

## Section 32: BIMM Institute Student Disciplinary Procedure

### Introduction

This Student Disciplinary Procedure provides a framework for the regulation of BIMM student behaviour in order to secure the proper working of the Institute in the broadest sense. Breaches of BIMM regulations relating to behaviour in the policies listed below will be dealt with in accordance with the process set out therein and/or through this Student Disciplinary Procedure:

- Academic Regulations
- Equal Opportunities & Diversity Policy
- Fitness to Study Policy
- Bullying & Harassment Policy
- Safeguarding Policy
- Social Media Policy
- Student Charter
- Student Code of Conduct

In the event of a BIMM student disciplinary matter being the subject of a police investigation, it may be necessary to wait until the conclusion of that investigation before any BIMM procedure can be started. BIMM will take the results of any police investigation into account when conducting its own disciplinary hearing. Should the police issue any bail conditions or should the Institute need to consider the safety of students whilst investigations are ongoing, immediate action may need to be taken, which may result in a suspension of studies or restrictions being placed on access to facilities.

### Courses of Action Available

1. In cases of alleged misconduct of a minor nature, the College will seek to resolve matters informally, with disciplinary procedures being operated by the student's Course Leader.
2. If the matter cannot be resolved informally, due to there being an allegation of a more serious breach of regulations or repetition of minor acts of misconduct, the Head of Education (or nominated senior manager) will be required to conduct a formal investigation.
3. A student who is the subject of an allegation of misconduct may be suspended by the College Principal (or nominated senior manager) if their continued attendance at the College could interfere with the formal investigation or present a risk to students and/or staff.
4. A student against whom a criminal charge is pending, or who is the subject of a police investigation, may be suspended by the College Principal (or nominated senior manager) pending the outcome of the police investigation.

### Formal Investigation Procedure

1. If the Head of Education (or nominee) decides to conduct a formal investigation, they will establish a Panel to hear the case comprised of themselves (as Chair), the Head of Student Services, or another senior member of staff other than the student's Course Leader, and a formal minute-taker to make a record of the Hearing.

2. The Chair will interview and/or obtain written statements from any witnesses to the allegation in advance of the formal disciplinary hearing including (but not limited to) the person making the allegation of misconduct.
3. The Chair will ensure that the student is notified in writing at least seven days before the Hearing takes place. That notification should include and confirm:
  - a) A statement of the allegation(s) to be considered and the purpose of the hearing;
  - b) Details of the date, time and place of the hearing and those who will be present;
  - c) Copies of any evidence/documents to be considered in connection with the allegation;
  - d) That the student may bring a written statement of their perception of events to the Hearing;
  - e) A statement to the effect that witnesses may be called in support of the allegation and that the student has the right to call witnesses on their behalf;
  - f) A statement of the student's right to be accompanied by a friend or representative, but not by an external organisation. A student's representative may not be a member of BIMM staff or a witness to the incident under investigation.
4. Should a student notify the Chair in advance of the Hearing that they are unable to attend on the scheduled date, and provides a satisfactory reason for their non-attendance, the Chair will reschedule the Hearing. However, only one further attempt to reschedule the Hearing in order to enable the student's attendance will be made. Where the Hearing is to be re-convened, the Chair has responsibility for ensuring that the student is notified again as set out above.
5. If the student does not attend the Hearing and does not communicate with the Chair regarding their non-attendance, the Hearing will normally proceed in the absence of the student.

### **Conduct of the Hearing**

The Hearing will be conducted fairly but will not seek to replicate a court of law and will ensure that all relevant facts are considered by the Panel. At the discretion of the Chair, an individual who made the allegation under investigation may either be interviewed separately or give evidence via a written statement if deemed appropriate in the circumstances and agreed in advance. The Hearing should be conducted as follows:

1. The Chair will open proceedings by:
  - a) Explaining the purpose of the hearing and the extent of their delegated powers in taking decisions on behalf of BIMM;
  - b) Explaining the penalties that could be enforced as outcomes of the hearing if the allegation of misconduct is upheld, as set out below;
  - c) Establishing the names and identities of everyone present at the hearing and confirm the names of all witnesses who will be supplying evidence.
2. A record will be kept of all persons attending the Hearing and whether or not the student has elected to be accompanied by a friend or representative in accordance with these regulations, or if the student has failed to attend the hearing and the Chair's decision, including the reasons for it.

3. The Chair will normally invite all parties except witnesses into the room. Where witnesses are to be heard, they are only to be present for the duration of their own evidence.
4. The Chair will outline the case against the student, including submission of written or verbal statements from witnesses.
5. The student and their representative will be given the opportunity by the Chair to address questions to the Panel and/or to any of the witnesses.
6. Any witness submitting a written statement should normally be in attendance to answer questions unless there are exceptional circumstances, or the parties agree otherwise in advance of the Hearing.
7. The Chair will request the student or their representative to present their case, including submission of written or verbal statements from witnesses.
8. The Panel may ask questions of anyone present at the hearing at any time for the purposes of clarification.
9. The Chair will invite the student or their representative to make a final statement, after which they will be advised how, and the timeframe in which, they will be advised of the outcome of the Hearing (outlined below) and advised that the Panel will deliberate privately to reach a decision.

The Chair may amend this procedure where it is reasonable to do so depending on the nature of the case and the persons present at the hearing and may adjourn or defer the Hearing at any time.

