

## STUDENT CONDUCT REGULATIONS 2020/21

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## **SC1 INTRODUCTION**

- SC1.1** The Student Conduct Regulations set and maintain acceptable standards of behaviour within the University community, to encourage individuals to accept their obligations to the University community, to protect the rights of members of that community to participate freely in the educational purposes of the University and to help maintain the University's good name and standing.
- SC1.2** The purpose of these regulations is to ensure that all matters relating to the conduct of students are dealt with fairly and consistently.
- SC1.3** These regulations are presented in two major sets: Non-Academic Conduct Regulations (Section SC4 – SC6) and Academic Conduct Regulations (Section SC7 – SC9). Allegations under either set of regulations may be made by staff, students or members of the public (who need not have been personally and/or adversely affected by the alleged breach) and should normally be received by the University in writing. However, the University will give consideration to allegations of misconduct of any nature from any source. We may deem it necessary to request signature or proof of identity in relation to anyone making allegations.
- SC1.4** These Regulations apply to all matriculated students of the University. Any allegations of academic misconduct concerning a graduate of the University will be dealt with in accordance with the [Graduate Academic Misconduct Procedure](#) as approved by the Academic Board.
- SC1.5** It should be noted that where a finding of a breach of these Regulations has been made it may, in certain professional settings, affect the student's fitness to practice resulting in the University being unable to certify this and may lead to exclusion from membership of requisite professional bodies. In such circumstances, the University will invoke the [Fitness to Practise Regulations](#).
- SC1.6** The principles of these regulations apply to all students irrespective of their location of study. It may be necessary to vary procedure for research students, students on placements or for students undertaking programmes delivered online or overseas.
- SC1.7** These Regulations do not preclude the possibility of the University having recourse to the police and the criminal courts where necessary.
- SC1.8** References to days throughout these Regulations shall mean working days except where expressly stated otherwise.

## **SC2 KEY PRINCIPLES**

The application of these Regulations relies on the following key principles:

- SC2.1** Cases will be addressed promptly and resolved quickly and efficiently at the level of the University appropriate to the nature of the offence.
- SC2.2** Each case will be handled fairly and equitably with due regard to the individual circumstances of each case. Where a student is enrolled on a programme of study delivered online or overseas, the use of remote communication methods, e.g. Skype, will be considered.
- SC2.3** Students shall have the right of appeal against the finding and/or penalty of their case.
- SC2.4** Any issues relating to pastoral care and welfare that arise while addressing a student disciplinary matter will be handled with sensitivity and due regard to confidentiality. Staff engaged with disciplinary matters should be aware of the University's Data Protection Code of Practice with particular attention paid to Section 8 (Data Sharing) and Section 19 (References).
- SC2.5** Penalties imposed as a result of conduct issues being referred for action under the terms of these regulations will only be overridden by Extenuating Circumstances procedures in exceptional cases.
- SC2.6** A student shall be entitled to be accompanied by a person who can provide support and, where applicable, guidance to the student concerned at investigation meetings or hearings. That person should be a member of the Edinburgh Napier University 'community', i.e. a member of University staff, an office bearer or member of staff from the Edinburgh Napier Students' Association (ENSA), a member of staff from the ENSA Advice service or another student. Any 'accompanying' person or representative must not have been involved in the incident under investigation.
- SC2.7** Attendees of meetings held at the earlier stages of both the academic and non-academic investigation processes will not be present without good reason. An appropriate level of attendance is no more than two members of staff plus the student concerned and the person they have chosen to accompany them, though it is noted that some cases may require further attendees. Should additional attendees be required, there will be consideration with regard to whether attendance at the meeting could be staggered.
- SC2.8** Audio/video recording of meetings/hearings associated with these regulations will generally not be permitted. Requests of this nature will be considered where required as a reasonable adjustment pending consideration of an appropriate disability assessment. With regard to requests related to recording, any decision

taken will involve input from the Disability and Inclusion team and/or the Information Governance team where appropriate. Covert recording will be considered a misconduct matter in its own right.

- SC2.9** Investigation records will normally be made available to all parties involved in the disciplinary hearing.
- SC2.10** All allegations received will be treated confidentially. Each will be investigated informally in the first instance to establish whether or not there is a case to answer before any formal investigation is started.
- SC2.11** All records documenting the conduct and findings of disciplinary proceedings against individual students will be retained until the last action on the case, plus six years, has elapsed.
- SC2.12** Where action within these regulations is required by a senior member of staff, such as a member of University Leadership Team, a nominee may act on their behalf should the incumbent post holder be unavailable.

### **SC3 CRIMINAL OFFENCES, PROTECTION OF VULNERABLE GROUPS, WITHDRAWAL AND EXCUSION**

**SC3.1** Where a matter reported under these Regulations would also constitute an offence under the criminal law, the member of staff receiving the allegation under these Regulations shall, as soon as practicable, inform their Dean of School or Director of Service who shall discuss the matter with the University Secretary. If the University Secretary decides the matter should be further addressed, they, after consulting such persons as they see fit, will make a report to the Principal and Vice Chancellor. The Principal and Vice Chancellor shall then determine which of the following apply:

SC3.1.1 In cases of offences under criminal law which are being dealt with under the criminal process, no action, other than partial exclusion, may be taken under the terms of these Regulations until the criminal process has been concluded, where upon the Principal and Vice Chancellor may decide whether internal disciplinary action should continue or be taken under these Regulations.

SC3.1.2 In cases of offences under criminal law which are not being dealt with under the criminal process, internal disciplinary action may be taken under these Regulations.

**SC3.2** Where a finding of a breach of Regulations is made and the student has already been sentenced by a Criminal Court in respect of the same facts, the Court's penalty shall be taken into consideration in determining the penalty under these Regulations.

**SC3.3** A student against whom a serious criminal charge is pending or who is the subject of police investigation may be temporarily excluded by the Principal and Vice Chancellor pending trial or other conclusion of the investigation. Such exclusion shall be reviewed and subject to confirmation at intervals of not more than one month by the Principal or their nominee. Where a student is temporarily excluded under this clause and either the police investigation is discontinued or the student is found not guilty, the Principal or their nominee shall make a recommendation as to any remedial action required for lost tuition and/or fees.

