

A3: STUDENT CONDUCT AND APPEALS

INTRODUCTION

The purpose of Regulation A3 and its constituent sections is to define and clarify the responsibilities and entitlements of students that follow from the act of enrolment, to specify the standards of conduct which are expected, and to stipulate students' entitlement to expect the University will meet its own clearly stated objectives, standards and performance targets within a supportive environment.

Section 1: Academic Appeals (Awards and Progression) Procedure specifies the procedures available to students to appeal against decisions of the University regarding taught awards and progression in taught courses. (The Procedure for consideration of appeals relating to research degrees is contained in Regulation A6: Research Degrees, paragraph 10, Research Degrees Appeal Procedure).

Section 2: Student Misconduct Procedure specifies the procedure which is followed when misconduct is alleged for students on taught courses or research degrees.

SECTION 2: STUDENT MISCONDUCT PROCEDURE

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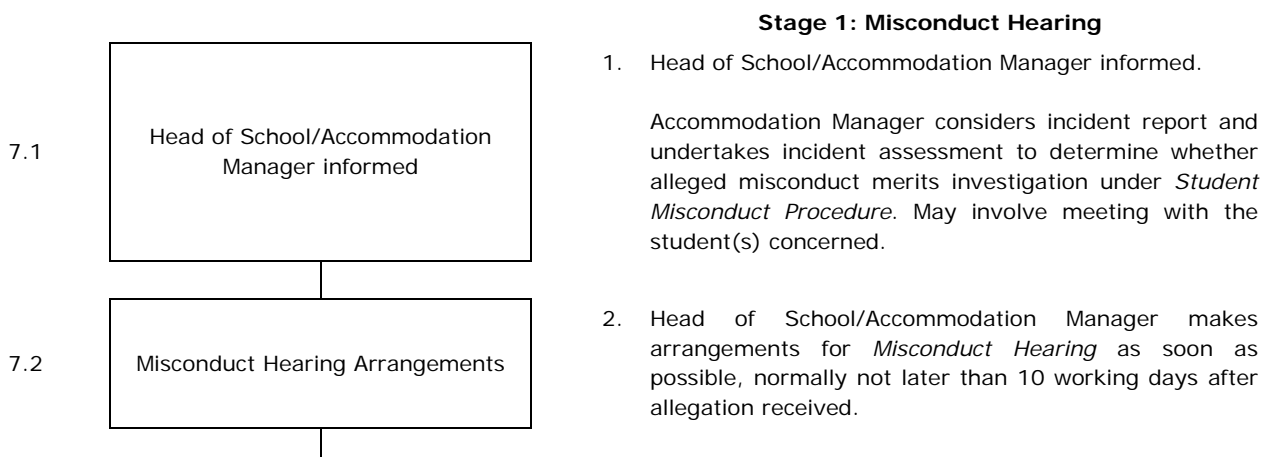
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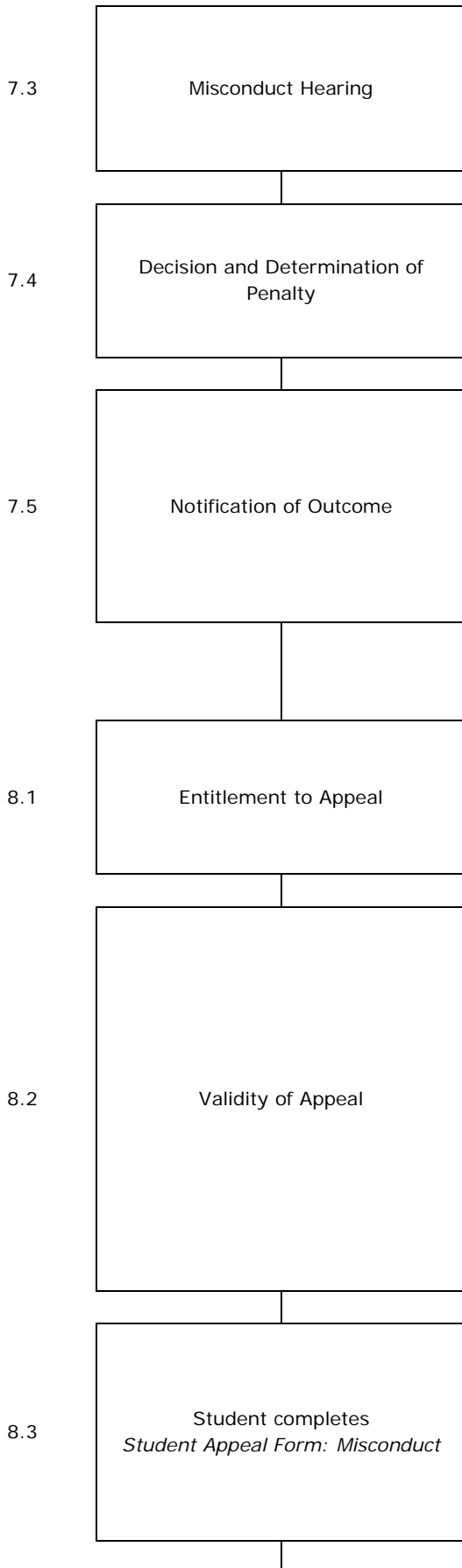
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FLOW DIAGRAM: STUDENT MISCONDUCT PROCEDURE

This diagram is for guidance only. For the specific content of the *Procedure*, reference should be made to the appropriate paragraph of the Regulation as indicated.

Paragraph reference





3. *Misconduct Hearing* takes place, Head of School/Accommodation Manager examines facts and interviews student, may consult with other staff and students as appropriate. Student given opportunity to explain circumstances of case and to submit any relevant mitigating evidence for consideration.

4. Head of School/Accommodation Manager determines:

- misconduct not established, no further action against student required
- misconduct established, decides appropriate penalty or penalties

5. Within 5 working days of *Misconduct Hearing*, Head of School/Accommodation Manager:

- prepare notes of meeting, student and Head of School/Accommodation Manager required to sign as accurate;
- provide student with copy of signed notes, notification of penalty/penalties, and advise student of entitlement to submit an appeal.

