

Student Misconduct Policy

Introduction

The National Film and Television School ('the NFTS') is committed to delivering a high-quality service and excellent teaching and learning opportunities. At the same time, it is expected that students themselves will act responsibly and with consideration for others both at its own premises and beyond. Staff and students are expected to act honestly and with integrity and to safeguard the public resources for which they are responsible.

Students are expected to adhere to all School regulations, including those under the Student Terms & Conditions, the Health & Safety Policy, the Harassment and Sexual Misconduct Policy and the General Conduct policies and statements listed in the Student Information Handbook.

Any student whose behaviour does not meet these standards may be dealt with through the School's Student Misconduct Policy. Members of staff are encouraged to address minor cases, such as general or low level anti-social behaviour, through early intervention, positively supporting students to develop their understanding of what constitutes acceptable behaviour before circumstances escalate towards disciplinary action. Non-minor cases of misconduct, or repeated or multiple incidents of misconduct, may result in disciplinary action being taken, including dismissal from the course.

These procedures apply to all students from the point that they register with the School. The procedures apply at all times and are not restricted to conduct during term time, on School premises, or in respect of School or School-related activities.

Incidents of suspected academic misconduct, including plagiarism, cheating or collusion, should be dealt with using the School's Academic Disciplinary Policy.

Early intervention

Members of staff are encouraged to address minor cases, such as short periods of unauthorised absence or low level anti-social behaviour, through early intervention, positively supporting students to develop their understanding of what constitutes acceptable behaviour before circumstances escalate towards formal action under this policy. If informal discussions with students and/or warnings are not considered to be effective or appropriate, then the processes described below should be followed.

1. What constitutes Non-Academic Misconduct?

The following circumstances are examples of non-academic misconduct, although this list is not exhaustive, and fall under this policy:

- Antisocial behaviour
- Bringing the School into disrepute
- Damage to, or misappropriating, School property

- Fighting, assault or threatening behaviour
- Hate crimes
- Infringement of Health & Safety rules and procedures
- Misuse of alcohol, solvents, drugs and/or legal highs on School premises
- Misuse of School facilities or name
- Negligence which causes unacceptable loss, damage or injury
- Persistent or prolonged unauthorised absence (non-attendance) from your course
- Possession, consumption or supply of controlled drugs
- Sexual misconduct
- Theft, fraud, deliberate falsification of records or other documents
- Unacceptable behaviour towards students, staff or members of the public. For example:
 - breach of confidence
 - bullying, harassment (sexual or otherwise) or putting others at risk of harm
 - verbal and written abuse in any form (including on social media)
- Unauthorised use of computers or computer records, or disregard of the Information Technologies Agreement
- Other behaviour which may also constitute a criminal offence
- Breach of any other School regulation or policy.

2. General Policy

- 2.1 The procedure seeks to operate in a fair manner; it does not seek to reproduce elements of the criminal law or criminal justice system and is not a formal legal process, although the School has legal obligations which will apply to this policy: for instance, the duty to act fairly and reasonably in relation to all parties in its application. The procedure complies with the rules of natural justice, which confer on a student right to know the case against them; the right to be given an opportunity to defend themselves; the right to confidentiality and the right for the case to be considered by an impartial arbiter.
- 2.2 If a student's conduct may be in breach of the law, the School may, at its discretion, refer the matter to the police and/or other suitable authorities. In addition, where a police or other external investigation or criminal proceedings have been or may be initiated in relation to an alleged act of misconduct, the School may suspend its consideration of the matter under this or any other regulation (at any stage) until such investigation and/or proceedings have been concluded. The School's consideration of a matter under this procedure may be resumed at any stage should the School deem it to be appropriate in the circumstances.
- 2.3 The School reserves the right to report any criminal offence allegedly committed by a student to the police. However, if a person claiming to be the victim of a serious offence committed by a student does not wish the police to be involved, the Registrar

and the Director shall normally respect such wishes unless the safety of other students or staff may be at risk.