**SC3.4** A student may be withdrawn from the University if authorities external to the University place restrictions upon the student which prohibits their attendance at the University or otherwise impinges upon the student's ability to fulfill the academic requirements expected of them. Withdrawal of a student does not prohibit the student from enrolling at the University in the next academic year, but admission may be subject to qualification, such as exclusion from certain programmes of study.

- SC3.5** For students who must have a PVG check as part of their programme of study, the University is required to make a referral to Disclosure Scotland when they are satisfied that a student's conduct has met one or more of the criteria (referral grounds) outlined below AND that the findings under the breach of regulations results in permanent expulsion and exclusion from the University as outlined under section SC6.4 of these regulations. The referral grounds include:
- SC3.5.1 Harmed a child or protected adult
  - SC3.5.2 Placed a child or protected adult at risk of harm
  - SC3.5.3 Engaged in inappropriate conduct involving pornography
  - SC3.5.4 Engaged in inappropriate conduct of a sexual nature involving a child or protected adult
  - SC3.5.5 Given inappropriate medical treatment to a child or protected adult
- SC3.6** In the above circumstances, the University is obligated to make a referral to Disclosure Scotland even in the event that a student leaves of their own volition prior to any penalty of permanent expulsion and exclusion being imposed. In these circumstances, the University's disciplinary proceedings outlined in SC5 and SC6 will proceed regardless of the whether the student has withdrawn from the University or not. If the findings of the disciplinary proceedings would have resulted (had the student not withdrawn voluntarily) in the student's permanent expulsion from the University, then a referral to Disclosure Scotland will be made.
- SC3.7** Should it emerge that a student has criminal convictions they failed to disclose at the requisite point during the application and/or matriculation process or at any relevant point during their studies, consideration will be given to whether any action should be taken under the terms of these regulations as noted in SC4.3.
- SC3.8** Should allegations emerge against any current student regarding the submission of forged or fake documentation and/or information provided as part of their application for a place on a programme, consideration will be given to whether any action should be taken under the terms of these regulations as noted in SC4.3. If the student against whom such allegations are made has graduated with then any investigation will take place in line with the Graduate Academic Misconduct Procedure.
- SC3.9** In exceptional circumstances, a student may be partially excluded from the University by the Principal without invoking the Conduct Regulations. The following are examples of exceptional circumstances

- i) For failing to comply with any prevailing fees policies;
- ii) Where there is genuine concern or belief that a student may be suffering from ill-health which has caused or may cause detriment to the University Community. If the behaviour of an individual is the cause of concern, if appropriate, the matter may be reported to the University's Mental Health Advisor (UMHA). The UMHA can provide advice in accordance with the University's [Mental Health Policy](#). The period of exclusion in this case will be determined by the receipt of a satisfactory medical report from an appropriately qualified medical or psychiatric expert, approved by the University (such approval not to be unreasonably withheld).
- iii) Where there is consideration for the safety of the University Community.
- iv) Whilst a decision is made on whether Fitness to Practise regulations should be invoked. This measure should be temporary and for no longer a period than two working days
- v) For failing to comply with any immigration laws/policies/regulations or failure to meet criteria stipulated by such laws/policies/regulations.

## NON-ACADEMIC CONDUCT REGULATIONS

### SC4 Introduction and Definition

**SC4.1** Non-academic misconduct relates to the improper interference, in the broadest sense, with the proper functioning of the activities of the University, or persons who work or study in the University, or any action which otherwise damages the University whether or not this takes place on University premises.

**SC4.2** A breach of Non-academic Conduct Regulations will be taken to include the examples listed in Appendix I. This list is illustrative and not exhaustive.

**SC4.3** Any misconduct prior to a student's enrolment at the University which has only just come to light, or is still in the process of being dealt with by the proper authorities, shall not form the basis of an offence under these Regulations unless:

SC4.3.1 The conduct is of such a serious nature and character that it raises questions about the fitness of the student to be a member of the University community or, if repeated would pose a threat to other members of the community or threaten the discipline and good order of the University;

SC4.3.2 The student is matriculated on a programme directly leading to a professional qualification and the conduct raises questions about the student's fitness to be admitted to and to practise that profession. In which case, the Fitness to Practise Regulations may be invoked.

## **SC5 Disciplinary procedure for suspected/alleged non-academic misconduct**

### **SC5.1 Authorised Officers**

The members of staff detailed below- i) – iii) - are Authorised Officers who have responsibility for taking procedural decisions and disciplinary action and to impose penalties within the limits set out in section 6

- i) Alleged offences occurring within academic areas of activity (whether on University premises or not) will be dealt with by the relevant Dean.
- ii) Alleged offences occurring in any other University premises, property or service area will be dealt with by the relevant Director of Service.
- iii) Alleged offences relating to any activity out with University premises, property or service area, will be dealt with by a member of staff designated by the University Secretary.

### **SC5.2 Initial investigation**

On receipt of an alleged offence the Authorised Officer will designate an appropriate member of staff to carry out an initial investigation of the offence which should include the taking of statements from relevant parties including, where appropriate, the accused student and any witnesses.

On receipt of the details of the initial investigation, the Authorised Officer may rule that:

- i) The matter should not be the subject of further action though a written warning/note of caution may be issued to the student at this stage.
- ii) A Summary Hearing should be convened
- iii) The matter is serious/substantial in nature and the case is to be referred for action by a University Disciplinary Committee. Where appropriate, the Authorised Officer should provide a summary or report of the case to be used by the committee.

### **SC5.3 Summary hearing**

SC5.3.1 The student shall be informed as soon as practicable in writing, of the detail of the alleged offences and in any event not less than ten working days in advance of the date, time, and venue of the Summary Hearing. Where it is not reasonably practicable for a student to attend in person options for remote participation (e.g. Skype) will be considered.

