

## Student Disciplinary Procedure 2021-22

Approved by Senate, 1 September 2021

### 1. Introduction

- 1.1 This procedure is prescribed by Council in accordance with paragraph 20.4 of the General Regulations for Students and Programmes of Study.
- 1.2 The Academic Registrar or his/her nominee is responsible for providing guidance to students and others on the operation of this procedure. Any doubt over the interpretation of these procedures or any matter on which these procedures are silent shall be determined by the Chair of Council.
- 1.3 This procedure covers action taken by St George's against students for alleged misconduct, except where (a) this concerns Assessment Irregularity, for which a separate procedure is prescribed; and (b) where a case of alleged misconduct could also be considered under the *Procedure for Consideration of Fitness to Study or Practise*, when it will normally be considered under those procedures.
- 1.4 'Misconduct' is defined in the General Regulations at paragraphs 20.2 and 20.3.
- 1.5 Students subject to proceedings under these procedures may wish to obtain guidance from the President or Vice-President (Education and Welfare) of the Students' Union, their personal tutor(s) and current publications available on the St George's Website and Canvas (VLE).
- 1.6 In this procedure any named officer may delegate her or his responsibilities to another member of St George's; similarly, the procedure will not be invalidated if the role title named in the procedure has changed or a nominee acts in the place of another named in the procedure.

### 2. Procedure for alleged misconduct – initial (informal) stage

#### 2.1 Breach of rules for St George's facilities

- 2.1.1 A report of an alleged breach of rules for any specific St George's facilities by a student, including the Library, Computing Services and Halls of Residence, shall be made promptly to the Senior Officer of St George's responsible for the day-to-day operation of those facilities, if possible in writing. The person making such a report must identify themselves; the Senior Officer of St George's responsible for the day-to-day operation of those facilities will not consider any reports which are raised anonymously. In exceptional circumstances the senior officer of St George's responsible for the day-to-day operation of those facilities may permit the identity of a person making a report to remain confidential provided that this is consistent with the principles of natural justice.
- 2.1.2 The Senior Officer responsible for specific facilities shall investigate the report, interview the student where possible, and determine whether a breach of rules has taken place. In the case of a breach of rules which could not also be considered another type of 'misconduct' under General Regulation 20.3, the senior officer shall be

empowered to withdraw access to some or all of the facility for a limited period of time not exceeding one month or impose lesser penalties such as an admonishment/warning, loss of deposit or fine or compulsory attendance at a workshop/coaching session). Such penalty should be notified to the student in writing, and the student should have the opportunity to discuss the breach of rules and the penalty with the officer in charge, if this has not already taken place during the investigation.

2.1.3 In more serious cases of an alleged breach of rules for St George's facilities, which could also be considered another type of 'misconduct' under General Regulation 20.3, the senior officer responsible for the St George's facility shall refer the report to the Principal through the Academic Registrar or his/her nominee (see paragraph 3).

2.1.4 Where a student objects to the action of the senior officer under paragraphs 2.1.2-2.1.3, recourse may be had to the '*Student Concerns and Complaints Procedure*'.

## 2.2 Breach of other misconduct regulations

2.2.1 A report of alleged misconduct other than that relating to any specific St George's facilities by a student shall be made to the Academic Registrar or his/her nominee, if possible in writing. The person making such a report must identify themselves; the Academic Registrar or his/her nominee will not consider any reports which are raised anonymously. In exceptional circumstances the Academic Registrar or his/her nominee may permit the identity of a person making a report to remain confidential provided that this is consistent with the principles of natural justice.

2.2.2 If the alleged offence falls under the definition of misconduct in St George's Regulations, the Academic Registrar or his/her nominee shall notify both the student and the relevant Dean or Associate Dean, the relevant Head of the Graduate School or Course Director responsible for the student of the report. The Academic Registrar or his/her nominee shall attempt to establish whether the student admits to the misconduct and whether the alleged misconduct is considered by the Associate Dean, Head of the Graduate School or Course Director to be a potential serious breach of the misconduct regulations in the event that the allegation is upheld.

