Any appeal **must** be submitted using the Accommodation Misconduct Appeal Form and any supporting evidence **must** be attached to the form. Any student wishing to appeal a decision taken following a misconduct investigation or an Accommodation Misconduct Panel **should** do so within 5 working days of the decision being communicated to them. Appeals submitted outside this time limit will not be considered other than in exceptional circumstances.
- c) The Director of Campus and Accommodation Services will decide whether such an appeal is within scope of the grounds above and, if deemed to be within scope refer for a Desktop Review or convene an Appeal Panel. The Director of Campus and Accommodation Services is the final arbiter of whether an appeal is within scope and whether exceptional circumstances exist.

Desktop Review

- d) A desktop review is a review of all the paper matter/evidence relating to the case and should be carried out in cases where Category B Misconduct is found to have been proven, this should be undertaken by the Head of Accommodation unless they have had previous involvement in the case, in such instances an equal or more senior member of staff shall complete the desktop review.
- e) Within two working days of being notified that a Desktop Review is required, the Head of Accommodation will instruct the Student Misconduct Officer/Case Officer to compile a summary report within 5 working days. A copy of the report will be sent to the student providing a further 5 working days for them to make any written representations regarding the report.
- f) The Head of Accommodation will then consider the report, evidence and written representations within 5 working days of receipt and;
- i. dismiss the appeal, and confirm the findings/penalties previously made/imposed; or
 - ii. allow the appeal, set aside the findings previously made, and order a fresh hearing (of all or part of the matter) by an alternative case officer.
 - iii. allow the appeal, and vary or dismiss the penalty previously imposed.
- g) For the avoidance of doubt, where a student appeals against a penalty, the Head of Accommodation **may**, if the appeal is allowed, impose a penalty more or less severe than that originally imposed.
- h) The Head of Accommodation must notify the student of the outcome of the appeal and the reasons for it in writing within 5 working days of considering the issue.

- i) The decision of the Head of Accommodation is final and there is no further opportunity for appeal against that decision within the university.
- j) A student who remains dissatisfied with the outcome of the decision of the appeal panel **may** be entitled to complain to the Office of the Independent Adjudicator for Higher Education (OIA). The Director of Campus and Accommodation Services will issue a Completion of Procedures letter at the close of the appeal stage to indicate that the student has exhausted the University's internal procedures. The letter will provide guidance on how to submit an appeal to the OIA.

Panel Review

- k) A panel review should be carried out where a finding that Category C Misconduct has been proven by an accommodation disciplinary panel.
- l) The panel **should** consist of at least two members of senior university staff (by either position or length of service), one of which **should** be the Director of Campus and Accommodation Services who will normally be the chair of the panel. No person who has been involved in the making, witnessing, or investigation of the allegation, or who was involved in the Accommodation Misconduct Panel, shall be a member of the appeal panel; and no panel member shall be from the school in which the student is registered.
- m) The appeal panel will be serviced by a suitable member of staff from within the university who has not previously been involved with the investigation of the case. This member of staff will act as the secretary to the panel.
- n) The panel will not hear the case afresh but will meet to undertake a review based on documentary evidence. The panel **may**, at its discretion, invite the Case Officer and student to attend, in which case both the Case Officer and student will have an opportunity to address the panel.
- o) The panel **may**, in respect of an appeal against findings that misconduct was proven:
 - iv. dismiss the appeal, and confirm the findings previously made; or
 - v. allow the appeal, set aside the findings previously made, and order a fresh hearing (of all or part of the matter) by a newly constituted misconduct panel.
- p) The panel **may**, in respect of an appeal against a penalty:
 - i. dismiss the appeal and confirm the penalty previously imposed; or
 - ii. allow the appeal, and vary or dismiss the penalty previously imposed.
- q) For the avoidance of doubt, where a student appeals against a penalty, the appeal panel **may**, if the appeal is allowed, impose a penalty more or less severe than that originally imposed.
- r) The secretary **must** notify the student of the outcome of the appeal and the reasons for it in writing within 5 working days of the date of the appeal panel considering the issue.
- s) The decision of the appeal panel is final and there is no further opportunity for appeal against that decision within the university.
- t) A student who remains dissatisfied with the outcome of the decision of the appeal panel **may** be entitled to complain to the Office of the Independent Adjudicator for Higher Education (OIA). The Director of Campus and Accommodation Services will issue a Completion of Procedures letter at the close of the appeal stage to indicate that the student has exhausted the University's internal procedures. The letter will provide guidance on how to submit an appeal to the OIA.

27. Conclusion or cessation of proceedings

At the conclusion of any case of alleged misconduct the record of the hearing and all proceedings will be kept by the Student Misconduct Officer. This will normally be retained for six years after the student ceases to be a registered student at the University, but **may** be retained for a longer period in more serious cases, if deemed necessary.

28. Audio Recording

The audio recording of meetings or hearings under this procedure is normally prohibited, unless this forms part of a request for a reasonable adjustment in accordance with the Equality Act 2010

29. Suspension of proceedings

At any stage of disciplinary proceedings against a student under these Regulations, the Director of Campus and Accommodation Services **may** direct that the proceedings be suspended for example;

- to enable the possibility of reconciliation between parties to be explored In such cases the Director of Campus and Accommodation Services **may** direct that proceedings be resumed if the matter cannot be informally resolved. or,
- if similar allegations are being investigated under any associated Regulations (paragraph 13).

30. Dismissal of proceedings

At any stage of disciplinary proceedings against a student under these Regulations the Director of Campus and Accommodation Services **may** direct that the proceedings be dismissed.

31. Closing a case

Upon conclusion of a case all involved parties **must** be informed of the closure of the case and where appropriate to do so, details should be given regarding the reason for the closure, however, consideration must be given to confidentiality and specific/personal details must not be provided unless it is a need to know basis.