- SC5.3.2 The Summary Hearing will be undertaken by the Authorised Officer along with another member of staff of the University (normally a member of academic staff from the appropriate School) and the meeting will be minuted by a member of staff as deemed appropriate by the Authorised Officer.
- SC5.3.3 The student shall be entitled to be accompanied by a person as defined in SC2.6.
- SC5.3.4 If the matter giving rise to the alleged offence(s) involves consideration of any documentation, the student will have the opportunity to inspect the documentation before the Summary Hearing takes place and shall be entitled to question the accuracy of such documentation up to five working days before the scheduled Summary Hearing.
- SC5.3.5 Any personal and/or sensitive personal information shall only be included in the documentation in conformity with Data Protection legislation.
- SC5.3.6 Failure by the student to attend at the time and place specified by the Authorised Officer, except for a written reason acceptable to the Authorised Officer, shall not preclude the Authorised Officer from considering the matter and reaching a decision.
- SC5.3.7 The decision of the Authorised Officer shall be communicated to the student as soon as reasonably practical and confirmed via an email to the student's Edinburgh Napier email address within five working days. The written notification of the decision will give reasons for the decision and detail the right of appeal.

#### **SC5.4 Penalties**

- SC5.4.1 The Penalty or Penalties that may be imposed by an Authorised Officer if the offence(s) are proved are:
- i) A written reprimand which will specify the length of time the reprimand will remain on file
  - ii) Exclusion from defined areas of the University or defined activities for a period not exceeding one calendar month.

- iii) In cases where there is damage to University premises or property (or that of one of our partners), a requirement to make good the cost, in whole or in part, of any damage caused (or to replace property damaged). The timescale during which any costs must be paid will be agreed with the University's Finance Office.
- iv) The removal or restriction of privileges for a specified period of time.
- v) A valid 'Notice to Quit' issued by the Head of Student Accommodation for offences committed within University residential accommodation.

SC5.4.2 If a penalty is issued, the Appeals, Complaints and Conduct Manager (ACCM) should be notified for the purposes of record keeping and future reference.

## **SC5.5 Appeal against the decision of an Authorised Officer**

SC5.5.1 A student may appeal, in writing, to the University Secretary against the decision of the Authorised Officer. The appeal must be submitted within ten working days of the receipt of the decision and may be made on the following grounds:

- i) The penalty was out with the scope of the Regulations set out in section SC5.4.
- ii) There was a procedural irregularity in the process undertaken by the Authorised Officer which materially influenced the final decision.
- iii) The decision reached was unreasonable as a result of the Authorised Officer's actions or omissions.
- iv) The penalty imposed was unreasonable or in excess of the penalties specified in section SC5.4.
- v) New evidence is now available which might have caused the hearing to reach a different conclusion, but could not have been made available at the time of the hearing. In such cases an explanation/evidence as to why the material could not have been made available for the hearing should be provided.

- SC5.5.2 The University Secretary will consider the written appeal together with the documented reasons for the finding and shall notify their decision within fifteen working days of receipt of the appeal.
- SC5.5.3 If the University Secretary allows the appeal they may review or quash the penalty imposed.
- SC5.5.4 The decision of the University Secretary will be final.

## **SC6**      **University Disciplinary Committee**

### **SC6.1**    **Process**

- SC6.1.1    An Authorised Officer having considered the details of the initial investigation may decide not to proceed with a Summary Hearing as outlined in SC5.2 and as a result refer the case to the University Secretary, via the Appeals, Complaints and Conduct Manager, for action by a University Disciplinary Committee.
- SC6.1.2    Within fifteen working days of the results of the referral from an Authorised Officer, the University Secretary will convene a University Disciplinary Committee.
- SC6.1.3    The student will be given at least ten working days' notice of the committee date and time.

### **SC6.2**    **Constitution**

A University Disciplinary Committee will comprise of a member of the University Leadership Team; one member of the Senior Leadership Team or an individual nominated by this group, and one student member nominated by the Edinburgh Napier Students' Association (ENSA) President. All members of the Committee will have had no direct or previous involvement with the student or work directly within the area where the alleged offence took place. The member of the University Leadership Team shall act as Convenor and the University Secretary or their nominee shall act as clerk and keep a record of the proceedings. The clerk shall be responsible for issuing the student and all Committee members with relevant documentation and evidence ahead of the meeting.

### **SC6.3**    **Proceedings**

- SC6.3.1    The University's case against the student will be presented by a senior member of staff, normally the appropriate Authorised Officer. Where possible, the Authorised Officer should attend in person in order for the Committee members to ask them questions should they feel this to be appropriate. Where it is not reasonably practicable for a student to attend in person options for remote participation (e.g. Skype) will be considered.
- SC6.3.2    The student shall receive a copy of any documentation, as issued to the Committee, five working days ahead of the meeting. This includes any summary document or report issued in accordance with SC5.2 iii). In exceptional circumstances, if it is apparent this timescale is not possible, this will be communicated to the student and the reasons for any delay will be detailed.

- SC6.3.3 The student shall be entitled to be accompanied by a person as defined in Section SC2.6 above.
- SC6.3.4 Adjournment of proceedings may be requested by any party concerned and will be granted at the discretion of the Convenor. The Convenor may also choose to adjourn at any point during proceedings
- SC6.3.5 If witnesses are to be called by any party, statements from the witnesses, together with their full contact details will be made available to the clerk to the committee at least five working days in advance of the meeting. Evidence from witnesses will normally take the form of signed statements and witnesses will not usually attend in person. Where possible, all parties will be given a copy of any witness statements in advance of the Committee meeting.
- SC6.3.6 If the Disciplinary Committee receives oral evidence from any person not called by the student or the Authorised Officer, all parties shall be allowed to question that person for the purposes of clarifying any points made.
- SC6.3.7 The Convenor of the Disciplinary Committee may elect not to proceed with the whole or any part of the case and may therefore dismiss the whole or irrelevant part as appropriate.
- SC6.3.8 Failure by the student to attend at the time specified, except for a written reason acceptable to the Convenor of the Disciplinary Committee, shall not normally preclude the Disciplinary Committee from considering the matter and reaching a decision.
- SC6.3.9 The Disciplinary Committee shall consider the alleged offence and reach its decision in private. The decision shall be communicated to the student by the clerk to the Committee as soon as reasonably practicable after the meeting and in any event within no more than five working days. The notice communicating the decision will give reasons for the decision and give details of the right to appeal.

#### **SC6.4 Penalties imposed by a University Disciplinary Committee**

- SC6.4.1 The Penalty or Penalties that may be imposed by a University Disciplinary Panel if the offence(s) is/are proved are:
- i) A reprimand – oral or written (a written reprimand will specify the length of time the reprimand will remain on file).
  - ii) In cases where there is damage to University premises or

property (or that of one of our partners), a requirement to make good the cost, in whole or in part, of any damage caused (or to replace property damaged). The timescale during which any costs must be paid will be agreed with the University's Finance Office.