Stage 2: Appeals

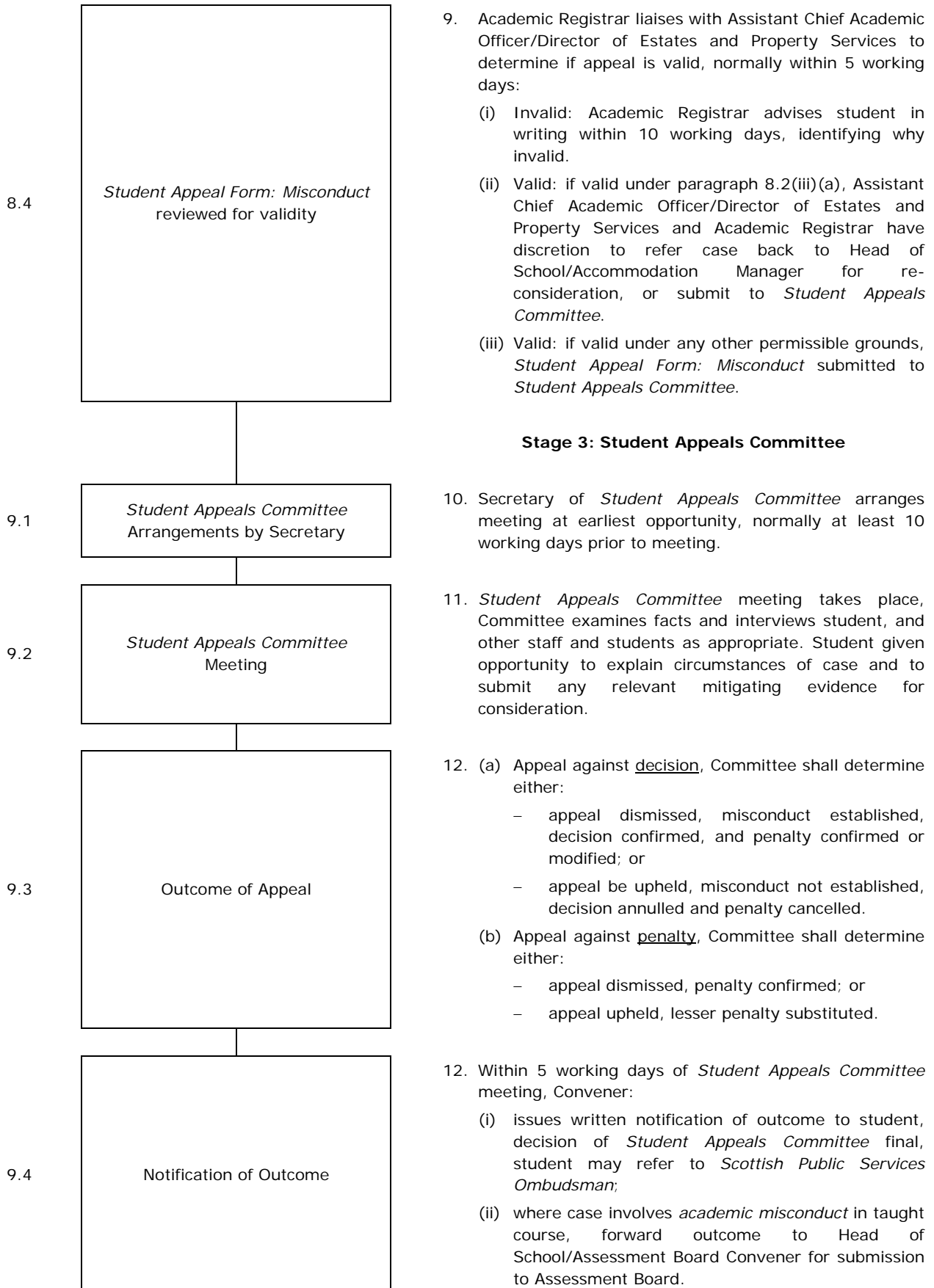
6. Entitled to submit an appeal:

- (i) against decision and/or penalty/penalties if misconduct established;
- (ii) against penalty/penalties if student admitted misconduct.

7. Valid for consideration by *Student Appeals Committee* only if submitted within 10 working days, and also on any of following permissible grounds:

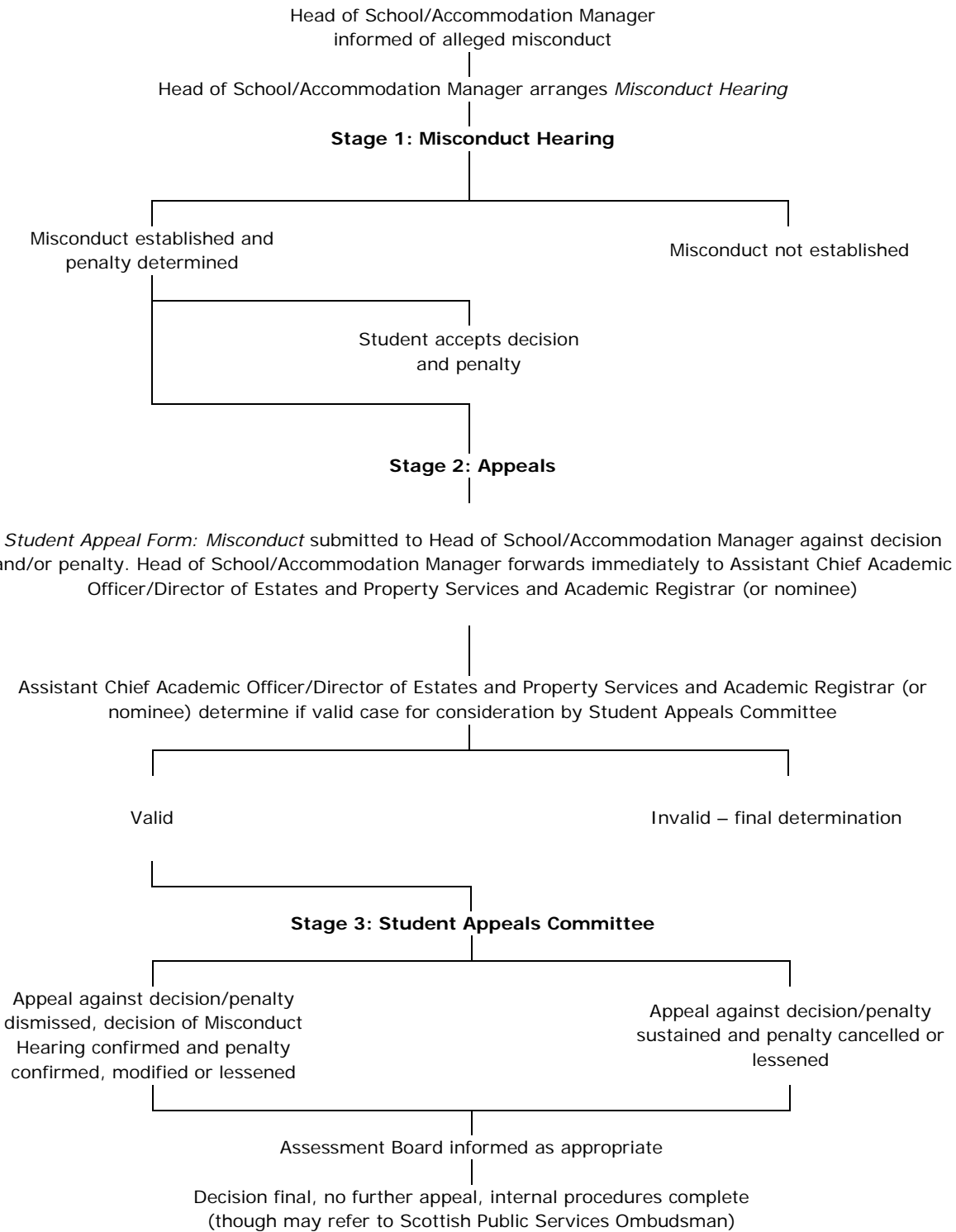
- significant procedural irregularity or material administrative error resulting in an unfair or unreasonable decision; or
- evidence deemed insufficient to substantiate allegation; or
- substantial evidence not previously known; or
- substantial evidence demonstrates penalty disproportionate; or
- criteria used to determine proportionate penalty not appropriately applied.

