

Procedure for considering complaints raised by staff and students relating to Free Speech and Academic Freedom

(A) Background

This Procedure has been created to provide an appropriate process and forum for addressing grievances and complaints raised by staff and students of the University involving issues relating to Free Speech and Academic Freedom. This Procedure sits alongside the University's existing mechanisms for considering staff and student grievances and complaints.

This Procedure sets out the process to investigate grievances and complaints and to issue a **Local Stage decision** under the **Student Complaints Procedure** or an **Outcome** under the **Staff Grievance Procedure**. Any review of or appeal against that decision will be taken under the relevant procedure.

(B) Definitions

<i>Academic Freedom</i>	<p>The freedom within the law that academic staff at higher education providers have to question and test received wisdom; and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs or privileges they may have at the provider.</p> <p>Academic Freedom is one of the public interest governance principles which apply to all registered higher education providers in England.</p>
<i>Freedom of Speech</i>	<p>The right to lawfully express views without fear of censorship.</p> <p>Freedom of Speech is one of the public interest governance principles which apply to all registered higher education providers in England.</p>
<i>Institutional Autonomy</i>	<p>The freedom within the law that higher education providers have to conduct their day to day management in an effective and competent way; to determine the content of particular courses and the manner in which they are taught, supervised and assessed; to determine the criteria for the selection, appointment and dismissal of academic staff and apply those criteria in particular cases; to determine the criteria for the admission of students and apply those criteria in particular cases; and academic freedom.</p>
<i>Staff</i>	<p>An individual employed by the University.</p>
<i>Student</i>	<p>An individual registered as a student at the University.</p>

(C) Context

(i) Procedures and wider duties

This Procedure should be read in conjunction with its **Guidelines** together with the University's:

General

- [External Speakers Procedure](#)
- [Freedom of Speech Code of Practice](#)
- [Acceptable Behaviour Policy Statement](#)

Staff

- [Acceptable Behaviour at Work Policy](#)
- [Ordinance 10.4 Staff Conduct Procedure](#)
- [Staff Grievance Procedure](#)

Students

- [Student Complaints Procedure](#)
- [Student Disciplinary Regulations](#)

This Procedure has regard to the University's legal duties under:

- Counterterrorism and Security Act 2015
- Education Act (No.2) 1986
- Education Reform Act 1988
- Equality Act 2010
- Higher Education Act 2004
- Higher Education and Research Act 2017
- Human Rights Act 1998 (and Article 10 of the European Convention on Human Rights)

This Procedure also has regard to the:

- ACAS Code of Practice on disciplinary and grievance procedures
- Good Practice Framework, Office of the Independent Adjudicator for Higher Education (OIA(HE))

(ii) Timeframes

Grievances or complaints must be brought promptly. The University will not accept grievances or complaints that are submitted more than 30 days after the matters complained about unless, there are good reasons for the delay.

The University will consider complaints raised under this procedure without unreasonable delay and will have regard to the normal timeframes for conclusion of formal student complaints within 90 calendar days as set out in the OIA(HE) Good Practice Framework. For most student complaints cases we would expect the 90 day time period to be sufficient to conclude a complaint. However cases involving free speech/academic freedom are complex and there may therefore be good reasons why it may take longer to consider such complaints.

The University will keep both student(s) and staff who make a complaint under this Procedure informed of progress of their complaint.

(iii) Support and Advice

Staff: please read the "[Grievance Procedure & Request for Resolution Guidance](#)" which has been developed to support you through the Staff Grievance Procedure. All staff may access support through the [Employee Assistance Programme](#). If you are a member of a Trade Union, you can seek advice or support from your trade union at an early stage and it can be helpful to involve them in informal resolution where appropriate.

Students: University services such as the [Student Wellbeing Service](#) can provide advice and support to students experiencing difficulties. Students can also access independent advice and guidance from the [Bristol SU Academic Advice Team](#).