- 2.4 The School may take action in respect of a student under this procedure notwithstanding the student's conviction or acquittal in criminal proceedings. The School is not bound by the outcome of any criminal prosecution although the School may, at its discretion, take any penalty imposed by a criminal court into consideration in determining any outcome to be imposed under this procedure.
- 2.5 The "burden of proof" (determining whose responsibility it is to prove an issue) will fall upon the School and not upon the student. The "standard of proof" (the level of proof required) will be "the balance of probabilities", i.e. that it is more likely than not that something happened.
- 2.6 Any student subject to this procedure will be entitled to be accompanied by and/or represented at any stage by a staff member or current student (student representative or otherwise) of the School. Neither the School nor the student will normally be permitted to be represented by a legal practitioner at meetings or hearings held under this procedure.
- 2.7 The School may proceed with any steps under this procedure in the absence of the student, or if the student withdraws from the School, or if the student does not engage with the procedure.
- 2.8 Where applicable, the School may withhold granting an award to a student subject to this procedure until its consideration of a matter of concern is complete. This may include withholding information that indicates an award is forthcoming.
- 2.9 In exceptional cases, the School reserves the right at any stage of this procedure to vary the process it follows in the interests of fairness and/or health and safety.
- 2.10 The School reserves the right to refuse the provision of any service or facility to a student until consideration of a matter of concern under this procedure is concluded.
- 2.11 Any reference to a specific member of staff under this procedure (for example, the Registrar) should be read as including alternate reference to the member of staff's delegate or nominee.
- 2.12 In operating this procedure, the School will remain mindful of its legal obligations including its duty of care, its obligation under the Equality Act 2010 (including to make reasonable adjustments for disabled students), and its obligations under Data Protection legislation, including the General Data Protection Regulation 2016/679.

3. Precautionary Action

- 3.1 The School may in appropriate cases temporarily suspend and/or exclude a student for a defined period or until a matter is considered under this procedure. This is a

precautionary measure, and is not a penalty and does not indicate that the School has concluded that the student has breached its rules regarding student conduct.

4. Stage 1 - Initial Investigation

4.1 Where someone observes, or is informed of, an incidence of non-academic misconduct by a student, that person (or someone acting on that person's behalf), should report the incident to the student's specialist Head of Department or to the appropriate Director/Senior Manager.

4.2 Upon receiving notification of an incident of non-academic misconduct, the Head of Department or Director/Senior Manager or should make arrangements for the gathering of any evidence available, including signed witness statements if appropriate, and make an initial assessment to determine if the incident falls under these procedures or whether it is covered by another of the School's procedures instead. If the Head of Department or Director/Senior Manager is unsure which procedure/s should be used, then advice can be sought from the Quality Assurance Manager.

4.3 Minor Misconduct

4.3.1 If the incident is minor in nature, it can usually be handled informally, with appropriate guidance given to the student.

A minor incident could be one where, for example:

- other people have not suffered; and/or
- if applicable, any loss (physical, material), is minor and the student will be able to repair any damage quickly and effectively to compensate; and/or
- the student is showing regret and is willing to co-operate with advice; and/or
- guidance is likely to put an end to this one-off issue.

Examples of minor misconduct are:

- a lack of respect or courtesy towards fellow students and/or staff
- a minor breach of Health & Safety rules
- a one-off incidence of alcohol abuse
- unauthorised absence from the course

4.3.2 If the Head of Department or Director/Senior Manager feels the incident can be handled within the Department and/or is a first-time minor offence, s/he should:

- 1) inform the student in writing that an alleged incident of misconduct by him or her has been reported and the exact nature of the concern that has been raised (e.g. misuse of alcohol, repeated non-attendance etc.); and
- 2) point the student to any relevant documents covering the alleged incident of misconduct (e.g. the Student Information Handbook, the Student Terms & Conditions etc.) and provide the student with a copy of these Procedures; and

- 3) arrange a meeting with the student and another independent member of staff (for example a Head of Department from a different subject) to discuss the alleged incident. If possible, this should take place within ten working days of the alleged incident being reported and the student should be given at least three working days' notice of the meeting; and
- 4) remind the student that s/he has the right to bring a current student (representative or otherwise) or staff member with him or her; and
- 5) where appropriate, inform the student that s/he has the right to produce any supporting information at or ahead of this meeting, including any signed witness statements; and
- 6) inform the student that if s/he does not attend this meeting, the investigation may continue in his or her absence.