8. Student completes *Student Appeal Form: Misconduct* submits to Head of School/Accommodation Manager normally within 10 working days of receiving outcome. Head of School/Accommodation Manager copies to Assistant Chief Academic Officer/Director of Estates and Property Services and Academic Registrar's nominee (normally Academic Quality Officer or Deputy Academic Registrar).



SCHEMATIC DIAGRAM: STUDENT MISCONDUCT PROCEDURE

This diagram is for guidance only. Please refer to the Regulation for details.



REGULATION

1. APPLICABILITY OF REGULATION

- (i) The *Student Misconduct Procedure* shall apply to all enrolled students of the University.
- (ii) For the purposes of this *Procedure*, residents of the University's student accommodation are deemed to be enrolled students of the University.
- (iii) For the purposes of this *Procedure*, "Accommodation Manager" shall be used throughout to refer to the Accommodation Support and ResLife Manager or, in his/her absence, the Accommodation and Catering Manager, or nominees appointed with full delegated authority to act on his/her behalf.

2. STATEMENT OF PRINCIPLES

This Regulation and its constituent sections have been prepared:

- (i) to ensure the authority and responsibilities of Academic Council are effectively discharged through those designated office holders referred to in this Regulation, and that these designated office holders, or their nominees who deputise on their behalf, act with the delegated authority of Academic Council;
- (ii) to reflect the principles of natural justice, including the assumption of innocence until guilt is determined, in the context of any matter which affects a student's educational progress and well-being;
- (iii) to ensure equality of treatment of students by providing transparent, consistent and accessible procedures;
- (iv) to ensure that appeals and disciplinary actions are resolved as close as possible to their point of origin, with a minimum of formality, and as expeditiously as possible; and to ensure that, as far as is reasonably practicable, all interested parties are kept informed of progress of an investigation or appeal;
- (v) to assure the identity and circumstances of all parties involved in investigations or appeals remain confidential unless disclosure is necessary to progress an investigation or appeal, in which case an identity will only be revealed judiciously to those directly involved in an investigation or appeal or with the prior approval of the subject;
- (vi) to ensure any student will not be disadvantaged because he/she contributes to an investigation, lodges an appeal or raises a complaint;
- (vii) to ensure that information revealed in the process of investigations or appeals will, where appropriate, inform a deliberate and expeditious improvement in a service which is within the control of the University;

- (viii) to ensure that the Regulation will not hinder a person's rights under the Laws of Scotland, the legal context in which these Regulations operate for all students enrolled with the University;
- (ix) on the basis that the standard of proof to be used when allegations of misconduct are investigated shall be the balance of probabilities.

3. UNIVERSITY OBLIGATIONS

3.1 Obligations to Applicants

The University's obligations to its applicants are:

- (i) to provide information to potential applicants that will describe the applications procedure and assist them to make an informed choice of course and, where appropriate, an application for accommodation;
- (ii) to specify the qualification awarded on the successful completion of the course and whether it is recognised as part of, or leads to, a professional qualification;
- (iii) to provide a statement of the fees payable together with an indication of any additional equipment or material costs for which the student may be liable;
- (iv) to ensure the process of selection is conducted fairly and the selection criteria take account of a broad and reasonable range of qualifications;
- (v) to take all reasonable steps to provide the educational services described in the prospectus and other promotional material.

3.2 Obligations to Students

The University's obligations to its students are:

- (i) to provide information on the aims, structure and content of the course, and an outline of the teaching and learning methods employed, with particular reference to the mix of practical, lecture and tutorial sessions together with details of sandwich and/or work placement elements where these apply;
- (ii) to provide a timetable of classes with any attendance requirements clearly specified;
- (iii) to provide clear and timely information on methods of assessment, and the scheduling of all assessments;
- (iv) to provide students with the appropriate opportunity to express their views on the quality of teaching, academic facilities, and other support services through the University's quality control procedures;
- (v) to provide accommodation in accordance with the *Conditions of Lease*;

- (vi) to attend promptly and fairly to enquiries and queries from students relating either to their course or to the range of student services offered by the University;
- (vii) to deal fairly and promptly with appeals against decisions concerning academic awards and progression in accordance with the *Academic Appeals – Awards and Progression Procedure* set out in [Section 1](#) of this Regulation;
- (viii) to deal fairly and promptly with all allegations of misconduct in accordance with the *Student Misconduct Procedure* set out in [Section 2](#) of this Regulation;
- (ix) to assure the identity and circumstances of all complainants and appellants remains confidential, unless disclosure is necessary to progress an investigation or appeal, in which case the identity of the complainant or appellant will only be revealed judiciously to those directly involved in an investigation or appeal or with the prior approval of the complainant;
- (x) to ensure that information revealed in the process of investigations or appeals will, where appropriate, lead to timeous corrective action or inform a deliberate improvement in a service which is within the control of the University;
- (xi) to take all reasonable steps to minimise any disruption to educational provision, caused by circumstances beyond the control of the University such as natural disaster or industrial action.

4. STUDENT OBLIGATIONS AND CONDUCT

4.1 Student Obligations

It is the obligation of each student (for research students see also *Regulation A6: Research Degrees*, paragraph 1.3.2):

- (i) to meet any attendance requirements set by the School or laid out in the Course Specification and to acknowledge that failure to do so may be taken into account by the relevant Assessment Board;
- (ii) to attend timetabled assessments, and to submit work for assessment within the notified time limit and in accordance with the conditions for the course to which the submission relates, or to notify the tutor or Head of School timeously of any special circumstances which may prevent him/her achieving this;
- (iii) to notify the tutor or Head of School timeously of any special circumstances which may adversely affect his/her academic performance;
- (iv) to declare, where deemed necessary by an associated professional, statutory and/or regulatory body, any personal circumstances pertinent to achieving and/or retaining the membership of that body;
- (v) who is a resident of University accommodation, to comply with and be bound by the *Conditions of Lease* throughout their tenancy;

- (vi) to pay by the due dates all University or partner institution fees, loans, fines, rent and such other sums and return any property as may be due to the University or partner institution, and to acknowledge that, in the event of failure to do so, the University or partner institution is entitled to take appropriate action, which may include, but need not be limited to, one or more of the following:
 - (a) suspension or discontinuation of enrolment;
 - (b) withholding a University or partner institution award, only where this relates to tuition fees;
 - (c) referral to a debt collection agency;
 - (d) where relevant, eviction from the University's student accommodation;
- (vii) to fulfil the University's published requirements for enrolment for assessment.

4.2 Student Conduct

All students of the University are subject to the jurisdiction of the Principal in respect of their conduct:

- (i) Students are expected to behave courteously, and not to engage in behaviour which is, or is likely to be, prejudicial to the good order or to the reputation of the University.
- (ii) Students are required to treat University property and equipment with respect.
- (iii) Students are required to abide by all requirements for professional conduct and behaviour be they defined by the University or an associated professional, statutory and/or regulatory body and be aware that failure to do so may result in the submission of a report to the relevant professional, statutory and/or regulatory body.
- (iv) Students are expected not to attempt to gain unfair advantage in assessments and examinations.
- (v) Students must adhere to the requirements of any applicable legislation.
- (vi) Students, who are residents of University's student accommodation, must adhere to the provisions of the *Conditions of Lease*.
- (vii) Breaches of the above will be deemed to constitute misconduct, and will be dealt with as specified in [paragraph 4.3](#).