1. Introduction

- 1.1 Working and studying at the University offers a unique opportunity to engage in open and free debate from all sides including on issues of political, scientific, moral, ethical and religious significance. Whilst there is freedom to challenge or debate the law, moral or other issues, such debate must take place within the framework of our [Freedom of Speech Code of Practice](#) and within the framework of the law of England and Wales.
- 1.2 Academic Freedom is an essential component of Institutional Autonomy and is, alongside Freedom of Speech, necessary to enable higher education providers to contribute independent, informed and creative ideas to society. The University has a legal duty to respect the lawful exercise of Academic Freedom.
- 1.3 The University recognises that where a member of staff or student disagrees with a point of view they may engage in peaceful protest, notwithstanding that such protest may be offensive to those who are putting forward ideas for debate. The University encourages a tolerant environment for the exchange of ideas and the cultivation of knowledge so that all participants may express their views lawfully and, where necessary, demonstrate rational disagreement.
- 1.4 The University has a legal duty to uphold lawful free speech and to intervene to discourage and challenge unlawful speech including that which discriminates on race, disability, sex, age, gender identity, transgender status, religion or sexual orientation or is otherwise in breach of our Acceptable Behaviour at Work Policy and/or Acceptable Behaviour Policy Statement.
- 1.5 **Appendix 1** comprises a flow chart explaining each step of this Procedure.

2. Aims and Scope

- 2.1 This Procedure aims to:
 - (a) ensure that free and frank intellectual exchanges may take place at the University, in a tolerant and respectful manner even where some may find the ideas offensive.
 - (b) provide a clear and transparent framework to deal with grievances or complaints raised by staff or students under the **Student Complaints Procedure** or the **Staff Grievance Procedure** in relation to matters of unacceptable behaviour that arise in the context of Freedom of Speech and/or Academic Freedom; and

(c) achieve an appropriate and timely resolution to individual grievances and complaints.

2.2 This Procedure cannot be used:

(a) if you are a member of staff and your complaint relates to matters that are already being considered pursuant to another University policy or procedure;

(b) to bring a grievance or complaint based only on disagreement with the views of a member of the University or their academic research;

(c) after employment has ended or you have ceased to be eligible to raise a complaint under the Student Complaints Procedure.

3. Safeguards and Confidentiality

(a) Confidentiality

3.1 An appropriate level of confidentiality is fundamental to the operation of an effective complaints process and must balance transparency and the requirements of natural justice against a legitimate expectation of personal privacy. In order to ensure the integrity of the process, all parties involved in the operation of this Procedure including those who are the subject of the complaint, those bringing the complaint, any witnesses and those operating the Procedure must ensure that they maintain an appropriate level of confidentiality.

3.2 In imposing an expectation of confidentiality, the University recognises that it may be necessary and therefore appropriate for those involved in this Procedure to share certain confidential information with third parties, as set out below.

3.3 The University may disclose information:

(a) to those who need to know in order to discharge their responsibilities at work;

(b) where it considers that disclosure is necessary in the interests of health and safety at work or the welfare of other staff, students or the public;

(c) where disclosure is required by law;

(d) to witnesses and/or attendees at the meetings within the Procedure to carry out this Procedure and any other procedure (including under the Student Disciplinary Regulations or Staff Conduct procedure) relating to the complaint;

(e) to its professional advisers for the purposes of obtaining advice;

(f) to relevant sector bodies such as the OIA(HE) or the University's regulator, the Office for Students.

3.4 Students and Staff who make a complaint or who are complained about under this procedure may disclose information:

(a) to professional advisers, including Trade Union Representative and Bristol SU Academic Advice Service for the purpose of obtaining advice;

(b) to family members (on the basis that those family members maintain confidentiality) and the University's support services for the purpose of obtaining guidance and support;

(c) to relevant sector bodies such as the OIA(HE) or the University's regulator, the Office for Students.

(b) Safeguards

- 3.5 The University aims to promote a culture in which individuals feel confident to raise their concerns. Consequently, anyone raising a grievance or complaint is expected to identify themselves. No action against a particular member of Staff or Student will be taken about any matter that has been reported anonymously unless it is possible to verify the matter reported.
- 3.6 The investigation process under this Procedure may require that the source(s) of the information and the complainant(s) provide a statement as part of the evidence or to assist in further investigations. It is normally expected that such information is given without being anonymised. Accordingly, unless there are exceptional circumstances a person raising a grievance or complaint should expect to be identified in the investigation process and any associated process.
- 3.7 Even if the identity of the complainant(s) and/ or other sources of information has not been revealed in the investigation it may not be possible for a disciplinary hearing to take place or a sanction to be imposed without such identification taking place.