4.3.3 At the meeting, the Head of Department for the student or Director/Senior Manager should present the allegation, and any evidence, to the student and invite the student to give his or her account of the incident, including providing any supporting information if s/he has not already done so.

4.3.4 If following this meeting it is agreed that an incident of misconduct has been verified, the Head of Department for the student or Director/Senior Manager should:

- 1) issue either a verbal or written warning to the student that his or her conduct is unacceptable; and
- 2) give guidance to the student as to how s/he should modify his or her conduct; and
- 3) offer any reasonable support to the student such as referring him or her to the Student Support and Wellbeing Office; and
- 4) inform the student that another occurrence of the incident of misconduct will result in a Misconduct Panel being called; and
- 5) follow up the verbal warning with a written summary of the warning within five working days of the meeting taking place or issue a formal written warning also within five working days of the meeting taking place.

4.3.5 The Head of Department for the student or Director/Senior Manager should take notes of this meeting and a copy of these should be sent to the student, along with the written summary of the verbal warning or the written warning itself as appropriate or necessary.

4.4 **Non-Minor Misconduct, Repeated Misconduct or Serious Misconduct**

This might be where:

- there has been a breach of regulations that could have potentially led to someone or something being harmed (e.g. a breach of Health & Safety regulations where no one was injured); and/or

- someone or something has come to harm; and/or
- the law has been broken; and/or
- the loss of damage is significant and cannot be quickly repaired; and/or
- where the misconduct is repeated; and/or
- where there are multiple incidents of misconduct; and/or
- where the student shows no real signs of regret and/or it is the opinion of the Head of Department that the student does not understand the inappropriateness of his or her actions; and/or
- where the student has brought the School, or could bring the School, into disrepute.

Examples of non-minor or serious misconduct are:

- an incident that potentially brings the School into disrepute
- persistent failure to respond to or comply with formal disciplinary sanctions imposed under these procedures or other School policies and procedures
- possessing, supplying or dealing in illegal substances or those that are considered to induce a 'legal high'
- a serious breach of Health & Safety rules
- sexual misconduct
- violent behaviour
- repeated and unauthorised absence from the course

4.4 1 If the alleged incident of misconduct is not considered to be minor in nature, is of multiple incidents of misconduct, or if the student does not amend their conduct following an initial warning, the Head of Department or Director/Senior Manager will:

- 1) inform the student in writing that an alleged incident or incidents of misconduct by him or her has been reported and the exact nature of the concern/s raised (e.g. an action likely to cause injury or impair safety on School premises, violent, threatening or offensive behaviour or language whilst on School premises or engaged in School activity); and
- 2) point the student to any relevant documents that cover the alleged incident/s of misconduct (e.g. the Harassment Policy, the Student Terms & Conditions, any other appropriate Regulation/s or Policies etc.) and provide the student with a copy of these Procedures; and
- 3) inform the student that a Misconduct Panel will be called to look into the alleged incident/s and that the School's Registrar (or his or her nominee) will be in contact within 5 days with further information regarding this; and
- 4) copy this to the Registrar and Director; and
- 5) ask the Registrar to investigate the alleged incident/s.