4.3 Misconduct

Where misconduct is alleged in respect of [paragraph 4.2](#) of this Regulation, students shall be liable to disciplinary procedures provided for in the *Student Misconduct Procedure*, as contained in this Section of Regulation. Where alleged misconduct leads to criminal

proceedings the University shall not be precluded from also taking action under the *Student Misconduct Procedure*.

5. ENROLMENT, SUSPENSION AND TERMINATION

5.1 Enrolment status pending an Appeal

5.1.1 Where a student has had their studies discontinued and an appeal is pending, the student's enrolment shall be continued and, assuming all pre-requisites for the modules concerned have been met, the student shall be permitted to attend classes and to undertake assessments pending the resolution of the appeal. Any such enrolment shall in no way imply that the student's appeal will be successful.

5.1.2 No student will be evicted from the University's student accommodation whilst an appeal is pending.

5.2 Suspension pending an Investigation

5.2.1 *Suspension:* A student who is the subject of an allegation of misconduct and/or against whom a criminal charge is pending and/or who is the subject of police investigation, may be suspended by the Principal, or nominee, pending the outcome of a *Misconduct Hearing* or *Student Appeals Committee*, or the trial, or the outcome of the police investigation, as appropriate. Suspension may involve:

- a total prohibition on attendance at, or access to, the University and/or its resources and facilities, and on any participation in University or Student Association activities; or
- a selective restriction on attendance at, or access to, the University and/or its resources and facilities, and on any participation in University or Student Association activities; it may also be subject to qualification, such as permission to attend for the purpose of an examination.

In taking such a decision to suspend a student's studies, the Principal or nominee shall be mindful of the requirement to report a change in a student's enrolment status to the UK Visas and Immigration service where the student is subject to UK immigration legislation.

5.2.2 *Enrolment status and suspension:* Further to the provisions of [paragraph 5.2.1](#) of this Regulation, a student who has been suspended pending the outcome of a *Misconduct Hearing* or *Student Appeals Committee* may have his/her enrolment continued at the discretion of the Principal or nominee.

5.2.3 *Emergency suspension:* In cases of great urgency, the Principal or nominee shall be empowered to suspend a student with immediate effect.

5.2.4 *Entitlement to make representation:* A student shall be entitled to make representations in person to the Principal or the nominee. Where it is not possible for the student to attend in person, he/she shall be entitled to make written representations.

5.2.5 *Review of suspension decision:* Where a student has been suspended, such suspension should be subject to review by the Principal or nominee in the light of any developments and of any representations made by the student or anyone else on his/her behalf.

5.3 Termination of Sponsorship and Consequential Termination of Enrolment

5.3.1 The University, as an education provider, acts as a sponsor to migrants wishing to study a course/programme or a research degree at the University. As a licensed sponsor the University must comply with certain duties and legal requirements, including a duty to report to the UK Visas and Immigration service if, amongst other things:

- (i) a sponsored student does not arrive for their course either following a refusal of entry clearance or leave to remain, or where leave is granted but the student fails to enrol;
- (ii) a sponsored enrolled student is absent without permission and contrary to attendance requirements;
- (iii) a sponsored enrolled student leaves their course earlier than expected;
- (iv) a sponsored enrolled student changes the course they are studying; or
- (v) the University discontinues a sponsored enrolled student's studies.

5.3.2 As a licensed sponsor, the University has record-keeping duties. The University cannot enrol a sponsored student or continue to sponsor a migrant student unless it collects and retains certain documents required as evidence to support its decision to sponsor a student.

5.3.3 A sponsored enrolled student must provide valid documentation to the University as necessary and on request. Failure to do so within 48 hours of the request will be deemed as gross misconduct. In such circumstances, the Director of Academic Administration will make a recommendation to the Deputy Principal and Chief Academic Officer, or nominee, supported by appropriate documentary evidence compiled in accordance with University's procedure for terminating sponsorship and consequential termination of enrolment as contained in [Schedule 3.2.2](#) to this *Procedure*, that:

- (i) the University terminates its sponsorship of the migrant student with immediate effect due to the breach of applicable legislation; and
- (ii) the University terminates the enrolment of the migrant student with immediate effect due to the breach of the University's stated instructions and regulations; and
- (iii) the University reports this decision to the UK Visas and Immigration service.

5.3.4 Such a decision by the Deputy Principal and Chief Academic Officer, or nominee, will be a final determination by the University on this matter.

6. CATEGORIES OF MISCONDUCT

The University recognises two categories of misconduct, as detailed in [paragraph 6.1](#) and [paragraph 6.2](#) of this Regulation.

6.1 Academic Misconduct (including Research Misconduct*)

6.1.1 *Academic misconduct* is defined by the University as any attempt by a student(s) to effect an unfair advantage in any assessment, and may include (though is not limited to):

- (i) **Plagiarism.** The University defines this as the practice of presenting the thoughts, writings or other output of another or others as original, without acknowledgement of their source(s) at the point of their use in the student's work. All materials including text, data, diagrams or other illustrations used to support a piece of work, whether from a printed publication or from electronic media, should be appropriately identified and referenced and should not normally be copied directly unless as an acknowledged quotation. Text, opinions or ideas translated into the words of the individual student should in all cases acknowledge the original source.
- (ii) **Falsification or fabrication of data.** The University defines this as the misrepresentation of the results of experimental work or the presentation of fictitious results.
- (iii) **Collusion.** The University defines this as two or more students working together, without the prior authorisation of the Course Leader, tutor or supervisor, to produce the same piece of work, and then attempting to present this work as their own.
- (iv) **Bribery.** The University defines this as the paying, offering or attempted exchange of an inducement for information or material intended to advantage the recipient in an assessment.
- (v) **Personation.** The University defines this as a substitute taking the place of a student in an examination, preparing coursework for assessment on behalf of another student, or submitting coursework for assessment that has been prepared by someone other than the student to whom the resulting grade would be attributed.
- (vi) **Cheating.** The University defines this (in relation to examinations) as the taking of any unauthorised material into an examination; the unauthorised use of programmable calculators and dictionaries in examinations; communicating or attempting to communicate in any way with another student during an examination; copying or attempting to copy from another student during an examination.

* As defined in the University's *Research Governance and Integrity Policy* and in *Regulation A6: Research Degrees*, paragraph 1.3.2.

6.1.2 Any student who assists a fellow student, or student(s), to commit misconduct shall be deemed to have committed misconduct and will be dealt with in accordance with the *Student Misconduct Procedure*.

