

## Procedure for Student Criminal Offences<sup>1</sup> (“Procedure”)

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### 1. Introduction

- 1.1. Section 4 of Regulation XVII (Conduct and Discipline of Students) (<http://documents.manchester.ac.uk/display.aspx?DocID=6530>) (the “**Regulation**”) permits the University to take action when a student may have, or has, committed a criminal offence. Committing a criminal offence may constitute an act of misconduct under the Regulation as stated at paragraph 2(n) of the Regulation.
- 1.2. The University does not, in general, regard a criminal record to be an obstacle to studying at the University. However, the University is mindful of its duty of care towards all members of the University community and the need to provide a safe and secure environment for its staff, students, visitors and wider community. In addition, receiving a criminal conviction can have implications for students studying on professional programmes.
- 1.3. Where a student has been reported to the police, is undergoing criminal proceedings and/or receives a criminal conviction during their studies, then the University will, where such matters are known, assess how they may affect the student, the University and its community. In order to do so, the University will need to balance the duty of care and responsibilities towards those who may be affected by the student’s conduct with the interests and well-being of the student concerned.

### 2. General principles

- 2.1. The University does not act as the police or a court of law. The University’s disciplinary processes are designed to act in response to the types of misconduct outlined under section 2 of the Regulation. Taking disciplinary action is at the sole discretion of the University.
- 2.2. The investigative ability of the University is not the same as the police or courts e.g. forensic analysis and medical examinations are not available to the University.
- 2.3. The Regulation requires the University to reach conclusions on the ‘balance of probabilities’ and not the criminal standard of ‘beyond reasonable doubt’.

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<sup>1</sup> Any reference to a named officer in this Procedure should also be read as a reference to their delegated nominee.

- 2.4. The University can only take the actions available to it under the Regulation and associated procedures; where misconduct has occurred, the University can only impose the penalties it has available and which it considers proportionate. Paragraph 1.2 of the Regulation advises that the University's student disciplinary processes apply to students registered or studying at the University, inclusive of a period of leave. The Regulation does not apply to the conduct of former students (except in instances of academic malpractice or research misconduct) or staff.
- 2.5. The University's disciplinary processes are conducted on a confidential, need-to-know basis.
- 2.6. Where others are involved in reporting an issue to the University then, where practicable and necessary, they may need to have further involvement in the disciplinary process e.g. to act as a witness, to allow their disclosures to form evidence.

### 3. Conduct of concern

- 3.1. Whether an allegation of criminal conduct falls within the scope of the Regulation will depend on the nature and seriousness of the offence, the affect it has had or may have on the University and members of its community and the level of risk to the University and to others.
- 3.2. Where the University becomes aware of an allegation of criminal conduct, or a criminal conviction, relating to a student, then the processes set out in this Procedure will apply.
- 3.3. Students studying on professional programmes that may lead to registration with a Professional, Statutory or Regulatory Body (PSRB) must disclose any criminal matter to their programme team as it may affect the student's fitness to practise.
- 3.4. A staff member may become aware of a student being, or having been, investigated or prosecuted by the police or convicted by a court. This information may come to the member of staff's attention via various means, such as disclosure at a meeting, through email, in another student's complaint or publication in the media.
- 3.5. If a member of staff becomes aware of a potential criminal matter that is likely to be of concern to the University (see paragraph 3.1 of this Procedure), they can seek advice from their Authorised University Officer ("**AUO**"), as described in paragraph 7 of the Regulation, and the the Head of Campus Life ("**HoCL**") to determine whether further action is required under this Procedure. For students on professionally accredited programmes, then advice can be sought from the student's programme team to consider whether health and conduct/fitness to practise (or similar processes) need to instigated.
- 3.6. If the case relates to sexual misconduct, the Procedure for Handling Allegations of Sexual Misconduct (<http://documents.manchester.ac.uk/DocuInfo.aspx?DocID=42775>) should be instigated in the first instance.
- 3.7. If formal precautionary measures may be required at any stage of this Procedure, such as suspension of the Reported Student, then the case should be referred to the Head of Campus Life for consideration under the Procedure for Suspending a Student (<http://documents.manchester.ac.uk/DocuInfo.aspx?DocID=42771>). If a

student is on a professional programme within the Faculty of Biology, Medicine and Health, and may require suspension, then the Procedure for a Committee on Student Fitness to Practise (<http://documents.manchester.ac.uk/display.aspx?DocID=23997>) should be followed.

#### **4. Referral to the police**

- 4.1. Paragraph 4.1 of the Regulation allows the University to report concerns of criminal conduct to the police. If a member of staff is concerned a student has committed a criminal offence against, or affecting, the University or a member of its community, then whether a report should be made to the police will be assessed on a case-by-case basis. In making this assessment the staff member should consider (and should, where necessary, seek appropriate advice from the HoCL):
  - 4.1.1. The nature and seriousness of the alleged offence.
  - 4.1.2. The affect of the alleged offence on the health, safety and well-being of others.
  - 4.1.3. The reputation of the University.
  - 4.1.4. Any wishes expressed by the victim of the alleged offence.
- 4.2. The University may, depending on the circumstances of a case and following a risk assessment, determine that it is necessary to make a disclosure to the police in circumstances where that is contrary to the wishes of any individual who has reported the concerns or the victim of the alleged offence. In such circumstances, the University will ensure that the matter is dealt with sensitively and that all affected individuals are supported appropriately.