4. Early Resolution

- 4.1 This Procedure encourages informal resolution of all grievances and complaints and recognises the potential for resolving informally any issue relating to Free Speech or Academic Freedom. Staff and students are encouraged to seek Early or Informal Resolution of their concerns as set out in the **Staff Grievance Procedure** and the **Student Complaint Procedure**.

5. Formal Procedure

(a) Raising your complaint

- 5.1 Where a grievance or complaint raised is not capable of informal resolution, or informal resolution has not been successful staff or students should raise their grievance or complaint formally under either the Staff Grievance Procedure or the Student Complaints Procedure using the appropriate form (collectively referred to in this Procedure as the **Complaint Form**), see below:

Complainant	Process and Form for raising Complaint
Staff Complaint about a member of staff	Staff Grievance Procedure submit Request for Resolution Form to your Line Manager
Staff Complaint about a student	Student Complaints Procedure submit Staff Complaint Form: Allegation of unacceptable behaviour by a student to student-complaints@bristol.ac.uk
Student Complaint about a student	Student Complaints Procedure submit Acceptable Behaviour Form to student-complaints@bristol.ac.uk

Student Complaint about staff	Student Complaints Procedure submit Acceptable Behaviour Form to student-complaints@bristol.ac.uk
Joint Staff and Student Complaint about staff	Staff Grievance Procedure submit Request for Resolution Form to member of staff's Line Manager
Joint Staff and Student Complaint about student	Student Complaints Procedure submit Staff Complaint form: Allegation of unacceptable behaviour by a student to student-complaints@bristol.ac.uk

- 5.2 **Students:** On receipt of your Complaint Form, if the Student Complaints and Mediation Manager (SCMM) considers that your complaint should be considered under this Procedure they will contact you within 7 days to acknowledge receipt and to confirm that your complaint has been referred to an Assessor.
- 5.3 **Staff:** On receipt of your Complaint Form, if the Appropriate Manager considers that your grievance should be considered under this Procedure they will contact you within the time periods set out in the Staff Grievance Procedure to acknowledge receipt and to confirm that your complaint has been referred to an Assessor.

(a) The Role of the Assessor

5.4 The role of the Assessor is to:

- (a) consider whether informal resolution is appropriate and, if so, to put forward such resolution;
- (b) if no informal resolution is possible, to carry out the procedural steps identified as theirs within the Procedure set out below This may include, where they consider it appropriate, referral to the Academic Freedom Committee and a Panel concurrently;
- (c) decide, following a report from a Panel (see Section 7 below), whether formal action will be taken under either the Staff Conduct Procedure or the Student Disciplinary Procedure and provide information to the complainant(s) as set out in Appendix 2;
- (d) consider whether the concern raised amounts to a matter that the University is required to report to any regulator and/or funder and, if appropriate, report the matter to the regulator and/or funder at the appropriate stage(s) of the process in accordance with the relevant reporting requirements;
- (e) to keep the complainant(s) and the individual(s) against whom the complaint is made informed of the progress of the complaint under this Procedure.

(b) Procedure

5.5 On receipt of the Complaint Form the Assessor will:

- (a) arrange to meet with the complainant(s) to explore the complaint further, to seek to understand the nature of the complaint and any supporting evidence and to explain the next steps in the Procedure;

(b) arrange to meet with the individual(s) against whom the grievance or complaint is raised to seek to understand any response to it and any supporting evidence, and to explain the next steps in the Procedure;

(c) if the Assessor considers that there is at this stage an opportunity to resolve the matter, they are able to raise this and make a proposal for resolution, this might include, for example a referral to [mediation](#);

(d) if the Assessor proposes a resolution at this stage of the Procedure this will be either:

(i) a **Local Stage decision**; or

(ii) an **Outcome**.