2.2.3 In the case of a minor breach of St George's rules or Regulations which is admitted by the student, the Academic Registrar or his/her nominee shall, if necessary after consultation with the relevant Dean or Associate Dean, relevant Head of the Graduate School, Course Director or other relevant senior member of staff, issue on their behalf a formal written admonishment to the student, and a formal written warning about future conduct and the requirement to abide by St George's rules and regulations. Any failure to comply with a written warning may be taken into account under future consideration of the matter under the Procedure. Where the Academic Registrar or his/her nominee finds that there is no or insufficient evidence of breach of misconduct regulations to proceed under this Procedure, this shall also be notified to the student in writing. If further evidence subsequently comes to light, St George's reserves the right to reconsider the matter under the Procedure.

2.2.4 Where the offence or alleged offence is considered by the relevant Dean or Associate Dean, relevant Head of the Graduate School or Course Director to be a serious case of misconduct, regardless of whether the student has been notified of the alleged offence or has responded to this notification, the Academic Registrar or his/her nominee shall refer the report to the Principal (see paragraph 3).

- 2.2.5 Where a student objects to the action of the Academic Registrar or any other member of staff under paragraphs 2.2.2-2.2.4, recourse may be had to the *Student Concerns and Complaints Procedure*, unless the matter is to be heard by a Hearing Committee under the formal procedures set out in paragraph 3 below.

### 3. Procedure for alleged serious misconduct – secondary (formal) stage

#### 3.1 Referral and Consideration of Suspension

- 3.1.1 In serious cases referred to the Academic Registrar or his/her nominee where there is a likelihood of criminal proceedings, the Principal may suspend the student (under paragraph 3.1.3) and may defer further action under the Procedure. St George's shall *not* deal with the matters which are likely to be the subject of criminal proceedings until these have been resolved.

*It is to be understood that St George's disciplinary procedure is an internal matter independent of police or court proceedings, although the outcome of these, if relevant, may be taken into account under the Student Disciplinary Procedure. In such cases neither St George's nor the student(s) concerned may choose to opt for St George's Disciplinary Procedures in place of legal proceedings, as this will be a matter for the Criminal Justice System.*

Universities UK and Pinsent Mason produced guidance for Higher Education Institutions – '*How to Handle alleged Student Misconduct with May Also Constitutes a Criminal Offence*' in October 2016. The guidance can be accessed at:

<https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2016/guidance-for-higher-education-institutions.pdf>

- 3.1.2 In any case of reported serious misconduct where the matter has resulted in a conviction in a criminal court this shall be taken as conclusive evidence that the alleged offence has occurred, and no investigation shall be required by the University. In such cases, any further action will normally be taken under paragraph 3.3.
- 3.1.3 For all other cases of alleged serious misconduct, a report of shall be made to the Principal through the Academic Registrar or his/her nominee, who shall act as Clerk in the matter. On receipt of such a report the Principal may provisionally suspend the student pending further investigation. In serious cases, a student may be provisionally suspended or be withdrawn from clinical placement pending further enquiry into an issue or incident. Suspension is not in itself a disciplinary measure, it is a precautionary measure that allows for an investigation to be carried out without the student being present in the University. Circumstances where a student may be provisionally suspended may include but are not limited to:
- When the presence of the student is not in the best interest of patients, the University or other students or staff employed by St George's. Alternatively, it may not be in the best interest of the student concerned;
  - Criminal charges have been brought against the student or there is evidence of suspected criminal activity which may affect the student's performance or suitability for continued enrolment on a programme of study;
  - When a student is subject to a fitness to practise or disciplinary investigation by a third party;

- When a student's health is impacting on their judgement and ability to study effectively or their interactions with patients, colleagues or fellow students.

The suspension will normally be reviewed at regular intervals.

- 3.1.4 St George's reserves the right to take no further action if there is insufficient evidence to support the allegation of misconduct.

### 3.2 Investigation

- 3.2.1 The Principal shall immediately appoint a disinterested senior member of St George's staff to be the Investigating Officer. The clerk to the case shall be a disinterested member of staff, drawn from senior staff within Professional Services. The clerk shall, within 5 working days of the report to the Principal, inform the student in writing (i) that a formal report has been lodged with the Principal, (ii) the details of the alleged misconduct, (iii) the identity of the Investigating Officer, and (iv) of any suspension imposed by the Principal.