6.2 Non-Academic Misconduct

6.2.1 An allegation of *non-academic misconduct* concerning a student's conduct as an enrolled student of the University may refer to any actions or activities engaged in, or services and facilities enjoyed, as a student of the University, or in the vicinity of any premises owned, leased or managed by the University. *Non-academic misconduct* may involve conduct relating to (though not limited to) the following:

- (i) Conduct involving breaches of stated instructions or regulations issued by the University, associated professional, statutory and/or regulatory bodies, or by authorised members of the University, that prejudice the orderly working of the University and/or contravene the requirements of associated professional, statutory and/or regulatory bodies.
- (ii) Conduct involving serious and/or persistent breaches of the *Conditions of Lease*.
- (iii) Conduct involving harmful or inappropriate acts that may require referral as defined by the Protecting Vulnerable Groups Scheme*. These are acts that have:
 - (a) harmed a child or protected adult;
 - (b) placed a child or protected adult at risk of harm;
 - (c) engaged in inappropriate conduct involving pornography;
 - (d) engaged in inappropriate conduct of a sexual nature involving a child or protected adult;
 - (e) given inappropriate medical treatment to a child or protected adult.
- (iv) Conduct that brings or could bring, the reputation of the University, or associated professional, statutory and/or regulatory bodies, into disrepute.
- (v) Conduct including (though not limited to):
 - (a) assault of or threatening behaviour towards any student(s) or member(s) of staff of the University;
 - (b) unauthorised damage to the property of the University, student(s) or member(s) of staff of the University;
 - (c) harassment, bullying and/or discrimination on the grounds of gender, sexuality, disability, age, race or religion;

* <https://www.disclosurescotland.co.uk/disclosureinformation/pvgscheme.htm>

- (d) misappropriation or misuse of University funds or assets;
 - (e) unauthorised occupation of University land or premises;
 - (f) behaviour which interferes with the legitimate freedom of speech, ideas, actions or enquiry of a student(s) or member(s) of staff or which disrupts or interferes with University processes or procedures;
 - (g) attempts to subvert University processes or procedures by means of false claims or fraudulent documents;
 - (h) actions in contravention of applicable legislation;
 - (i) unauthorised appropriation and/or dissemination of offensive materials and publications, whether in printed or electronic format.
- (vi) Conduct that endangers the safety or well-being of others.

6.2.2 Any student who assists a fellow student, or student(s), to commit misconduct shall be deemed to have committed misconduct and will be dealt with in accordance with the *Student Misconduct Procedure*.

7. STUDENT MISCONDUCT PROCEDURE – STAGE 1: MISCONDUCT HEARING

7.1 Initial Intimation

Where there are reasonable grounds to believe that misconduct has occurred then the Head of School shall be informed in the first instance, except where it relates to:

- (i) the University's student accommodation, in which case the Accommodation Manager shall consider the incident report and undertake an incident assessment to determine whether, with reference to paragraph 6.2.1 (ii) of this *Procedure*, the alleged misconduct merits investigation under this *Procedure*. This may involve meeting with the resident(s) concerned; or
- (ii) the termination of sponsorship and consequential termination of enrolment of a student in accordance with [paragraph 5.3](#) of this *Procedure*.

7.2 Misconduct Hearing Arrangements

The Head of School/Accommodation Manager shall:

- (i) arrange a *Misconduct Hearing* with the student at the earliest possible opportunity and normally not later than 10 working days after the allegation has been received by the Head of School/Accommodation Manager;
- (ii) be accompanied to the *Misconduct Hearing* by a note-taker and staff appropriate to the circumstances of the allegation, though typically no more than three members of staff will be present (in addition to the note-taker), and may include

the Course Leader, Module Coordinator, Personal Tutor, Head of Graduate School or any other relevant parties;

- (iii) issue such notification of the date, time and venue of the *Misconduct Hearing* and the details of the alleged misconduct to the student by first class mail and email, and advising of their entitlement to be accompanied by two persons (who should not be materially involved), to call witnesses, and that the Student Association may be contacted for advice and support;
- (iv) advise the student in writing that if he/she fails to attend, without good reason, the *Misconduct Hearing* may proceed in his/her absence, without this constituting grounds for appeal.

7.3 Misconduct Hearing Protocol

- (i) If the student fails to attend, but has provided good reason for non-attendance, then a further *Misconduct Hearing* shall be arranged, the arrangements for which shall also be confirmed in writing to all interested parties, and the student informed the *Misconduct Hearing* will proceed in his/her absence if necessary, without this constituting grounds for appeal.
- (ii) If the student fails to attend without providing a good reason for non-attendance, then the meeting will proceed in his/her absence, without this constituting grounds for appeal.
- (iii) The Head of School/Accommodation Manager supported by, as appropriate, those staff accompanying them in the *Misconduct Hearing*, shall examine the facts and interview the student, and may consult with other staff and students as appropriate. The student shall be given every opportunity to explain the circumstances of the case and to submit any relevant mitigating evidence for consideration.
- (iv) In cases of alleged academic misconduct which relate to issues regarding the authenticity of the work, the Head of School shall have discretion to question the student on various aspects of the work, including the methods used to produce the work, key sources underpinning the work and the student's knowledge of the subject area.
- (v) Where there is insufficient time for an allegation of *academic misconduct* relating to a taught course to be investigated prior to a meeting of an Assessment Board, the Assessment Board's decision on the student's progress shall be deferred.

7.4 Decision and Determination of Penalty

If, as a result of the *Misconduct Hearing*, the Head of School/Accommodation Manager is satisfied that:

- (i) misconduct has not been established, no further action against the student will be taken and the student and the original complainant shall be informed of the

outcome in writing by the Head of School/Accommodation Manager within five working days of the *Misconduct Hearing*;

- (ii) misconduct has been established, the Head of School/Accommodation Manager shall decide the appropriate and proportionate penalty or penalties in accordance with [paragraph 10](#) of this *Procedure*;
- (iii) if the relates to the University's student accommodation, a copy of the outcome will be reported to the student's Head of School.

7.5 Notification of Outcome

Normally within five working days of the *Misconduct Hearing*, the Head of School/Accommodation Manager shall:

- (i) prepare notes of the meeting, which the student and Head of School/Accommodation Manager shall be required to sign as representing an accurate record of the meeting. Thereafter, the notes shall constitute the formal record of the meeting.
- (ii) provide the student, by first class mail and email, with a copy of the signed notes of the meeting, notification of the penalty or penalties to be imposed and, if appropriate, replacement costs, and advise the student of his/her entitlement to submit an appeal against the decision and/or penalty or penalties (though not replacement costs) in accordance with [paragraph 8](#) of this *Procedure* by completing the *Student Appeal Form: Misconduct*. In the event the student fails to respond on the accuracy of the notes of the meeting within a specified timescale, as agreed and recorded in the notes of the meeting, then it shall be assumed that the notes are a true and accurate record. Where there is disagreement between the student and the Head of School/Accommodation Manager regarding the accuracy of the notes of the meeting then the record of such disagreement shall be appended to the notes of the meeting.
- (iii) where the case involves *academic misconduct* relating to a taught course, advise the student that a report will be made to the Assessment Board at its next scheduled meeting, forward this report to the Assessment Board Convener, and ensure it is submitted to the Assessment Board. Where evidence of *academic misconduct* relating to a taught course becomes available subsequent to the recommendation of an Assessment Board, and the penalty imposed includes a reduction in the grade awarded for a student's work, the Board shall be required to revise their recommendation retrospectively to take account of the penalty imposed by the Head of School. The Assessment Board may not reconsider or amend the penalty;
- (iv) where such misconduct may also constitute a criminal offence and the police or other appropriate authority are involved, report this to the Principal (or nominee in his/her absence) who shall decide, in consultation with the relevant Head of School/Accommodation Manager, whether disciplinary proceedings under the *Student Misconduct Procedure* should be deferred pending possible criminal proceedings. However, the student may still be suspended pending the outcome

of any proceedings (see [paragraph 5.2.1](#) of this Regulation). Where alleged misconduct leads to criminal proceedings the University shall not be precluded from also taking action under the *Student Misconduct Procedure*.