Thereafter, any further steps in relation to the grievance or complaint are as set out in the Staff Grievance Procedure or the Student Complaint Procedure and the Complainant(s) may, if they are dissatisfied with the outcome, refer the matter for review/appeal under the applicable procedure.

(e) If no resolution is possible at this stage the Assessor will refer the matter to the **Academic Freedom Committee** to consider whether any issues raised are properly regarded as within the legitimate bounds of Academic Freedom.

(f) On receipt of the determination by the **Academic Freedom Committee**, the Assessor may either:

(i) inform the complainant(s) of the determination and issue an Outcome or a Local Stage decision and that any further steps in relation to the complaint are as set out in the relevant procedure; or

(ii) refer the matter to a Panel for investigation and inform the parties to the grievance or complaint that this has been done.

6. The Panel Investigation

(a) The Role of the Panel

6.1 The Role of the Panel is:

(a) to investigate any matter referred to them by an Assessor; and

(b) decide whether:

(i) there is a case to answer;

(ii) there is no case to answer; or

(iii) the matter should be considered under an alternative procedure.

(b) The Composition and Remit of the Panel

- 6.2 The Panel will normally consist of three members: someone unconnected with the concern raised who is a member of the school or faculty of the person(s) complained about, a member of the University from outside the faculty and a Senior member of academic or professional service staff (as appropriate) who shall chair the Panel.
- 6.3 Members of the Panel will have had no previous direct involvement with the matter complained about. Where the complaint relates to a research interest of the individual(s) complained about, where possible, at least one member should have some knowledge of the relevant field of research.
- 6.4 The individual(s) against whom the allegation is made shall be informed of the decision to appoint a Panel and shall be given the opportunity to comment on the proposed membership of the Panel.
- 6.5 The Panel shall require the production of such records and other information as are necessary to enable the investigation to proceed.
- 6.6 The Panel may interview the complainant(s), the individual(s) against whom the complaint has been raised together with anyone else who may have relevant information.
- 6.7 On completion of its investigation, the Panel will produce a report setting out its findings and shall give the report to the Assessor.

7. Action by the Assessor following the Panel's report

- 7.1 On receipt of the report from the Panel, the Assessor will issue either an Outcome or a Local Stage decision setting out what, if any, action should be taken in respect of the individual(s) about whom the complaint was made. This may include:

(a) in a case involving a grievance or complaint against a member of **Staff** deciding that:

- (i) No action should be taken.
- (ii) The concerns may be addressed through early action under Ordinance 10.4.
- (iii) The matter should be dealt with under a different procedure.
- (iv) The matter should proceed to formal action under Ordinance 10.4.

(b) in a case involving a complaint against a **Student** deciding that:

- (i) no action should be taken;
- (ii) the matter should be referred to the **Vice-Chancellor's delegate** for them to consider whether, under the Student Disciplinary Regulations, the matter should be dealt with summarily or referred to a **disciplinary committee** under those Regulations.