- 3.2.2 The Investigating Officer shall gain as much information as possible about the allegation(s) of misconduct and shall, in the presence of another member of staff, interview the student, and if possible, the person who made the original report. The Investigating Officer may consult other students or members of staff as appropriate and make whatever further enquiries as appropriate, and shall prepare a detailed report. Notes shall be kept of all interviews and lodged with the Clerk. The Investigating Officer should act according to the provisions of the "*Investigating Officer Protocol*" at all times during his/her investigation. The Investigating Officer shall, normally within 15 working days of his or her appointment, prepare a detailed report for the Principal on the circumstances with a recommendation for further action, including whether the case should be considered by a Hearing Committee.

- 3.2.3 i) Where the student admits to the misconduct, the Principal may resolve the matter him or herself. Penalties may include:

- a) No further action
- b) A formal written warning about future conduct
- c) A formal written admonishment for misconduct
- d) A behavioural contract with the University
- e) A fine of not less than £50 but not exceeding £250 per offence
- f) A requirement to make good the cost in whole or in part of any damage caused, and/or repay/make good any financial loss to the University
- g) Compulsory attendance at an appropriate workshop
- h) Temporary or permanent exclusion from the use of specific University facilities or services
- i) A requirement to apologise in person or in writing either directly or indirectly to specific individuals impacted by the disciplinary offence
- j) A requirement to undertake community service (in line with related University protocols and health and safety requirements)

These penalties may be applied singly or in combination. The Investigating Officer and the Principal shall decide whether it is expected that students will declare any penalty to a professional body (GMC, HCPC, NMC) or current or future employer. This decision will take into consideration any guidance issued by the relevant professional regulatory body.

ii) Alternatively, the Principal may establish a Disciplinary Hearing Committee on behalf of Senate, or in the case of medical students in Penultimate Year, Transition Year or Final Year a Fitness to Study and Practise Hearing Committee, to further review the original report and decide on any appropriate penalty.

iii) Where the Investigating Officer reports that there is a *prima facie* case of misconduct but the student contests the allegation, the Principal shall establish a Disciplinary Hearing Committee on behalf of Senate, or in the case of medical students in Penultimate Year, Transition Year or Final Year a Fitness to Study or Practise Hearing Committee if considered appropriate.

A referral to a Fitness to Study or Practise Hearing Committee shall be considered in cases where the misconduct is serious enough to call into question the student's fitness to continue on the MBBS course and/or to practise in the medical profession.

See section 3.3 for further information on referrals to Disciplinary Hearing Committees.

See section 3.2 of the *Procedure for Consideration of Fitness to Study or Practise* for further information on referrals to Fitness to Study or Practise Hearing Committees.

- 3.2.4 The Academic Registrar or his or her nominee shall, within 5 working days of the receipt of the Investigating Officer's report, notify the student in writing of (i) the outcome of the investigation (this should include for how long details of the case should remain on the student's file and who within or outside the institution will be informed of the case), (ii) whether the matter is to be referred to a Hearing Committee, (iii) any cessation, continuance or alteration of any suspension of studies arising from the Investigating Officer's report. Where the matter is not to be taken any further, the student shall be notified of this. If further evidence of misconduct subsequently comes to light, St George's reserves the right to reconsider the matter under the Procedure.

### 3.3 Referral to Disciplinary Hearing Committee

- 3.3.1 Where a Hearing Committee is to be appointed, it shall normally reach its conclusions within three months of the report of alleged misconduct to the Principal. The Hearing Committee shall consist of:

- (i) A senior member of St George's academic staff who shall be appointed to the Chair;
- (ii) A member of Council not being a person employed by St George's or a lay member;
- (iii) A member of Academic Staff not being a member of Council and not previously concerned with the complaint who shall be appointed by the Chair of Senate under powers delegated by Senate.

The Academic Registrar or his/her nominee will attend to advise on procedure but shall not be entitled to participate in decision making and/or the deliberations of the Hearing Committee.

- 3.3.2 Written notice of the matter shall be sent to any student whose case is referred to the Hearing Committee by post to the address of the student currently recorded in the Registry. The clerk to the Committee shall notify the student and officer of St George's nominated by the Principal to present the University's case – hereafter called the parties – of the identity of the Committee members and the date of the proposed hearing. St George's – through the clerk to the Committee – shall send to the student the papers it intends to rely upon at the hearing at least 15 working days prior to the

hearing date. The student shall then have until 5 working days before the hearing date to respond in writing and submit to the committee members and the officer presenting St George's case (through the clerk to the committee) any other papers on which he or she intends to rely.