8. STUDENT MISCONDUCT PROCEDURE – STAGE 2: APPEALS

8.1 A student shall be entitled to submit an appeal:

- (i) against the decision and/or the penalty or penalties (though not replacement costs) if a Head of School/Accommodation Manager has determined misconduct has been established;
- (ii) against the penalty or penalties if the student has admitted to the misconduct, (though not replacement costs).

8.2 An appeal shall be deemed valid for consideration by the *Student Appeals Committee* only if it is both submitted within 10 working days of the student receiving notification from the Head of School/Accommodation Manager of the outcome, and it is based on any of the following permissible grounds:

- (i) there has been a significant procedural irregularity or material administrative error resulting in an unfair or unreasonable decision; or
- (ii) the evidence of alleged misconduct is deemed insufficient to substantiate the allegation; or
- (iii) there is substantial evidence that:
 - (a) was not previously known to the Head of School/Accommodation Manager at the time of the *Misconduct Hearing*; or
 - (b) demonstrates a penalty is disproportionate; or
 - (c) the criteria used to determine a proportionate penalty, as contained in [paragraph 10.1](#), were not appropriately applied.

8.3 The student shall complete the *Student Appeal Form: Misconduct* and submit this to his/her Head of School, or to the Accommodation Manager, normally within 10 working days of the student receiving notification of the outcome, indicating whether the appeal refers to the decision and/or the penalty, and confirming his/her address for correspondence. Normally within three working days of receipt of the *Student Appeal Form: Misconduct*, the Head of School/Accommodation Manager shall copy the *Student Appeal Form: Misconduct*, together with a report of the circumstances surrounding the appeal, to:

- (i) the Assistant Chief Academic Officer and the Academic Registrar (or nominee, who in such circumstances will be the Academic Quality Officer);

- (ii) unless the case relates to the University's student accommodation, in which case to the Director of Estates and Property Services and the Academic Registrar (or nominee, who in such circumstances will be the Deputy Academic Registrar).

8.4 On receipt of the *Student Appeal Form: Misconduct*, and normally within five working days, the Academic Registrar (or nominee) shall liaise with the Assistant Chief Academic Officer or Director of Estates and Property Services to determine if the appeal is valid for consideration by the *Student Appeals Committee*.

- (i) If the appeal is deemed to be invalid the appeal shall be dismissed. The Academic Registrar (or nominee) shall advise the student in writing within 10 working days of the submission of the appeal, identifying why it is deemed invalid and advising the student that the decision is final in respect of the University's internal *Student Misconduct Procedure*, though the student may refer to the *Scottish Public Services Ombudsman's* independent public services complaints system, as contained in [paragraph 12](#) of this *Procedure*.
- (ii) If the appeal is deemed valid under [paragraph 8.2\(iii\)\(a\)](#), the Assistant Chief Academic Officer/Director of Estates and Property Services and Academic Registrar (or nominee) shall have the discretion to:
 - (a) refer the case back to the Head of School/Accommodation Manager for re-consideration, in which case the Head of School Accommodation Manager will advise the student in writing of their decision, normally within 10 working days; or
 - (b) submit it for consideration by the *Student Appeals Committee*, and advise the student in writing of their decision, normally within five working days.
- (iii) If the appeal is deemed valid under any of the other permissible grounds, the *Student Appeal Form: Misconduct* shall be submitted for consideration by the *Student Appeals Committee*.

9. STUDENT MISCONDUCT PROCEDURE – STAGE 3: STUDENT APPEALS COMMITTEE

9.1 Student Appeals Committee Arrangements

The Secretary of the *Student Appeals Committee* shall:

- (i) arrange a meeting of the *Student Appeals Committee* at the earliest opportunity, and in accordance with the requirements of [Organisational Regulation O4: Standing Committees of Academic Council, Schedule 4.6](#);
- (ii) confirm in writing to the student the date, time and venue for the *Student Appeals Committee*, normally at least 10 working days prior to the meeting, issuing the correspondence by recorded delivery, first class mail and email, and advising of their entitlement to be accompanied by two persons, and that the Student Association may be contacted for advice and support;

- (iii) advise the student in writing that if he/she fails to attend, without good reason, the *Student Appeals Committee* meeting may proceed in his/her absence, without this constituting grounds for appeal.

9.2 Student Appeals Committee Protocol

- (i) No person involved in the *Misconduct Hearing* shall be a member of the *Student Appeals Committee* which hears the appeal.
- (ii) The *Student Appeals Committee* may hear more than one appeal at the same meeting, and does not require to be convened separately for each case.
- (iii) If the student fails to attend, but has provided good reason for non-attendance, then a further meeting of the *Student Appeals Committee* shall be arranged, the arrangements for which shall also be confirmed in writing to all interested parties, and the student informed the *Student Appeals Committee* meeting will proceed in his/her absence if necessary, without this constituting grounds for appeal.
- (iv) If the student fails to attend without providing a good reason for non-attendance, then the meeting will proceed in his/her absence, without this constituting grounds for appeal.
- (v) The *Student Appeals Committee* shall examine the facts and shall interview the student and members of staff and students as appropriate. The student shall be given every opportunity to explain the circumstances of the case and to submit any relevant mitigating evidence for consideration.
- (vi) Where there is insufficient time for a student's appeal (academic misconduct relating to a taught course) to be considered prior to a meeting of an Assessment Board, the Assessment Board's decision on the student's progress shall be deferred.

9.3 Outcome of Appeal

- (i) Having considered an appeal against the decision, the Committee shall determine either that:
 - (a) the appeal be dismissed, misconduct has been established, the decision of the Head of School/Accommodation Manager be confirmed, and the penalty be confirmed or modified; or
 - (b) the appeal be upheld, misconduct has not been established, the decision of the Head of School/Accommodation Manager be annulled and the penalty be cancelled.

- (ii) Having considered an appeal against the penalty, the Committee shall determine either:
 - (a) the appeal be dismissed and the penalty be confirmed; or
 - (b) the appeal be upheld and a lesser penalty be substituted.

9.4 Notification of Outcome

Normally within five working days of the *Student Appeals Committee* meeting, the Convener shall:

- (i) issue a written notification of the outcome to the student, and advise the student the decision of the *Student Appeals Committee* is final in respect of the University's internal *Student Misconduct Procedure*, though the student may refer to the *Scottish Public Services Ombudsman's* independent public services complaints system, as contained in [paragraph 12](#) of this *Procedure*;
- (ii) where the case involves *academic misconduct* relating to a taught course, and where the penalty imposed includes a reduction in the grade awarded for a student's work, advise the student this shall be reported to the appropriate Assessment Board at its next scheduled meeting. The Convener shall forward the outcome to the Head of School/Assessment Board Convener and ensure it is submitted to the Assessment Board. The Assessment Board may not reconsider or amend the confirmed penalty.