In the event of non-payment under the terms agreed above, all debts due to the University will be collected in accordance with the University's policy on Student Debt Collection.

- iii) The removal or restriction of privileges, such as email/intranet access, access to library services, for a specified period of time.
- iv) A valid Notice to Quit issued by Student Accommodation for offences within University residential accommodation.
- v) Exclusion from the University for a defined period of time.
- vi) Exclusion from defined areas of the University or from defined activities for a period not exceeding one trimester.
- vii) Permanent expulsion and resultant exclusion from the use of any facilities or services available to students of the University. This will include visits to any University premises or attendance at University events that have not been authorised under SC6.4.4 below.

SC6.4.2 With reference to the penalties outlined in section SC5.4, at the discretion of the Convenor of the Disciplinary Committee penalty ii) may be applied in addition to any other penalties.

SC6.4.3 If a penalty is issued, the Appeals, Complaints and Conduct Manager (ACCM) should be notified for the purposes of record keeping and future reference.

SC6.4.4 If the penalty vii), as detailed in section SC6.4.1, is imposed, the Principal and Vice Chancellor will determine whether this precludes the student from attending any graduation ceremony or other University event.

## **SC6.5 Appeal against the decision of a University Disciplinary Committee**

SC6.5.1 The student may appeal, in writing, to the University Secretary against the decision of the University Disciplinary Committee. The appeal must be submitted within ten working days of the receipt of the outcome and may be made on the following grounds:

- i) There was a serious procedural irregularity in the conduct of the University Disciplinary Committee which resulted in an unfair decision;
- ii) New evidence is now available which might have caused the Committee to reach a different conclusion, but could not have been made available at the time of the Committee hearing. In such cases an explanation/evidence as to why the material could not have been made available for the Committee should be provided.; or
- iii) The student can substantiate a claim that the penalty imposed was unreasonable or out with the penalties set out in section SC6.4.1.

SC6.5.2 The University Secretary will arrange for the Principal and Vice Chancellor or their nominee to consider the appeal together with the documented reasons for the findings of the University Disciplinary Committee.

SC6.5.3 The Principal and Vice Chancellor or their nominee will notify the appellant of the outcome within fifteen days of receipt of the appeal. This notification will include confirmation that the appellant has now reached completion of the University's procedures with regard to the matter.

SC6.5.4 If the Principal and Vice Chancellor allows the appeal they may review or quash the penalty imposed.

SC6.5.5 The decision of the Principal and Vice Chancellor will be final.

SC6.5.6 If a student remains dissatisfied following the communication referenced in section SC6.5.3 above, information on external appeals can be found in section SC10.

## **ACADEMIC CONDUCT REGULATIONS**

### **SC7      Introduction and Definition**

#### **SC7.1      Definition**

Any attempt by a student to gain an unfair advantage in any assessment, including examinations will be regarded as a breach of Academic Conduct Regulations. (see section SC8.2 below).

#### **SC7.2      Categories of Breaches of Academic Conduct Regulations**

Breaches of Academic Conduct Regulations will be taken to include acts of plagiarism (including self-plagiarism), cheating, collusion, falsification or fabrication of data, personation or bribery, all as defined in Appendix II.

## **SC8 Disciplinary procedure for suspected/alleged academic misconduct**

### **SC8.1 Responsible Officers**

- SC8.1.1 Each School shall designate an appropriate member of staff, *other than a Dean of School*, to have responsibility for investigating allegations of breach of Academic Conduct Regulations. This person is referred to below as the Academic Conduct Officer (ACO).
- SC8.1.2 In any allegation in which the ACO is directly involved, either as module leader, marker or programme leader, another appropriate member of staff shall be required by the Dean of School to carry out the role of the ACO.
- SC8.1.3 The ACO shall investigate allegations relating to students taking modules provided by the School or on a programme registered to the School, as appropriate.
- SC8.1.4 Where an incident of an alleged breach of the Academic Conduct Regulations arises, the School in which that relevant module is delivered shall be responsible for applying these Regulations in the first instance. Should a number of incidents occur during a student's programme of study, responsibility for applying these Regulations will normally be transferred to the School in which the student is matriculated. This School will also be responsible for notifying any other School in which the student is enrolled on a module if it is relevant to the case.
- SC8.1.5 In situations as detailed in SC8.1.4, the Investigating ACO should make contact with the ACO from the student's own School and/or the student's Programme Team or Personal Development Tutor and inform them of any investigation taking place and the outcome on completion.

### **SC8.2 Breach of Academic Conduct Regulations**

- SC8.2.1 Three categories of breach are recognised:
- SC8.2.1.1 **Negligence**, i.e. a minor incident, usually the first, which has occurred through carelessness or inexperience;
- SC8.2.1.2 **Malpractice**, i.e. an incident in which the student should have known that the behaviour was unacceptable, e.g. incidents in later years of a programme, repeat incident(s) or behaviour deemed more serious than negligence;

- SC8.2.1.3 **Misconduct**, i.e. an attempt to gain advantage by behaviour which it is difficult not to see as intentional, e.g. stealing work from another student, repeat incident(s), fabrication of data or professional records, cheating in an exam.
- SC8.2.2 In assessing the level of any breach of Academic Conduct Regulations, the Academic Conduct Officer (ACO) shall have regard to accepted practice in the University. Thus certain types of behaviour are very unlikely to be seen as 'negligence' e.g. fabrication of professional records or attempted cheating in an exam are likely to be seen as 'misconduct'.
- SC8.2.3 The range of penalties available to an ACO in every hearing is defined in section SC8.3.2. It is likely that negligence will attract a lower penalty than malpractice which will attract a lower penalty than misconduct.
- SC8.2.4 A student's previous record of breach of Academic Conduct Regulations is likely to lead to a subsequent incident being regarded as malpractice or misconduct, as appropriate, even if the subsequent incident might otherwise have been deemed of a lower category.
- SC8.2.5 During an investigation into an incident, an ACO should check with the Appeals, Complaints and Conduct Manager (ACCM) whether previous findings (if any) for a student from out with the School can inform the investigation. Any previous finding may have a bearing on the category of breach and any penalty applied.