8. Information given by the Assessor to the complainant(s) following their decision under paragraph 7

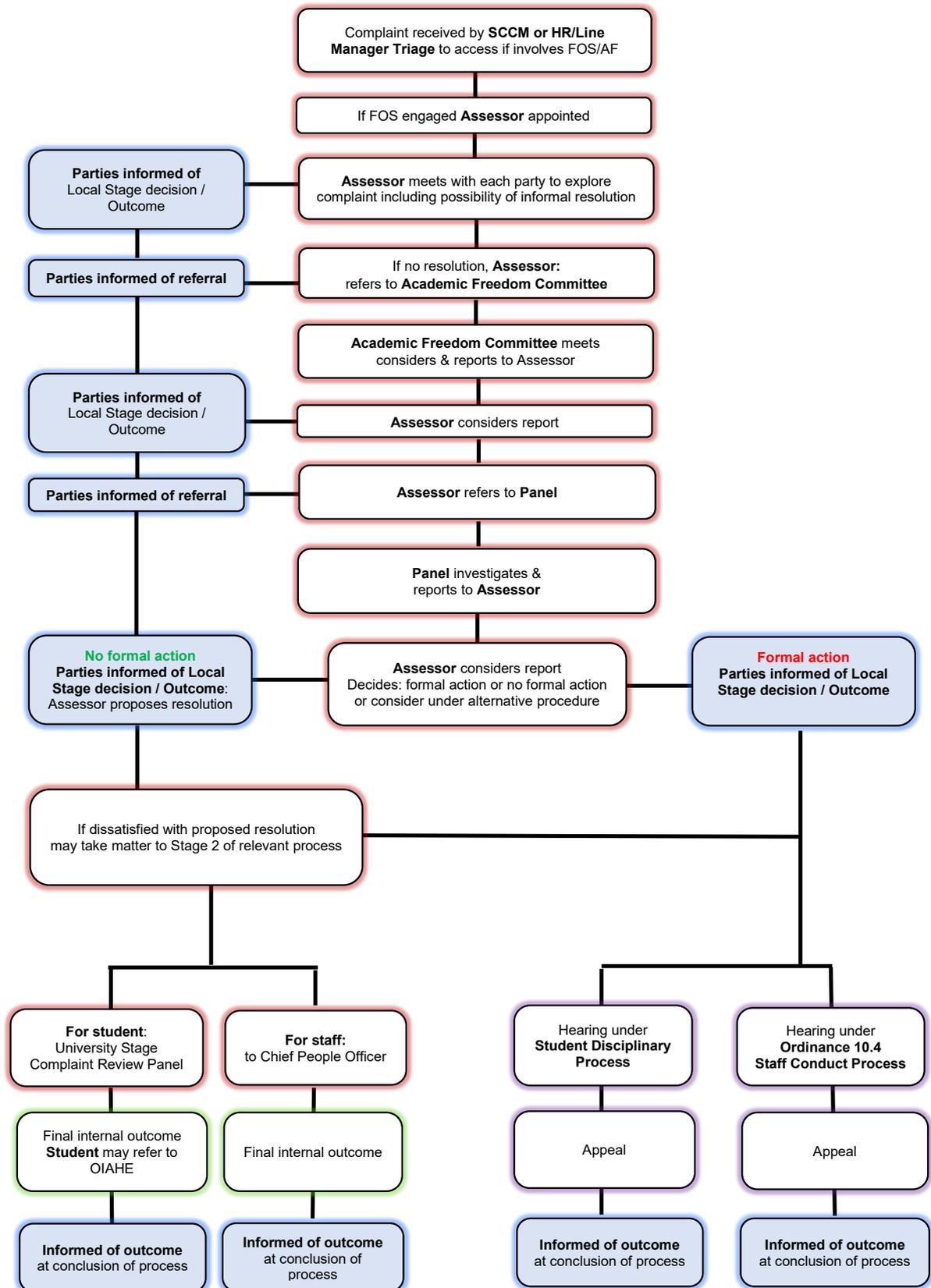
- 8.1 **Appendix 2** sets out:

- 8.1.1 the information that may be given to the complainant(s) and to the individual(s) complained about at this stage of the Procedure;
 - 8.1.2 the status of that information; and
 - 8.1.3 next steps for the complainant(s).
- 8.2 If a complainant is dissatisfied they may take their complaint further by making an appeal under the Staff Grievance Procedure or seeking a review of the decision under the Student Complaint Procedure, as appropriate.

9. Information given by the Assessor to complainant(s) after conclusion of Staff or Student disciplinary procedures (including any appeal)

- 9.1 **Appendix 3** sets out:
- 9.1.1 the action and possible outcomes under the Staff and Student disciplinary procedures; and
 - 9.1.2 the information that may be given to the complainant(s) at this stage of the Procedure.
- 9.2 The information that complainant(s) will receive depends on the nature of the disciplinary action taken.
- 9.3 In all cases, the complainant(s) can expect to receive:
- 9.3.1 confirmation of whether the matters complained of amounted to misconduct;
 - 9.3.2 a summary of any good practice improvements identified by the University.
- 9.4 Where informal measures are identified or Formal Action is taken, the complainant(s) can also expect to receive:
- 9.4.1 a summary of any identified actions to support and/or protect those affected by the issues raised and / or prevent recurrence; and
 - 9.4.2 where relevant confirmation that Formal Action has been taken.
- 9.5 It should be noted that Formal Action taken under either the Staff or Student Disciplinary procedures is subject to a right of appeal.