The Panel will determine, in light of the evidence presented, whether a breach of the relevant regulation or policy has been committed, noting that the standard of proof is on the balance of probabilities. The Chair of the Panel will sign the written record of the Hearing and the decision concerning any penalties to be applied and a copy of the record will be placed on the student's file. Where applicable, any individual(s) making the allegation will be informed in a similar manner

### **Possible Outcomes**

If the Panel is satisfied that there has been a breach of conduct, one or more of the following courses of action can be taken:

1. Issue a verbal warning to the student indicating the consequences of future misconduct to be entered into the student's file, removable after 6 months. A verbal warning will be issued by the Chair of the Panel.
2. Issue a written warning to the student indicating the consequences of future misconduct to be entered into the student's file, removable after 12 months.
3. Issue a final written warning to the student indicating the consequences of future misconduct to be entered into the student's file, removable three months after the completion of the student's course.
4. Suspend the student with immediate effect for a fixed period of time, or until specified conditions have been met, from College premises and/or services.

5. Permanently exclude the student with immediate effect from College premises and/or services.
6. Require the student to compensate or make good any damage caused to private property.
7. Require the student to make appropriate recompense or apology for any offence or harm caused, or any damage done, to the complainant or to College relations with its members or the outside community.
8. Should any criminal activity be discovered during the course of an investigation, this will be reported to the police at the earliest available opportunity.
9. The panel may also recommend additional suitable punishments or sanctions such as (but not exclusive to) imposing restrictions on the use of the facilities, access to BIMM events or timetable changes in order to prevent continued problems or provide an appropriate punishment to the offence committed.

The Chair will notify the student in writing within nine days of the Hearing of:

- The outcome reached and the reasons for that outcome being reached;
- A summary of the established facts on which the disciplinary action is based;
- Details of any penalty imposed;
- A clear statement of the right to and method for appealing against the decision as outlined below.

### **Appealing the Decision of the Panel**

An appeal against the decision of the Panel must state in full the grounds for the appeal and be submitted within nine days of the student being notified of the outcome of the Hearing. Appeals should be addressed to [cap@bimm.co.uk](mailto:cap@bimm.co.uk) and the burden of proof is on the student to establish grounds for appeal. Appeals forms are available from the BIMM website:

<http://www.bimm.co.uk/academic-complaints-appeals/>

An appeal against the decisions of the Panel will only be considered on the following grounds:

- a) The findings of fact in support of the decision were manifestly perverse;
- b) That the hearing/interview was not conducted in accordance with the procedures set out above;
- c) New evidence has become available that was not available at the time of the Hearing which could have materially affected the decision of the Panel, and there is good reason why this new evidence could not have been presented at the Hearing.

The College Principal will review appeals against disciplinary Hearing decisions and may reject any appeal which is not submitted within the time limit set out above or does not establish grounds under one or more of those specified above. Receipt of the appeal will be acknowledged in writing within seven days. If the appeal is rejected, the student will be informed within seven days of their appeal being received.

BIMM aims to complete the appeals process within 28 days. Where this is not possible, the student will be contacted in writing.

## Appeals Procedure

1. Where an appeal is admissible the College Principal (or appointed investigating officer) shall gather all relevant information and conduct a full investigation.
2. Where all parties consulted agree that the appeal should be upheld, the appeal may be decided without convening an Appeals Panel. In these cases, the College Principal may decide to refer the case to a different senior member of staff to investigate or to reconvene a Disciplinary Panel and conduct a new hearing.
3. Where there is any doubt regarding the outcome of the appeal an Appeals Panel will be convened to hear the case. The composition of the Appeals Panel shall be as follows:
  - a) A BIMM Director, Principal or nominated senior manager (Chair);
  - b) Two academic members of staff who have not be involved in teaching the student;
  - c) A student – usually one of the student representatives for the course.
4. The Chair will ensure that the student is notified in writing at least seven days before the Appeal Hearing takes place. That notification should include and confirm:
  - a) A statement of the grounds upon which their appeal is to be considered;
  - b) Details of the date, time and place of the hearing and those who will be present;
  - c) That new witnesses may be called in support of the grounds of appeal and the University has the right to call new witnesses on its behalf;
  - d) Copies of any documents to be considered in connection with the appeal, including the signed and dated outcome form and written record of the Hearing;
  - e) A statement of the student’s right to be accompanied by a friend or representative, but not by an external organisation.
5. The conduct of the Appeal Hearing shall follow the process as outlined in the college’s academic regulations.
6. Following the completion of the Appeal Hearing, the Appeal Panel may decide to dismiss the appeal or to overrule the decision of the original Panel. In the case of the latter, the Appeal Panel may either impose an alternative penalty from the Possible Outcomes available to the original Panel or none at all.
7. The decision of the Appeal Panel will be sent to the student within nine days of the Appeal Hearing along with a Completion of Procedures Letter confirming their right of referral to the Office of the Independent Adjudicator (OIA).

## Referral by the Student to the Office of the Independent Adjudicator (OIA)

Where the student is not satisfied with the outcome of the procedure, s/he may request a review by the Office of the Independent Adjudicator (OIA). The OIA provides an independent scheme to enable the review of unresolved student complaints, including appeals.

The student must submit an appeal to the OIA within 1 year of receiving the notification of the decision of the awarding institution. An appeal to the OIA is made by completing a Scheme application form. Copies of this form are available from the Head of Student Services.

Alternatively, the form can be downloaded from the OIA website or requested by telephone or letter: [www.oiahe.org.uk](http://www.oiahe.org.uk)

OIA  
Third Floor  
Kings Reach  
38 – 50 Kings Road  
Reading  
RG1 3AA

0118 959 9813

Email: preferably use the online form.  
Alternatively use: [enquiries@oiahe.org.uk](mailto:enquiries@oiahe.org.uk)