### **SC8.3 Penalties available to Academic Conduct Officers for breaches of Academic Conduct Regulations**

- SC8.3.1 In the following list of penalties, standard University re-assessment regulations for the Modular Scheme are assumed to apply unless otherwise indicated. Where a component of assessment (normally coursework) is made up of several elements, the penalties indicated here only apply to the element in which the breach of Academic Conduct Regulations occurred, unless otherwise indicated.
- SC8.3.2 The formal penalties and decisions available to an ACO are detailed below. ACOs should use their discretion as to which penalty is applied :
- i) Initial warning; only applicable as a standalone penalty where this is the first recorded academic misconduct offence by a student.

*ACOs may elect for an alternative penalty for first time misconduct if the misconduct is deemed too serious for only a warning. Where an initial warning is issued, students should be asked by the ACO to participate in an online academic skills session provided by the University's Academic Skills team who will notify the ACO once the student has completed the session. ACOs may also wish to refer students to such sessions even if one of the other penalties is applied.*

*The initial warning should be recorded against the student by the ACO as should detail of when they attended the session. Failure by the student, without good reason, to participate in a session within two weeks of their warning may result in another penalty being applied by the ACO or an escalated penalty being applied for any future offence*

- ii) Mark reduction (if a mark is available);
- iii) Mark allocation for element of assessment of bare pass
- iv) Mark allocation for element of assessment of marginal fail (30%/F1) and re- assess at next opportunity (if appropriate);
- v) Fail element of assessment (0%/F5) and re-assess at next opportunity (if appropriate);
- vi) Referral to the University Academic Conduct Committee. Unless the offence is particularly serious, this penalty should not be used until at least the third instance of misconduct suspected against the student. ACOs should also consider whether there has been adequate time in between cases for students to digest warnings i.e. suspected misconduct in two or more assessments handed in around the same time should only be classed as one offence.

SC8.3.3 A penalty may lead to a student being unable to continue with their current programme, e.g. a penalty which leads to a fail in a compulsory module. In such cases, the ACO will advise the student to seek academic guidance from their Programme Leader or Personal Development Tutor.

SC8.3.4 The ACO should inform the ACCM where penalty vi) is applied.

SC8.3.5 An ACO should use a penalty consistent with the category of breach (see Section SC8.2.1), the perceived gravity of the incident and the potential consequences for the student (see Section SC8.5.2). The

ACO is required to inform other relevant School administrators as appropriate.

Category of Breach	Penalties Available
Negligence (see SC8.2.1.1)	All those listed in SC8.3.2
Malpractice (see SC8.2.1.2)	A <i>minimum</i> penalty of SC8.3.2 iii)
Misconduct (see SC8.2.1.3)	A <i>minimum</i> penalty of SC8.3.2 v)

SC8.3.6 As stated in regulation A.11.8e) iv of the University's Academic Regulations, a student will not be considered for an award of a compensatory pass in a module if a formal penalty for a breach of Academic Conduct Regulations has been recorded in the module. In such situations, the ACO should inform the Chair and/or Clerk of the relevant Programme Assessment Board or an appropriate senior administrator who will inform the Chair and/or Clerk.

SC8.3.7 Cases of alleged misconduct by School of Health and Social Care students, may be referred for investigation under the [Fitness to Practise Regulations](#).

## **SC8.4 Investigating alleged breaches of Academic Conduct Regulations**

### **SC8.4.1 Examinations**

SC8.4.1.1 Where cheating is suspected in an examination the Invigilator will endorse the student's script at the appropriate point with the time and a note of the alleged behaviour and inform the student that the allegation will be reported. The student will be permitted to continue the examination, having been given fresh answer book(s).

SC8.4.1.2 At the conclusion of the examination the Invigilator will complete a report and submit it with the student's examination script(s) to the appropriate member of the exams administration team.

SC8.4.1.3 The completed report and the script will be forwarded by a senior member of the exams administration team to the Dean of School for the School in which the module is registered. The ACO for that School will conduct an investigation in accordance with Section SC8.5 below.

SC8.4.1.4 Where an allegation of cheating is made after an examination has taken place, this must be passed to the relevant ACO or equivalent

for the School in which the module is registered. The ACO for that School will conduct an investigation in accordance with Section SC8.5 below.

#### **SC8.4.2 Continuous assessment**

SC8.4.2.1 On detecting a suspected breach of Academic Conduct Regulations in relation to an assessment other than a formal examination, the member of staff concerned should discuss the evidence with an appropriate member of the teaching team or subject group responsible for the module concerned. This will ensure a second opinion and help to eliminate suspicion based on misunderstanding.

SC8.4.2.2 If after such suspicion is confirmed, the member of staff should pass the following documentation to the Academic Conduct Officer (ACO) for the School in which the module is registered:

- i) Module descriptor including the assessment details;
- ii) A brief resume of the case outlining the grounds for suspicion;
- iii) Copies of the submitted piece(s) of work;
- iv) Any appropriate evidence.

#### **SC8.5 Investigation by an Academic Conduct Officer (ACO) – Process**

The ACO will normally review within five working days all the information available and conclude whether or not there is a valid case to answer. Where possible this decision will be made before marks are due to be returned to students.

SC8.5.1 If there is no valid case to answer, the matter will be dropped and any material pertaining to the allegations will be destroyed.

SC8.5.2 If the ACO decides that there is a valid case to answer, the ACO will inform the student that an initial investigation is being carried out, including details of any meeting which the student shall be entitled to attend. In cases where a School elects to consider a case via an ACO panel, students will be given 5 working days to submit any comments or evidence they wish the panel to consider. Based on the outcome of the initial investigation, the ACO may rule that the matter:

- i) Does not constitute a breach of Academic Conduct Regulations;

- ii) Constitutes a breach of Academic Conduct Regulations which can be dealt with by the ACO, who will determine an appropriate penalty under Section SC8.3.2;
- iii) Constitutes a breach of Academic Conduct Regulations which cannot be dealt with by the ACO, who will refer the case for action by the University Academic Conduct Committee or, where applicable, Fitness to Practise Convenor.