### 3.3.3 Conduct of the Disciplinary Hearing Committee

The parties will be required to attend the hearing in person. In the event that a student indicates a wish to withdraw from the University rather than face the Hearing Committee, the Chair of Senate may reject the application to allow for the Committee to hear the case. If either party fails to attend without reasonable explanation, the Committee may consider the case in their absence. The Chair will have discretion as to what constitutes a 'reasonable explanation'. Information about medical and healthcare students in cases of proven serious misconduct by the University, but who left St George's voluntarily, may be shared between Universities and professional bodies provided that an investigation has taken place and a judgment has been recorded. Information will also be shared in cases where disciplinary hearings have been held 'in absentia'.

3.3.4 The student shall have the right to be accompanied by a friend, relative, Students' Union officer or other representative. The Officer Presenting the St George's case shall also have the right to be advised and represented. Any party intending to be accompanied or represented must notify the clerk to the committee within 5 working days of the hearing of:

- (i) the identity of any third party attendees; and
- (ii) the capacity in which they will attend, to enable parity of representation, if desired.

Members of staff, students and others relevant to the case may be asked to give evidence to the hearing by either party. The Committee may also call upon other persons (whether or not a current member of St George's) to provide advice on specific aspects of the case in writing or in person.

3.3.5 The hearing shall be conducted as a formal committee rather than as a quasi-judicial hearing. The Committee members shall take the leading role in asking questions and the Chair shall have discretion to allow flexibility in procedures aimed at ensuring that all parties are able to present their arguments and evidence, and the Committee members have a full and fair understanding of these. The detailed procedure for the Committee hearing shall be at the discretion of the Chair, but shall include provision for: an initial private meeting of the Committee members, explaining the procedures to be followed; introducing those present and their role; explaining the powers of the Committee; allowing each party to make a statement and call witnesses; other persons (as referred to in paragraph 3.3.2) to make a statement; questions to be asked of the parties, witnesses and other persons by Committee members; discretion by the Chair to allow reciprocal questioning by the parties.

3.3.6 At the conclusion of the presentation of statements and evidence, all persons except members of the Committee shall withdraw, except that the clerk to the Committee may attend to give procedural advice, which will be recorded in the Committee's report. As the internal disciplinary process is an internal, civil matter, the standard of proof will be the balance of probabilities. The members of the Committee shall deliberate on their conclusions and recommendations and shall produce a written report, giving reasons for any decisions, including any penalty.

### 3.3.7 Powers of the Disciplinary Hearing Committee

The Committee may investigate any associated relevant issues and shall produce a written report of its findings, including whether it finds the student guilty of misconduct and if so, what penalty is to be imposed.

The following outcomes are open to the Disciplinary Hearing Committee:

- a) No further action
- b) A formal written warning about future conduct
- c) A formal written admonishment for misconduct
- d) A fine of not less than £50 but not exceeding £500 per offence
- e) Temporary or permanent exclusion from the use of specific University facilities or services
- f) *Conditions* – A condition is imposed when the Panel have significant concern about the student but feel that she or he may respond positively to remedial tuition, health intervention or increased supervision. Conditions should be proportionate, workable and measurable. Conditions may require the student to re-sit a specified part or parts of the course or any other action considered appropriate by the Committee to prevent further incidents of misconduct.
- g) *Suspension* – This prevents a student from continuing on their programme for a specified time and stops them from graduating at the expected time. This is applied to behaviour that is serious but not serious enough to require expulsion. After the suspension has expired the student may return under the supervision of the Student Progress Monitoring Committee.
- h) *Expulsion* – The Panel can expel a student from the programme in cases of serious misconduct. The Committee must decide whether the student is eligible for an exit qualification.