Appendix 1: Freedom of Speech Complaint Flow Chart



APPENDIX 2

Information Given to Complainant after Assessor's Decision under Section 8 of the Procedure

(1) Staff Complaint about a member of Staff (including a joint complaint by staff and students)

Decision made	Information to be given by the Assessor	Next steps and information given under other procedures
<p>No action should be taken.</p>	<p>Finding that there was no case to answer, the matters complained of did not amount to misconduct - Complaint dismissed. No action taken.</p> <p>Assessor will write to both parties informing them of this, highlighting the support available to them and any identified good practice improvements</p>	<p>This is an Outcome under section 5 of the Staff Grievance Procedure.</p> <p>The Complainant(s) may appeal the outcome under Section 6 of the Staff Grievance Procedure.</p>
<p>The concerns may be addressed through Early Action under Ordinance 10.4.</p>	<p>Finding that there was no case to answer, the matters complained of did not amount to misconduct - Complaint dismissed. No formal action taken.</p> <p>Assessor will write to both parties informing them of this, highlighting the support available to them and any identified good practice improvements.</p>	<p>This is an Outcome under section 5 of the Staff Grievance Procedure.</p> <p>The Complainant(s) may appeal the Outcome under Section 6 of the Staff Grievance Procedure.</p>
<p>The matter should be dealt with under a different procedure.</p>	<p>Finding that the matter was not a conduct issue and should be considered under a different procedure. Confirmation of which procedure has been triggered, if appropriate.</p> <p>Assessor will write to both parties informing them of this, highlighting the support available to them and any identified good practice improvements.</p>	<p>This is an Outcome under section 5 of the Staff Grievance Procedure.</p> <p>The Complainant(s) may appeal the Outcome under Section 6 of the Staff Grievance Procedure.</p>

<p>The matter should proceed to formal action under Ordinance 10.4.</p>	<p>Finding that there was a case to answer, the matters complained of may amount to misconduct.</p> <p>Assessor will write to both parties informing them of this.</p> <p>In the case of the Complainant(s), explaining any role they may have in the process under Ordinance 10.4 including whether they may be required to give evidence, highlighting the support available to them any identified good practice improvements.</p>	<p>This is an Outcome under section 5 of the Staff Grievance Procedure.</p> <p>The Complainant(s) may appeal the Outcome under Section 6 of the Staff Grievance Procedure.</p>
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(2) Student Complaint about a member of Staff

Decision made	Information to be given by the Assessor	Next steps and information given under other procedures
<p>No action should be taken.</p>	<p>Finding that there was no case to answer, the matters complained of did not amount to misconduct - Complaint dismissed. No action taken.</p> <p>Assessor will write to both parties informing them of this, highlighting the support available to them and any identified good practice improvements.</p>	<p>This is a Local Stage decision under the Student Complaint Procedure.</p> <p>The Complainant(s) may refer the matter to the University Stage of the Student Complaints Procedure.</p> <p>Thereafter the matter will be considered under the Student Complaints Procedure.</p>
<p>The concerns may be addressed through Early Action under Ordinance 10.4.</p>	<p>Finding that there was no case to answer, the matters complained of did not amount to misconduct - Complaint dismissed. No formal action taken.</p> <p>Assessor will write to both parties informing them of this, highlighting the support available to them and any identified good practice improvements.</p>	<p>This is a Local Stage decision under the Student Complaint Procedure.</p> <p>The Complainant(s) may refer the matter to the University Stage of the Student Complaints Procedure.</p> <p>Thereafter the matter will be considered under the Student Complaints Procedure.</p>
<p>The matter should be dealt with under a different procedure.</p>	<p>Finding that the matter was not a conduct matter and should be considered under a different procedure. Confirmation of which procedure has been triggered, if appropriate.</p> <p>Assessor will write to both parties informing them of this, highlighting the support available to them and any identified good practice improvements.</p>	<p>The Complainant(s) may refer the matter to the University Stage of the Student Complaints Procedure.</p> <p>Thereafter the matter will be considered under the Student Complaints Procedure.</p>
<p>The matter should proceed to formal action under Ordinance 10.4.</p>	<p>Finding that there was a case to answer, the matters complained of may amount to misconduct.</p> <p>Assessor will write to both parties informing them of this.</p> <p>In the case of the Complainant(s), explaining any role they may have in the process under Ordinance 10.4 including whether they may be</p>	<p>This is a Local Stage decision under the Student Complaint Procedure.</p> <p>The Complainant(s) may refer the matter to the University Stage of the Student Complaints Procedure.</p> <p>Thereafter the student complaint will be considered under the</p>