SC8.5.3 A student will be given five working days' notice of any meeting to investigate an allegation. The student will only be offered another date if they contact the ACO in advance, providing details of their reason for making a request for an alternative arrangement. The ACO has discretion to give the student a further five working days' notice of a meeting if they accept the student's rationale. Failure of a student to attend a scheduled meeting without notifying the ACO in advance and receiving authorisation from the ACO to reschedule the meeting will result in the meeting taking place in the absence of the student.

SC8.5.4 In cases where an ACO panel will meet, the student will only be offered an extension to this if they contact the ACO in advance of the above deadline, providing details of their reason for making this request. The ACO has discretion to give the student a further five working days' notice if they accept the student's rationale. Failure of a student to submit any evidence will result in the ACO Panel taking place in the absence of this.

SC8.5.5 Notice will be given to a student under investigation by e-mail to the appropriate Edinburgh Napier University account, and it will be assumed that such notification will have been received by the student as students are expected to regularly check this email address in line with the expectations set out in the Student Charter. Where students are studying with a collaborative partner, the partner administrator will be informed. If the student cannot attend, submissions to the meeting may be made in writing.

## **SC8.6 Outcome**

SC8.6.1 The ACO will notify the student in writing of the outcome of the investigation and any penalty imposed as soon as reasonably practicable, but no later than five working days after the meeting to investigate the allegation. If communication is made via email, Edinburgh Napier University email address will be used unless otherwise requested by the student.

- SC8.6.2 Where a finding has been made and a penalty imposed under SC8.5.2 ii), the student will be advised of the right to appeal against either decision as defined in Section SC8.7.
- SC8.6.3 In all cases where a finding has been made under SC8.5.2 ii), details of the breach, the meeting and the outcome will be retained by the School in accordance with Section SC2.10.
- SC8.6.4 Details of any penalties imposed shall be enacted in accordance with Section SC8.3 above.

### **SC8.7 Appeal against the decision of an Academic Conduct Officer (ACO)**

- SC8.7.1 A student may appeal, in writing, to the appropriate Dean of School, who shall be the Dean (or their nominee) of the School in which the module concerned resides.
- SC8.7.2 The appeal may be against any finding taken in relation to an alleged breach of academic conduct regulations and must be submitted within ten working days of receipt by the student of any decision by an ACO.
- SC8.7.3 An appeal may be made on one of the following grounds:
- i) The penalty was out with the scope of the Regulations set out in section SC8.3.
  - ii) There was a procedural irregularity in the process undertaken by the Academic Conduct Officer which materially influenced the final decision.
  - iii) The decision reached was unreasonable as a result of the Academic Conduct Officer's actions or omissions.
  - iv) The penalty imposed was unreasonable or in excess of the penalties specified in section SC8.3.
  - v) New evidence is now available which might have caused the ACO to reach a different conclusion, but could not have been made available at the time of the investigation meeting. In such cases an explanation/evidence as to why the material could not have been made available for the investigation meeting should be provided.

- SC8.7.4 The Dean will notify the outcome to the appellant as soon as reasonably practicable and no later than fifteen working days after the receipt of the appeal.
- SC8.7.5 If the Dean allows the appeal they may review or set aside the penalty imposed. The Dean will be responsible for ensuring their decision is communicated to the appellant and any relevant academic and administrative staff.

## **SC9**      **University Academic Conduct Committee**

### **SC9.1**      **Referral**

- SC9.1.1      An ACO having considered the details of the initial investigation may decide not to proceed with a meeting as outlined in SC8.5.2 ii) and due to the seriousness, refer the case to the University Academic Conduct Committee under SC8.5.2 iii). The ACO will advise the student of such a referral.
- SC9.1.2      The Appeals, Complaints and Conduct Manager will convene the University Academic Conduct Committee.
- SC9.1.3      The University Academic Conduct Committee will hear the allegation at its next scheduled meeting or as soon as reasonably practicable.

### **SC9.2**      **Constitution**

- SC9.2.1      The University Academic Conduct Committee will comprise the Vice Principal or their nominee as Convenor; one academic member of the Senior Leadership Team or an individual nominated by this group; one Academic Conduct Officer and one student member nominated the Edinburgh Napier Students' Association (ENSA) President. None of the committee should come from the same School as the student against whom the allegations have been made.
- SC9.2.2      The Convenor may elect to co-opt one subject specialist member of academic staff nominated by the relevant Dean of School for each case under consideration if appropriate.
- SC9.2.3      All members of the Committee will have no direct or previous involvement with the student concerned.
- SC9.2.4      The Appeals, Complaints and Conduct Manager (ACCM) or their nominee shall act as clerk and keep a record of proceedings.

### **SC9.3**      **Hearing**

- SC9.3.1      The student will be notified in writing of the University Academic Conduct Committee Hearing no less than ten working days in advance of the Hearing and shall be entitled to attend the Hearing, accompanied as defined in Section SC2.6.
- SC9.3.2      The student will be provided with the basis for the allegation and, where appropriate, copies of any documentary evidence no less than

five working days ahead of the hearing. In exceptional circumstances, if it is apparent this timescale is not possible, this will be communicated to the student and the reasons for any delay will be detailed.

- SC9.3.3 The student may call witnesses on their behalf and submit relevant documentary evidence provided the intention to do so is notified to the Convenor at least one working day in advance of the hearing.
- SC9.3.4 The Committee will receive and consider a report of the current investigation (including any evidence) and any previous findings from the ACO. This report will be sent to the student with other documentation referred to in SC9.3.2 above. The student will be invited to comment on the presented report and evidence. If the student refutes the allegation they will be invited to present evidence in support of this.
- SC9.3.5 The student shall be encouraged to put any relevant extenuating circumstances to the Committee.
- SC9.3.6 Failure by the student to attend at the time specified, except for a written reason acceptable to the Convenor of the University Academic Conduct Committee, shall not normally preclude the Committee from considering the allegation and reaching a decision.

#### **SC9.4 Penalties imposed by a University Academic Conduct Committee**

- SC9.4.1 The formal penalties available to the University Academic Conduct Committee are any of the penalties available to the ACO in section SC8.3.2 above and the following:
  - i) Fail module with or without reassessment
  - ii) Fail programme with retained credit and eligibility for any award
  - iii) Fail programme with removal of credit and no eligibility for award
  - iv) Exclusion from the University for a specified period with or without the removal of credit
  - v) Permanent exclusion from the University with or without the removal of credit.
- SC9.4.2 If the penalty detailed in SC9.4.1 v) is imposed, the Principal and Vice Chancellor will determine whether this precludes the student

from attending any graduation ceremony or other University event.