4.4.2 The Registrar shall then:

- 1) investigate the alleged incident/s of misconduct by the student, including gathering any written, oral and other information from relevant sources; and
- 2) inform the student he or she will be required to attend a hearing of the Misconduct Panel; and
- 3) inform the student that s/he may produce a written response to the concern/s raised and to present any supporting information, if s/he wishes to do so. The student should normally be given a deadline of 10 working days to do this and be warned that the Misconduct Panel may still go ahead if no response is received; and
- 4) inform the student about the services available from the Student Wellbeing and Support Team; and
- 5) convene a Misconduct Panel within 10 working days of the deadline for receipt of any supporting information; and
- 6) appoint a Secretary to the Misconduct Panel - this will usually be the Quality Assurance Manager; and
- 7) inform the student of the date of the Panel hearing and that s/he has the right to bring a current student (representative or otherwise) or staff member with him or her; and
- 8) inform the student that if s/he does not attend the hearing, the investigation may continue in his or her absence and that disciplinary action may be taken against him or her (as set out in Appendix A).

5. Stage 2 – Misconduct Panel Hearing

5.1 A Misconduct Panel should normally consist of at least three independent Heads of Department or other senior staff as appropriate. During the Panel Hearing:

- the evidence following the investigation of the incident/s should be presented either by the Head of Department for the student or another senior member of School staff, depending on the nature of the incident/s. This may include witnesses or signed witness statements;
- the student should be invited to present any evidence in support of his or her case, this may include witnesses or signed witness statements;
- the Panel may seek procedural advice from other members of staff as appropriate and may also invite them to the Panel Hearing.

5.2 Following due consideration of all evidence for or against the alleged incident/s of misconduct, the Panel will make one of the following recommendations:

- 1) to dismiss the allegation and take no further action, either because the student has no case to answer or because the allegation has not been proven; or

- 2) to determine that one or more of the allegations has been proven and the student has committed non-academic misconduct; or
 - 3) to refer the allegation for consideration under another School regulation or procedure.
- 5.3 Where it considers that the allegation has been proven, the Panel will determine which, if any, penalty as set out in Appendix A should be applied.
- 5.4 The Panel may take into account any circumstances presented by the student when applying any of the penalties set out in Appendix A, and will apply a penalty that is appropriate in all the circumstances.
- 5.5 The Panel Secretary will inform the student in writing, normally within 5 working days of the decision, of the outcome of the case and will set out the reasons for the Panel's decision.
- 5.6 A written record will be kept on the student's file, which will include the minutes of the Panel hearing and details of subsequent actions.
- 5.7 The School Director will be informed of the outcome of the Misconduct Panel Hearing.
- 5.8 Where the Panel applies a penalty under Appendix A, the student may submit a request for an appeal against the decision in line with Section 5 of these procedures.

6. Appeals

- 6.1 A student may request to appeal the findings of the Misconduct Panel on one or more of the following grounds:
- That there has been a procedural irregularity;
 - That there was bias on the part of the Misconduct Panel;
 - That the decision is unreasonable and/or that the penalty is disproportionate;
 - That there is new material evidence which the student can demonstrate was, for good reason, not previously available.
- 6.2 If the student wishes to appeals, he or she should:
- within 10 working days of the date of written notification of the decision, submit in writing to the Secretary to the Panel that s/he wishes to appeal;
 - specify the grounds under 6.1 that s/he wishes to appeal on.
- 6.3 The Registrar:
- will consider the request to appeal and may refer to other available documentation where necessary;
 - may seek the advice of a designated member of staff who shall have no previous involvement in the case;

- where a request to appeal is received outside of the timeframe in 6.2, and no evidence of a good reason for the delay is presented by the student, the Registrar may dismiss the appeal and issue a Completion of Procedures Letter.

6.4 The Registrar will then take one of the following actions:

- 1) Determine that one or more of the grounds as set out in 6.1 above has been disclosed; or
- 2) Determine that none of the grounds as set out in 6.1 above have been disclosed, in which case the request to appeal will be dismissed and a Completion of Procedures Letter will be issued.

6.5 The student will be informed of the decision of the Registrar in writing, normally within 10 working days of the date of receipt of the appeal request, by the Secretary to the Panel.

6.6 Where the Registrar considers that grounds have been disclosed, the appeal and a copy of the file from any earlier stages of this procedure will be referred to the Director.