	required to give evidence, highlighting the support available to them any identified good practice improvements.	Student Complaints Procedure and separately any issues of staff conduct will be considered under Ordinance 10.4.
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(3) Staff or Student Complaint about a **Student** (including a joint complaint by staff and students)

Decision made	Information to be given by the Assessor	Next steps and information given under other procedures
<p>No action should be taken.</p>	<p>Finding that there was no case to answer, the matters complained of did not amount to misconduct - Complaint dismissed. No action taken.</p> <p>Assessor will write to both parties informing them of this, highlighting the support available to them and any identified good practice improvements.</p>	<p>This is a Local Stage decision under the Student Complaint Procedure.</p> <p>The Complainant(s) may refer the matter to the University Stage of the Student Complaints Procedure.</p> <p>Thereafter the matter will be considered under the Student Complaints Procedure.</p>
<p>Referral made to be considered under the Student Disciplinary Regulations.</p>	<p>Finding that there was a case to answer, the matters complained of may amount to misconduct.</p> <p>Assessor will write to both parties informing them of this.</p> <p>In the case of the Complainant(s), explaining any role they may have in the process under Ordinance 10.4 including whether they may be required to give evidence, highlighting the support available to them any identified good practice improvements.</p>	<p>This is a Local Stage decision under the Student Complaint Procedure.</p> <p>The Complainant(s) may refer the matter to the University Stage of the Student Complaints Procedure.</p> <p>Thereafter the matter will be considered under the Student Complaints Procedure.</p> <p>Following the referral, the matter will be dealt with under the Student Disciplinary Regulations.</p>

APPENDIX 3

Information Given to Complainant after referral for Formal Action under Staff and Student Disciplinary procedures Section.9

(1) Staff Disciplinary

Action	Possible outcomes	<i>Suggested</i> Information to be given to complainant
No Action	None	<p>Finding that the matters complained of did not amount to misconduct - Complaint dismissed. No action taken.</p> <p>Any identified good practice improvements.</p>
Recommendation for Early Action	Informal measures identified	<p>Finding that the matters complained of did not amount to misconduct.</p> <p>Any identified good practice improvements.</p> <p>Any identified actions to support / protect those affected and/or prevent recurrence.</p> <p>No formal action taken/informal measures put in place.</p>
Formal Action	First Written Warning Final Written Warning Dismissal	<p>Matter dealt with in accordance with Staff Conduct Procedure.</p> <p>Confirmation of whether the action complained of amounted to misconduct.</p> <p>Any identified good practice improvements.</p> <p>Any identified actions to support / protect those affected and/or prevent recurrence.</p> <p>Formal action taken.</p> <p>Subject to Appeal.</p>

(2) Student Disciplinary

Action	Potential Outcome	<i>Suggested Information to be given to complainant</i>
No Action	<ul style="list-style-type: none"> • No Sanction 	Complaint dismissed. No action taken. Any identified good practice improvements.
Formal Action	<ul style="list-style-type: none"> • Absolute discharge • Written reprimand • Caution • Letter of apology • Attend a course • Perform unpaid services • Fixed term Exclusion • Suspension • Expulsion 	Matter dealt with in accordance with the Student Disciplinary Regulations Confirmation of whether the action complained of amounted to misconduct. Any identified good practice improvements. Any identified actions to support / protect those affected and/or prevent recurrence. Appropriate sanction imposed. Action subject to appeal.