- SC9.4.3 A penalty may lead to a student being unable to continue with their current programme, e.g. a penalty which leads to a fail in a compulsory module. In such a case, the University Academic Conduct Committee will advise the student seek academic guidance from their Programme Leader or Personal Development Tutor.
- SC9.4.4 Penalty v) in Section SC8.3.2 and all those under SC9.4.3 will be recorded by the Appeals, Complaints and Conduct Manager. The University Academic Conduct Committee is required to inform other relevant School administrators as appropriate, of the decision in lieu of any updates required to the student's record.
- SC9.4.5 The University Academic Conduct Committee should use the lowest penalty consistent with the category of breach (see Section SC8.3.6), the perceived gravity of the incident and the potential consequences for the student. In the event that a University Academic Conduct Committee imposes the penalties listed iv) or v) in Section SC9.4.1, the Convenor must inform the appropriate Dean of School and the Principal and Vice Chancellor within the same timescale as in Section SC9.5.4 below. The ACCM will inform the Chair of the relevant Programme Board of Examiners or an appropriate senior administrator.

## **SC9.5 Outcome**

- SC9.5.1 At the conclusion of the hearing the University Academic Conduct Committee will reach one of two outcomes as detailed below:
- i) The allegation is not upheld and no further action will be taken.
  - ii) The allegation is upheld and a penalty may be imposed as outlined in Section SC9.4.1.
- SC9.5.2 Details of the alleged breach of Academic Conduct Regulations, the hearing and the outcome, including any penalties imposed under Section SC8.3.2 i) – v), will be retained in accordance with Section SC2.10 above.
- SC9.5.3 Details of any penalties imposed under Sections SC8.3.2 vi) and SC9.4.1 shall be enacted in accordance with Section SC8.3.4 above
- SC9.5.4 The outcome will be transmitted in writing to the student as soon as reasonably practicable but no later than five working days after the meeting and will outline the right of appeal as defined in Section

SC9.6. If communication is made via email, Edinburgh Napier University email address will be used unless otherwise requested by the student.

**SC9.6 Appeal against the decision of a University Academic Conduct Committee (UACC)**

- SC9.6.1 A student may appeal, in writing, to the Appeals, Complaints and Conduct Manager against any finding made by a UACC in relation to an alleged breach of academic conduct regulations. The Appeals, Complaints and Conduct Manager will arrange for a member of the University Leadership Team to hear the appeal. The appeal will be heard by a member of the University Leadership Team who has not had prior involvement with the case. The appeal must be submitted within ten working days of receipt of the UACC's decision by the student.
- SC9.6.2 An appeal may be made on one of the following grounds:
- i) There was a procedural irregularity in the conduct of the investigation and/or conduct of any hearings which materially influenced the outcome;
  - ii) New evidence is now available which might have caused the University Academic Conduct Committee to reach a different conclusion, but could not have been made available at the time of the Committee hearing. In such cases an explanation/evidence as to why the material could not have been made available for the Committee should be provided; or
  - iii) The appellant can substantiate a claim that the penalty imposed was unreasonable or out with the penalties set out in sections SC8.3.2 and SC9.4.1.
- SC9.6.3 The member of University Leadership Team hearing the appeal will notify the outcome to the appellant in writing as soon as reasonably practicable and no later than fifteen working days after receipt of the appeal. This notification will include confirmation that the appellant has now reached completion of the University's procedures with regard to the matter.
- SC9.6.4 If the appeal is upheld, the member of University Leadership Team who heard the appeal may review or set aside the penalty imposed
- SC9.6.5 The decision of the member of University Leadership Team who heard the appeal will be final in all cases except where the appeal is

against the decision to exclude the student in which case the Principal and Vice Chancellor must confirm the decision or otherwise.

SC9.6.6 If a student remains dissatisfied following the communication referenced in section SC9.6.3 above, information on external appeals can be found in section SC10.

## **SC10 Independent External Review**

### **SC10.1 Introduction**

Once the processes outlined in sections SC6.5 or SC9.6 above have been completed, should the student remain dissatisfied they are entitled to ask the Scottish Public Services Ombudsman (SPSO) to look at the matter. The SPSO considers matters from students who remain dissatisfied at the conclusion of the University's Student Conduct Procedures. The SPSO looks at issues such as:

- service failure and maladministration (administrative fault)
- the way the University has implemented its regulations.

The SPSO will not consider matters that concern the exercise of academic judgment.

### **SC10.2 Information about the SPSO**

The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about public services in Scotland. This includes any dissatisfaction following the completion of a university's internal procedures. If you remain dissatisfied with a university or co-operative after fully engaging with an internal procedure, you can ask the SPSO to look into the matter.

The SPSO cannot normally look at matters:

- where you have not gone all the way through the university's specific procedure to deal with the matter, or
- that have been or are being considered in court.

The SPSO's contact details are:

**Office Address** SPSO Bridgeside House, 99 McDonald Road Edinburgh, EH7 4NS

**Freepost** Freepost SPSO

**Freephone** 0800 377 7330

**Online contact** [www.spsso.org.uk/contact-us](http://www.spsso.org.uk/contact-us)

**Website** [www.spsso.org.uk](http://www.spsso.org.uk)

**Mobile site** <http://m.spsso.org.uk>

## APPENDIX I

### NON-ACADEMIC MISCONDUCT

The following are examples of non-academic misconduct. The list is illustrative but not exhaustive:

1. Anti-social behaviour (including noise, nuisance and disorderly behaviour as a consequence of alcohol or substance misuse), which adversely affects staff, students, visitors or the local community.
2. The disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the University, whether on University premises or engaged in University activity elsewhere.
3. Obstruction of, or improper interference with, the function, duties or activities of any student, member of staff or other employee of the University or any authorised visitor of the University.
4. Violent, indecent, disorderly, threatening or offensive behaviour or language (whether expressed orally or in writing, including electronically), whilst on University premises or engaged in any University activity.
5. Any posting made to or on a Web 2.0 service or any other internally or externally hosted service (e.g. Facebook, Twitter etc) that is defamatory, in breach of copyright or data protection legislation, brings the University into disrepute, constitutes bullying, harassment or otherwise generally unacceptable behaviour.
6. Fraud, deceit, deception or dishonesty in relation to the University or its staff or in connection with holding any office in the University or in relation to being a student of the University.
7. Failure to adhere to the University's intellectual property policy and/or breach of the University's copyright, designs or patents.
8. Behaviour likely to cause injury or impair safety on University premises, including a failure to observe and adhere to the University's policies regarding [Health and Safety](#).
9. Failure to adhere to guidance published or communicated by the University, Public Health Bodies and/or Governments in response to Coronavirus and/or other pandemics. This includes conduct both on and off campus as well as irresponsible travel e.g. travelling to or from a country without adhering to Government travel advice or failure to follow guidance on isolation upon arrival/return from any trip.