*These outcomes may be applied singly or in combination, for example a suspension in conjunction with conditions and a fine. Course Teams are responsible for monitoring students' compliance with any outcomes set by the Hearing Committee. Failure to adhere to a warning or condition will be taken into account by the Principal, Dean or Chair of the Hearing Committee who will determine whether a breach of the terms has taken place. The Principal, Dean or Chair of the Hearing Committee are empowered to enact any recommendations for future action as set out in the Hearing Committee report or to terminate a student's registration. Right of appeal against this decision is provided for in paragraph 4.*

3.3.8 In the case of students on programmes leading to professional registration, penalties will be reported to the GMC at the time of application for provisional registration (or NMC or HCPC at the time of application for healthcare students). Where St George's reasonably believes that there may be a real risk to the public should that individual be allowed to become a registered health or medical professional, sanctions and expulsion will be reported to professional bodies, employers and other Higher Education Institutions.

3.3.9 The clerk to the Committee shall, within 10 working days of the date on which the Committee met, send in writing to the parties the findings and decision of the Committee. The letter to the student will be sent to the address of the student currently recorded in the Registry. The findings and decisions of the Committee shall also be sent to the Chair of Council, the Chair of Senate, the Director of Governance, Legal and Assurance Services for formal report to the next meeting of Council and the Deputy Director of Governance, Legal and Assurance Services for formal report to the next meeting of Senate.

#### 4. **Appeal**

- 4.1 A student may request the Chair of Council to review the case and establish an Appeals Committee, on one or more of the grounds specified in paragraph 4.2 below. Notice of appeal must be lodged in writing with the Director of Governance, Legal and Assurance Services (who will act as or who will appoint a Clerk) within 10 working days from the date of notice of the decision of the Committee.
- 4.2 The Chair of Council or his/her nominee shall establish an Appeals Committee if he or she considers that one or more of the following grounds apply:
- (a) there is relevant and substantial new evidence available which could not reasonably have been brought to the attention of the Hearing Committee;
  - (b) there has been a procedural irregularity of sufficient weight during the Hearing Committee stage to suggest that the outcome would not have been the same had it not occurred;
  - (c) the recommendation of the Hearing Committee was manifestly unreasonable.

If an Appeals Committee is to be established, a student who has been suspended shall remain so, save in exceptional circumstances at the discretion of the Chair of Council.

- 4.3 The procedure for the Appeals Committee shall be as specified in the document '*Student Appeals Committee Procedure*' approved by Senate.
- 4.4 The decision of the Chair of Council or his/her nominee not to appoint an Appeals Committee, or any decision made by an appointed Appeals Committee on behalf of the Council, shall be final and shall conclude St George's Internal Complaints Procedure. This decision shall be communicated to the Academic Registrar or his/her nominee and the Director of Governance, Legal and Assurance Services shall inform the student in writing of the Completion of Procedures within 10 working days of this decision being taken.
- 4.5 If following receipt of the appeal decision under the Student Disciplinary Procedure the student remains dissatisfied, it is open to the student to make a complaint to the OIA. The Completion of Procedures letter will indicate how to make such a complaint, and details are also available on the OIA's website ([www.oiahe.org.uk](http://www.oiahe.org.uk)).

#### 5. **Support and Behavioural Expectations**

- 5.1 Students who are entered into the Student Disciplinary Procedure are entitled to be supported or accompanied by a third party. Students subject to proceedings under these procedures may wish to obtain guidance from the President or Vice-President (Education and Welfare) of the Students' Union or their Personal Tutor(s).
- 5.2 Students are encouraged to respond to all communication from the University (verbal and written) directly and not through a third party except in exceptional circumstances or where diagnosed disability reasonably prevents them from being able to do so. Students must advise the University in writing if they wish St George's to communicate with an appointed representative.
- 5.3 Students are responsible for their own behaviour and that of any supporter or representative appointed by them to present their case to the University. Abusive or disrespectful behaviour towards University staff will not be tolerated under any circumstances and may result in internal procedures being brought to a close.

6. **Record Keeping**

- 6.1 All staff are encouraged to record and document on the student file held in the Registry, Joint Faculty or CPPD Office, all actions and decision making taken by St George's from the day the incident is reported up until any criminal and/or disciplinary processes have been concluded. Such records will enable new decisions to be made effectively and allow for previous decisions to be reviewed and reconsidered where appropriate.

*\*These procedures will not be invalidated if the role title named in the procedure has changed or a nominee acts in the place of another named in the procedure.*