#### **5. Action taken by the University**

- 5.1. After the disclosure of a criminal matter of concern to the University has been made to the HoCL, the HoCL will gather information from any relevant parties (e.g. student, staff member, police), such as:
  - 5.1.1. The nature of the incident, including where it took place, dates of the incident and who may have been affected.
  - 5.1.2. Any decisions taken by the police or court, including any bail conditions.
  - 5.1.3. The student's academic record e.g. degree programme, year of study etc.
  - 5.1.4. A student's wellbeing needs, support access and any other relevant process they may have been subject to e.g. previous disciplinary hearings.
- 5.2. Parties internal to the University, including the student involved, are expected to act on any requests for information that may be made by the HoCL.
- 5.3. If meetings with those concerned are considered necessary, then reasonable notice of the requirement to attend a meeting will be provided and the attendee can be accompanied for support in keeping with paragraph 3.13 of the Regulation. Notes of meetings will be made.
- 5.4. Prior to and/or after the conclusion of any police/court processes, the HoCL (with input from relevant colleagues) will undertake a risk assessment by reviewing the information available to determine what action may be required by the University. This may include, for example, precautionary measures (such as suspension), disciplinary action or other conditions considered reasonably necessary for continued study and/or University access. The action the University decides to take will normally depend upon the nature and stage of external action by the police and

courts. Communication with those involved shall be by the HoCL as deemed necessary.

- 5.5. In keeping with section 4 of the Regulation, where an allegation of criminal conduct is being considered by the police and/or courts, the University will normally defer any formal disciplinary action until the conclusion of such processes. The University will still, however, determine whether any conditions for continued study or formal precautionary measures (such as suspension) are necessary. The University will also signpost students to appropriate support.
- 5.6. Where disciplinary action is required pursuant to the Regulation, this shall be through the Procedure for Summary Disciplinary Panels (<http://documents.manchester.ac.uk/DocuInfo.aspx?DocID=42773>) or Procedure for the University Disciplinary Panel (<http://documents.manchester.ac.uk/DocuInfo.aspx?DocID=42774>) depending on the seriousness of the case.
- 5.7. A decision not to prosecute by the police or a finding of not guilty by the court, does not preclude the University from taking internal disciplinary action if a definition of misconduct listed under the Regulation may have been breached.
- 5.8. Where a sentence has been imposed by the courts for the same set of circumstances as the allegation of misconduct being considered by a disciplinary panel, this may be taken into account during any risk assessment and disciplinary process.
- 5.9. If, following the risk assessment, a student is not referred for disciplinary action, the HoCL may make recommendations to the student or place conditions around the student's studies as considered reasonably necessary based on the circumstances of the case. Such conditions or recommendations may include:
  - A referral to support services.
  - Requiring the student to agree to an undertaking as to good future conduct at the University, including any conditions attached thereto e.g. not to contact a named person or engage in a particular activity.
  - Requiring fitness to study certification.
  - Determining when the student may be able to return to study (and the academic requirements upon their return).
  - Arranging a return to study meeting with the student's School.
  - Referral through the Policy on Supporting, Health, Fitness and Return to Study (<http://documents.manchester.ac.uk/display.aspx?DocID=37764>).

## **6. Custodial sentences**

- 6.1. Where a custodial sentence is less than 12 months in duration and the student has already been suspended by the University, then the suspension will remain in effect until the custodial sentence is at an end. Any future re-entry to the student's programme of study will be considered as part of the risk assessment described under section 5.
- 6.2. As interruptions are usually only granted for periods of 12 months or less, if a student receives a custodial sentence that is less than 12 months in duration, and they have not already been suspended, then their student record will show them as being on an interruption. Any future re-entry to the student's programme of study will be considered as part of the risk assessment described under section 5.

6.3. For custodial sentences of longer than 12 months in duration, the student may not be able to return to their studies. The risk assessment, described under section 5, should consider whether it is appropriate or practical for the student to return to study after the custodial sentence. If it is determined that it is not appropriate or practical for the student to return to study then the student will be notified in writing by the HoCL. The student will usually be entitled to an academic transcript and exit award based on their credit accumulation up until their last date of attendance. If a student is released from custody early, then consideration will be given to the revised custodial timeframe when completing the risk assessment.

6.4. For the purposes of the above paragraphs, the 12 month duration shall include any time spent in custody that a student serves when bail has been denied before a trial.

6.5. If a student wishes to challenge the decision to withdraw them as a result of paragraph 6.3, then they should be directed to do so via Regulation XVIII (Student Complaints Procedure) (<http://documents.manchester.ac.uk/display.aspx?DocID=1893>).

## 7. Document control

Document control box	
Policy / Procedure title:	Procedure for Student Criminal Offences
Date approved:	June 2019 (in effect September 2019)
Approving body:	Student Conduct and Discipline Committee
Version:	1
Supersedes:	2014 version
Previous review dates:	Unknown
Next review date:	Summer 2020
Related Statutes, Ordinances, General Regulations:	<ul style="list-style-type: none"> <li>Statute XXI (Conduct, discipline and academic progress of students)</li> <li>Regulation XVII (Conduct and Discipline of Students)</li> <li>Regulation XVIII (Student Complaints Procedure)</li> </ul>
Equality relevance outcome:	High / Medium (delete as applicable)
Related policies/procedures/guidance:	<ul style="list-style-type: none"> <li>Procedure for Handling Allegations of Sexual Misconduct</li> <li>Procedure for Suspending a Student</li> <li>Procedure for Summary Disciplinary Panels</li> <li>Procedure for the University Disciplinary Panel</li> </ul>
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### Amendment history

Version	Date	Reason for change
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1	06/2019	Update previous version to bring in line with updates to Regulation XVII