10. Behaviour which puts or is likely to put at risk or harm any person with whom a student has dealings as part of a programme of study or research.
11. Any form of bullying or harassment of any student, member of staff or other employee of the University or any visitor to the University.
12. Discriminating against anyone on the basis of any of the protected characteristics as defined in the [Equality Act 2010](#) which include disability, gender reassignment, race, sex and sexual orientation.
13. Any form of gender based violence towards any member of staff, other employee of the University or any visitor to the University. The University aligns to the definitions of gender based violence outlined by the Scottish Government's [Equally Safe](#) initiative.
14. Breach of any University code of practice, regulation, rule, policy or code of conduct as previously approved by the University Court or Academic Board which provides for breaches to constitute misconduct.
15. Misuse or unauthorised use of University premises or items of property, including computer misuse, the misuse of fire-fighting equipment, the misuse or alteration of electrical fittings and the unauthorised use of electrical appliances. This also refers to the property and premises of one of our partners.
16. Damage to, or defacement of, University property or the property of other members of the University community caused intentionally or recklessly, and misappropriation of such property. This also refers to the property and premises of one of our partners.
17. The possession or discharge of any explosive device, firearm or detonator or the discharge of any firework (except with the prior consent of a Dean of School).
18. Without prejudice to the right to raise academic and other concerns responsibly within or (out with) the University, the making of false, malicious and/or vexatious reports of malpractice or complaints which upon investigation are proved to be unfounded.
19. Conduct which infringes the beliefs, orientation, practices, or freedom of speech of others, whilst on University premises or engaged in University work, study or activity.
20. Failure to disclose name and other relevant details to a member of the academic, administrative or security staff of the University in circumstances when it is reasonable to require that such information be given.
21. Behaviour which is deemed unacceptable by host organisations offering study, work placements or work-based learning experiences as part of a module or programme.

22. Any form of behaviour which is likely to bring the University into disrepute with the professional bodies or professional communities aligned with the programme, or otherwise harm the relationship with key stakeholder organisations.

*If either of 21 or 22 above apply then consultation with the external stakeholders such as host organisations, employers or professional bodies may need to take place.*

23. Conduct which constitutes a criminal offence where that conduct:
- i) took place on University premises/while engaged in University activity, or
  - ii) affected or concerned other members of the University Community, or
  - iii) damaged the good name of the University, or
  - iv) itself constituted misconduct within the terms of this procedure, or
  - v) is an offence of dishonesty, where the student holds an office of responsibility in the University, or
  - vi) is such to render the student unfit to practice any particular profession or calling to which that student's programme leads directly (i.e. nursing, midwifery, teaching).
24. Failure to comply with a previously imposed penalty, requirement or undertaking under these regulations.

## APPENDIX II

### ACADEMIC MISCONDUCT

Unacceptable academic conduct in assessments will be treated as a breach of the Academic Conduct Regulations and will include one or more of: plagiarism, cheating, collusion, falsification or fabrication of data, personation or bribery. These are defined as follows:

1. **Plagiarism:** Unacknowledged incorporation in a student's work in any assessment of material derived from the work (published or unpublished) of another. Plagiarism may therefore include:
  - i) The use of another person's material without reference or acknowledgement;
  - ii) The summarising of another person's work by simply changing a few words or altering the order of presentation without acknowledgement;
  - iii) The use of the ideas of another person without acknowledgement of the source;
  - iv) Copying of the work of another student with or without that student's knowledge or agreement;
  - v) Use of commissioned material presented as the student's own. This refers to material purchased from an individual or organisation (often referred to as "Essay Mills") used to form all or part of an assessment submission. This also includes the use of work obtained from an individual or organisation (often referred to as "essay assistance" websites) by means of a student uploading their own work (or that of a fellow student or material from their course) in exchange for material later used in another module or subject area
2. **Self-Plagiarism:** The use or re-use of a student's own work (material), the work having previously been submitted for marking. This includes the act of copying (or duplicating) from any previously submitted written work which has been marked and recorded, which is re-submitted without due reference or citation and is presented as original work.
3. **Cheating:** a student will be deemed to be cheating as a result of any of the following:
  - i) Deliberately acquiring advanced knowledge of the detailed content of an examination or obtaining a copy of an "unseen" written examination paper in advance of the date and time for its authorised release;
  - ii) Communicating with or copying from another candidate during an examination;
  - iii) Permitting another candidate to copy from his/her examination script;

- iv) Possession of any printed, written or electronic material or unauthorised material during an examination which may contain information relevant to the subjects of the examination;
- v) Communicating during an examination with any person other than a properly authorised invigilator or another authorised member of staff;
- vi) Impersonating another examination candidate or permitting himself/herself to be impersonated;
- vii) Undertaking any other action with the intention of gaining an unfair advantage over other candidates.

4. **Collusion:** collusion may exist where a student:

- i) is in complicity with another student in the completion of work which is intended to be submitted as either that student's or the other student's own work;
- ii) knowingly permits another student to copy all or part of his/her own work and to submit it as that student's own work.

5. **Falsification or fabrication of data:** the presentation of data in reports, projects and records, such as records of attendance or of competencies achieved, which is based on evidence which is fictitious, falsely presented as having been carried out by the student, or has been obtained by unfair means.

6. **Personation:** the assumption of one student of the identity of another person with the intent to deceive or gain unfair advantage.

7. **Bribery:** the paying, offering or attempted exchange of an inducement for information or material intended to advantage the recipient in an assessment.

## STUDENT CONDUCT REGULATIONS - PROCESS FLOWCHART