10. PENALTIES

10.1 Criteria

When determining a proportionate penalty, the following criteria will be used, taking due cognisance of whether the penalty relates to academic or non-academic misconduct as described in [paragraph 6](#) of this Regulation:

- (i) whether the misconduct was deliberate;
- (ii) whether there was intent and, in instances of academic misconduct, to gain an advantage;
- (iii) the scale and severity of the misconduct;
- (iv) whether the student admitted the misconduct;
- (v) the student's previous conduct, including any previous misconduct and, where, relevant, breaches of the *Conditions of Lease*;
- (vi) any mitigating circumstances;
- (vii) the course stage, and availability of further assessment opportunities;

- (viii) the extent to which the assessment would have contributed to a final award;
- (ix) where relevant, any requirements of associated professional, statutory and/or regulatory bodies;
- (x) any other factors, including use of information technology and Library Services, security, observance of University regulations or any issues raised by the student not covered by the above.

10.2 Penalties

One or more of the following penalties may be applied for a first offence of misconduct. (Refer also to [Regulation A6: Research Degrees, Schedule 6.3](#) for penalties relating to research degrees). The automatic penalty for a second misconduct offence, where both cases have been classified as academic misconduct or both classified as non-academic misconduct, shall be **Penalty 10**. The following list of penalties is not exhaustive.

Penalty 1: Reprimand: Written warning, retained by the Head of School in the School's student file, and copies distributed to the Assistant Chief Academic Officer, the Academic Registrar, and any other Professional Support Departments as deemed appropriate. This penalty would be appropriate only if University staff were satisfied the misconduct was a minor transgression, and the first known case of misconduct.

Penalty 2: Failure + all remaining re-assessment opportunities: Grades for the individual component of assessment affected by the academic misconduct be reduced to Grade F or equivalent*, and the student be permitted the remaining re-assessment opportunities as would normally apply to that component of assessment. Grades achieved for re-assessment opportunities would be as defined in [Regulation A4: Assessment and Recommendations of Assessment Boards, paragraph 9.6](#).

Penalty 3: Failure + one re-assessment opportunity: Grades for the individual component of assessment affected by the academic misconduct be reduced to Grade F or equivalent*, and the student be permitted only one of any remaining re-assessment opportunities. Grades achieved for re-assessment opportunities would be as defined in [Regulation A4: Assessment and Recommendations of Assessment Boards, paragraph 9.6](#).

Penalty 4: Failure + no re-assessment opportunity: Grades for the individual component of assessment affected by the academic misconduct be reduced to Grade F or equivalent*, and the student not be permitted any of the remaining re-assessment opportunities. Such a penalty would require the approval of Academic Council in accordance with [Regulation A4: Assessment and Recommendations of Assessment Boards, paragraph 9.1](#) prior to it being confirmed.

* Equivalentents, for example, might be: Percentage marking scheme = 0%; Numerical marking scheme = Grade 1; Pass/Fail marking scheme = Fail

- Penalty 5: Replacement costs:** Charges covering the cost of replacement of a University property damaged as a consequence of the misconduct, without financial limit.
- Penalty 6: Supervised voluntary service:** Supervised voluntary service within the University, up to a maximum of 24 hours, and subject to such supervision by an authorised officer as the Head of School/Accommodation Manager or Head of the Professional Support Department may decide.
- Penalty 7: Fine:** A fine of not more than £250. This may, at the discretion of the Head of School/Accommodation Manager or Head of the Professional Support Department, be fulfilled by undertaking supervised voluntary service at a rate of £8.00 per hour, or may take the form of a suspended fine pending good behaviour.
- Penalty 8: Suspension for specified period:** A recommendation to the Principal (or a nominee to whom such authority has been delegated) for the immediate suspension of enrolment and all corresponding rights of the student, including the use of University facilities, for a specified period.
- Penalty 9: Termination of Lease:** The Accommodation Manager may terminate the lease with immediate effect, giving sufficient notice to the resident as required by legislation.
- Penalty 10: Termination of Enrolment:** A recommendation to the Principal (or a nominee to whom such authority has been delegated) for the student's immediate termination of enrolment (including all corresponding rights), discontinuation of studies and exclusion from the University's facilities and properties. This recommendation shall be automatic in the case of a second proven case of misconduct, where both cases have been classified as academic misconduct, or both classified as non-academic misconduct. Where the case relates to the University's student accommodation, the Accommodation Manager shall liaise with the student's Head of School prior to making the recommendation. The recommendation may also include a request to permanently deny the student any future rights of application and enrolment to the University. Where this penalty is imposed on a migrant student, the University shall report this decision to the UK Visas and Immigration service.
- Penalty 11: Termination of Sponsorship and Consequential Termination of Enrolment:** A recommendation to the Deputy Principal and Chief Academic Officer, from the Director of Academic Administration, that the University terminates its sponsorship of a migrant student with immediate effect due to the breach of applicable legislation; and the University terminates the enrolment of the migrant student with immediate effect due to the breach of the University's stated instructions and regulations; and the University reports this decision to the UK Visas and Immigration service.

11. DISTRIBUTION AND RETENTION OF MISCONDUCT RECORDS

11.1 Misconduct Hearing – Distribution of Outcome

- (i) All records, whether in paper or electronic form, documenting the conduct and outcome of disciplinary proceedings against a student considered through the *Student Misconduct Procedure* shall be retained in the School's student file.
- (ii) The Convener of the *Misconduct Hearing* shall ensure a copy of the notes are retained in the School's student file;
- (iii) The Convener of the *Misconduct Hearing* shall report the outcome of the investigation to:
 - the Student Administration Department and the Student Services Department where a penalty involves an alteration to a student's grades, a suspension, or exclusion (temporary or permanent), or discontinuation of studies;
 - those other Professional Support Departments to which the case relates, which might include any or all of the following: the Estates and Property Services Department, the Financial Services Department, the IT Services Department and the Library.
- (iv) All cases of *academic misconduct* relating to taught courses shall be reported to the appropriate Assessment Board.

11.2 Student Appeals Committee – Distribution of Outcome

- (i) All records, whether in paper or electronic form, documenting the conduct and outcome of disciplinary proceedings against a student considered through the *Student Misconduct Procedure* shall be retained in the School's student file.
- (ii) The Convener of the *Student Appeals Committee* shall distribute a copy of the Committee's report to:
 - the Head of School in which the student is studying, for retention in the School's student file;
 - the Academic Registrar for retention in the Department for Governance and Academic Quality file.
- (iii) The Convener of the *Student Appeals Committee* shall report the outcome of the appeal to:
 - the Student Administration Department and the Student Services Department where a penalty involves an alteration to a student's grades, a suspension, or exclusion (temporary or permanent), or discontinuation of studies;

- those other Professional Support Departments to which the case relates, which might include any or all of the following: the Estates and Property Services Department, the Financial Services Department, the IT Services Department and the Library.
- (iv) All cases of *academic misconduct* relating to taught courses shall be reported to the appropriate Assessment Board.

11.3 Retention of Records

All records, whether in paper or electronic form, documenting the conduct and outcome of disciplinary proceedings against a student shall be retained for six years from the date the case concluded. Thereafter, all records shall be destroyed unless:

- it is a requirement of a relevant professional, statutory or regulatory body to retain such records for a longer specified period; such records shall be retained by the School; or
- where an established case of misconduct has led to a penalty of suspension, exclusion (temporary or permanent), or the denial of any future rights of application and enrolment to the University, either permanently or for a specified period; such records shall be retained by the Student Administration Department.