6.7 The Director will:

- 1) invite the student to submit in writing, within a specified timeframe, their substantive appeal with respect to the disclosed grounds;
- 2) consider and determine the case based on the available documentation received;
- 3) if appropriate, invite the student to a meeting to discuss his or her appeal, informing the student in advance of the purpose of the meeting, giving at least five working days' notice, and reminding the student that s/he has the right to be accompanied to and/or represented at the meeting by either a current student (representative or otherwise) or staff member.

6.8 Once the consideration of the case by the Director is concluded, the Director will determine one or more of the following outcomes:

- 1) Dismiss the appeal, either in whole or in part; or
- 2) Uphold the appeal, either in whole or in part.

6.9 Where an appeal is upheld, either in whole or in part, the Director will take one or more of the following actions:

- (a) Quash the decision of the Misconduct Panel and determine that no further action should be taken against the student and request that the written record be removed from the student's file; or
- (b) Apply a different penalty as set out in Appendix A; or
- (c) Refer the case back to the Misconduct Panel for further consideration; or
- (d) Refer the case back to a new Misconduct Panel for fresh consideration; or

- (e) Refer the concern for consideration under another School regulation or procedure.

6.10 The Director may take into account any mitigating circumstances presented by the student when applying any of the penalties set out in Appendix A, and will apply a penalty that is appropriate in all the circumstances.

6.11 The decision of the Director is final.

6.12 The Panel Secretary will inform the student in writing, normally within 5 working days of the decision, of the outcome of the case and will set out the reasons for the Director's decision. Where appropriate, a Completion of Procedures Letter will be issued.

7. The Office of the Independent Adjudicator for Higher Education

7.1 Decisions taken under this procedure may be eligible for review by the Office of the Independent Adjudicator for Higher Education (OIA), which is an independent body set up to review student complaints. More information about the OIA can be accessed at <http://www.oiahe.org.uk>. The OIA can be contacted at 0118 959 9813 or enquiries@oiahe.org.uk. Where applicable, students will be provided with a Completion of Procedures Letter and information about how to apply to the OIA for a review of a decision taken under this procedure.

Approved by the Academic Standards Committee in September 2017

Appendix A**Indicative list of penalties for Non-Academic Misconduct**

If an incident/s of misconduct is verified or admitted to by the student, any one or more of the following penalties may be imposed:

For minor incidents of misconduct or for misconduct or where there was no potential for harm to be caused:

- a) a reprimand and formal warning about future behaviour;
- b) a requirement upon the student to give a written undertaking as to his or her future good conduct within the School and to make a written apology;
- c) a requirement upon the student to pay for any damage to property s/he may have caused or to recompense the School for any loss it may have suffered arising from the student's misconduct;
- d) a requirement upon the student to undertake specified tasks or services for the benefit of the School or School community up to a maximum of forty hours;
- e) a fine of not more than £500;

For non-minor or serious incidents of misconduct, especially where there was potential for harm to be caused or harm was caused, in addition to penalties a) to d) listed above, any one or more of the following penalties may be imposed:

- f) a fine of not more than £1000;
- g) restriction of access to the School or a specified part thereof for a fixed period of time (an 'exclusion'). A student who receives such a penalty will have restricted rights to enter School premises and/or to participate in School activities or access to School services, the terms of the restriction being notified to the student. An order of restricted access may include a requirement that the student shall have no contact with a named person or persons;
- h) suspension from the School for a fixed period. A student who is so suspended will be prohibited from entering School premises and from participating in School activities, although the suspension may be subject to qualification, such as permission to work on an assessment or project. An order of suspension may include a requirement that the student shall have no contact with a named person or persons;
- i) expulsion from the School, which means that the student shall cease to be a student of the School and will lose all rights and privileges of being a student (with or without credit or award already achieved).
- j) Any material shot or recorded during an established 'breach' of any agreed Health and Safety arrangements or the approved Risk Assessment will not be allowed to be included in the final edited version of the film/programme. Such material will not be allowed to be transmitted or made public in any form including distribution on social media or online video exhibition.