11.4 Reporting to Academic Council

The Academic Registrar shall maintain a central record of all misconduct cases and penalties and report these annually to Academic Council.

12. SCOTTISH PUBLIC SERVICES OMBUDSMAN

12.1 Under the Further and Higher Education (Scotland) Act 2005 the remit of the Scottish Public Services Ombudsman has been extended to cover student complaints. All students of The Robert Gordon University are entitled to pursue a complaint through the Ombudsman where the complainant has exhausted the University's internal procedure. The Ombudsman shall consider complaints where a student has suffered injustice or hardship as a result of: administrative failure; the failure of the University to provide a service; or failure in a service provided by the University. In exceptional circumstances the Ombudsman may consider: complaints which could be taken to court or to an independent tribunal, but not if proceedings have already begun; and complaints made more than 12 months after the day on which the complainant found out about the matter.

The Ombudsman shall not consider:

- properly made decisions that the University has a right to make, even if the complainant does not agree with the decision;
- personnel issues such as appointments of staff, pay, or discipline;
- most commercial or contractual issues.

Some of these matters are considered by other ombudsmen and agencies handling complaints and details can be found at the Scottish Public Services Ombudsman website at: www.spsso.org.uk.

- 12.2 Prior to contacting the Ombudsman, the complainant should have exhausted the University's internal procedures, i.e. the *Academic Appeals (Awards and Progression) Procedure*, *Student Misconduct Procedure*, or *Complaints Handling Procedure*. In the event that the complainant is dissatisfied with the outcome then the student can contact the Ombudsman. The complaint should be put in writing to the Ombudsman by using the *Complaints Form*, which can be accessed at www.spsso.org.uk. All correspondence relating to the case should accompany the completed form.

In the event the student experiences difficulties in putting the complaint in writing then he/she may contact the Ombudsman for advice.

In the event that a complaint is being made on someone else's behalf, that person is required to authorise the complaint in writing.

- 12.3 The Ombudsman shall endeavour to resolve complaints informally, without the need to proceed to a formal, and possibly lengthy, investigation. However, it is recognised that there shall be occasions when it is necessary to conduct a formal investigation and this may take several months to complete. In both instances, the Ombudsman shall notify the complainant of the course of action being taken and what is involved.

In the event that the Ombudsman requires additional background information, evidence or correspondence, to assist with the investigation then it shall contact the complainant. The Ombudsman shall also notify the University that a complaint is being considered. If the complainant has a strong objection to this then he/she should notify the Ombudsman.

At the end of the formal investigation, the complainant and the University shall be issued with a copy of the Ombudsman's report. In addition, the report shall be issued to the Scottish Parliament. The report shall not identify any person involved, except in certain limited circumstances.

If after investigation, the Ombudsman finds the complaint justified then it shall recommend a course of action to remedy the complaint. In doing this it shall have two main objectives:

- (i) To put the complainant in the position he/she would have been in if things had not gone wrong;
- (ii) To prevent the same thing happening to anyone else in the future.

In this way, the Ombudsman's role is more about finding remedies for the complainant, and not about punishing the body complained about.

In all cases, the Ombudsman aims to put the complainant, as far as possible, back in the position he/she would have been in if things had not gone wrong. In order to achieve this, the Ombudsman might require some or all of the following:

- an apology and/or an explanation;
- practical action to mitigate any injustice;
- reimbursement of any actual loss/costs necessarily incurred;
- other suitable redress, either under any redress scheme run by the authority itself or as a 'one-off' based on the specific circumstances of the case. In many cases, this redress could be non-financial;
- a modest payment in recognition of time and trouble;
- exceptionally, asking the authority to propose appropriate action (for example, in a particularly serious and/or non-standard case).

An important part of the Ombudsman's work is ensuring, as far as possible, that the matters that students complain about do not happen again. Therefore, as well as making recommendations about the specific case in question, the Ombudsman may also require the University to take more general action. This could include:

- changes to procedures;
- changes to policy;
- staff guidance/training;
- feedback about any changes made.

12.4 The Ombudsman carefully considers all complaints received and the time needed to reach a decision shall vary from case to case. However, the complainant shall be kept informed of what is occurring.

Within 3 working days of the complaint being received by the Ombudsman, an acknowledgement shall be issued to the complainant. Within a further 20 working days the Ombudsman shall either:

- Let the complainant know if it is not going to take action and explain why (If the Ombudsman believes that the complainant may be able to complain to another agency or ombudsman, the complainant shall be notified as such); or
- Tell the complainant how it intends to look further into the complaint; or
- Request additional information necessary to taking a decision.

Within a further 20 working days, if the Ombudsman has not reached a decision then it shall provide the complainant with an explanation as to why and detail any further action that is being taken. Thereafter, the complainant shall be kept updated on progress at intervals of no more than twenty working days.

Further details of the Scottish Public Services Ombudsman can be obtained at:

www.spsso.org.uk.

Scottish Public Services Ombudsman [online] from: www.spsso.org.uk

Regulation revised September 2005 following the implementation of the Further and Higher Education (Scotland) Act 2005.

SCHEDULE 3.2.1: TERMINATION OF SPONSORSHIP AND CONSEQUENTIAL TERMINATION OF ENROLMENT

The *Termination of Sponsorship and Consequential Termination of Enrolment Procedure*, as contained in this Schedule, should be deemed to be part of, and should be read in conjunction with, [Regulation A3, Section 2: Student Misconduct Procedure](#) as it relates to migrant students sponsored by the University.

This *Procedure* may be subject to change due to amendments to the requirements of the UK Visas and Immigration service.

The University's Immigration Compliance Officer identifies a sponsored student whose status has changed and/or whose leave to remain in the UK will expire. The Immigration Compliance Officer contacts the sponsored student by email (to the student's RGU email address and any preferred email address held on the system) to ascertain what their current immigration status is and, where appropriate, to ask the student to present, for verification and copying, appropriate documentary evidence.

Day 1 If a sponsored student persistently fails to provide valid documentation on the request of the Immigration Compliance Officer, the Student Services Manager will be informed.

Access to IT facilities and Library Services will be removed, sanctioned by the Student Services Manager.

The Student Services Manager will contact the student by email (to the student's RGU email address and any preferred email address held on the system) by letter to the student's term-time address, and by telephone, stating the student is in breach of applicable legislation and the University's stated instructions and regulations, and requesting they provide valid documentation within 48 hours of the request.

The Student Services Manager will also inform the appropriate Head of School and School Administration Manager.

If a sponsored student provides valid documentation within the 48 hour timescale, the Student Services Manager will reinstate the sponsored student's access to IT facilities and Library Services with immediate effect.

Day 3 If a sponsored student fails to provide valid documentation within 48 hours of the request, the Director of Academic Administration will make a recommendation to the Deputy Principal and Chief Academic Officer, or nominee, to terminate the University's sponsorship of the student and, as a consequence, terminate the student's enrolment, in accordance with [paragraph 5.3.3](#) of this Regulation, and supported by appropriate documentary evidence compiled in accordance with this *Termination of Sponsorship and Consequential Termination of Enrolment Procedure*.

The Immigration Compliance Officer will report this decision to the UK Visas and Immigration service.