

Student Non-Academic Misconduct (Disciplinary) Policy and Procedures 2020-21

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1. General Principles

- 1.1 This policy and procedures (the policy) is based on the principle that all students are expected to behave in a way that enables LAMDA to maintain an environment which is safe and conducive for all students, staff, visitors and others, in keeping with its good name and reputation.
- 1.2 In registering with LAMDA students agree to be bound by this and all other relevant policies. A list of other key LAMDA policies is contained in section 2.1.
- 1.3 This policy is concerned with misconduct arising from non-academic matters (for example, damage to LAMDA's property or reputation). For higher education students, misconduct in relation to academic matters (for example, allegations of plagiarism or other cheating in assessment) is dealt with by the University of Kent's academic discipline policy available at <http://www.kent.ac.uk/teaching/qa/credit-framework/creditinfoannex10.html>
- 1.4 LAMDA expects all students to maintain good conduct at all times whilst on LAMDA's premises, or in the vicinity of any premises owned, leased or managed by LAMDA, whilst engaged in any programme-related activities, including in external environments, whilst on work placements and whilst engaged or involved in performances not on LAMDA's premises. This includes online learning and exchanges over online platforms, including social media.
- 1.5 Students will be held responsible for the conduct of their guests and for any damage caused by their guests while they are on LAMDA's premises or invited to engage in online events.
- 1.6 Disciplinary action may also be taken in respect of alleged misconduct wherever and whenever it may have taken place when it is considered necessary to protect the interests and reputation of LAMDA, its staff or students.
- 1.7 For the purposes of this policy LAMDA's premises also includes premises owned, leased or managed by any other HE provider with which it is collaborating and LAMDA's activities include relevant activities under any such arrangement.
- 1.8 This policy applies during and outside term-time, throughout the whole of a student's registration.
- 1.9 This policy applies to all LAMDA students.
- 1.10 This policy has been drafted in accordance with Universities UK's guidance for higher education institutions, How to Handle Alleged Student Misconduct Which May Also Constitute a Criminal Offence and the Office of the Independent Adjudicator (OIA)'s Good Practice Framework: Handling Student Complaints and Academic Appeals.
- 1.11 In all procedures under this policy, a student will be presumed to be innocent of an allegation of misconduct, until the contrary is proved on a balance of probabilities. All misconduct proceedings, including preliminary investigation interviews, Misconduct Hearings and Misconduct Appeal hearings, will be held in private.
- 1.12 LAMDA will not normally take action on the basis of anonymous allegations of misconduct, except where it is satisfied that there is just cause and/or reasonable grounds to do so.

- 1.13 In line with the provisions in the Data Protection Act 1998 and the General Data Protection Regulations 2018 (GDPR), LAMDA may share information regarding a misconduct case with the University of Kent. This is to ensure fair and proper process in the case and to monitor or enhance this policy and procedures or the student experience. Where necessary, this may include sharing personal and sensitive/special data regarding individual students. All such information will be treated confidentially by all parties and in line with LAMDA's Privacy Policy.
- 1.14 Where there is good cause to do so, and at the Director's discretion, in accordance with the GDPR, LAMDA will disclose the outcomes of misconduct processes and/or information about students ascertained in the course of such processes, to relevant parties, such as the Police, placement providers and/or employers or sponsors.
- 1.15 The Director may delegate his/her powers under this Policy to an appropriate person nominated by the Director to act on his/her behalf in matters of student misconduct.
- 1.16 Where reference is made under this policy to the Director, such references include the Director's nominee or delegate.
- 1.17 A summary of the procedures and timescales of this Policy is provided in Appendices 1 and 2. All timescales in this Policy and procedures constitute calendar days, excluding bank holidays and statutory closure days.

2. Non-academic Misconduct

- 2.1 For the purposes of this policy non-academic misconduct includes breach of any relevant rule, regulation, code of conduct, practice or policy which LAMDA makes for its students from time to time. These policies include, but are not limited to:
- LAMDA's Academy Regulations
 - LAMDA's Academic Regulations
 - Fitness to Train Policy
 - Concessions Policy and Procedures
 - Casting, Agent Signing and Audition Policy
 - Equal Opportunities Policy
 - Disability Statement
 - The Director's Emergency Powers to Suspend and Exclude Students
 - Student Complaints and Appeals Policy
 - IT Acceptable Use Policy
 - Drugs and Alcohol Policy
 - Health & Safety Policy
 - Criminal Records Policy
 - Safeguarding Policy.
- 2.2 For the purposes of this policy misconduct may be committed by any means or medium including via the internet and social media.
- 2.3 For the purposes of this policy the following are examples of behaviour which amounts to non-academic misconduct in breach of this policy and which may result in disciplinary action being taken. This is not an exhaustive list.
- a) **sexual misconduct**, including sharing private sexual materials of another person without consent, and/or making unwanted remarks of a sexual nature

- b) **physical misconduct**, including:
 - i) behaviour which causes physical harm, or is intended to cause physical harm, to another individual or individuals
 - ii) causing damage to LAMDA's property, or the property of students, employees or visitors to LAMDA.

- c) **behaviour relating to property**, including:
 - i) unauthorised taking or use of property belonging to another
 - ii) misuse, wilful damage, defacing, theft or conversion to improper use of property of LAMDA (including IT, specialist and non-specialist equipment);
 - iii) unauthorised entry onto LAMDA's property;
 - iv) acts, omissions or statements intended to deceive LAMDA
 - v) inappropriate levels of noise on or off campus.

- d) **other unacceptable behaviour, including:**
 - I. bullying and/or harassment, including stalking and cyber bullying
 - II. behaviour which causes psychological harm or distress, or is intended to cause psychological harm or distress to another individual or individuals
 - III. behaviour which threatens, harasses, intimidates, discriminates, abuses or constitutes an assault or attempted assault of any kind (including sexual harassment and sexual assault) on another member, or employee, or student of LAMDA, or a visitor to LAMDA
 - IV. hostile, threatening or intimidating behaviour (including inappropriate language, and repeatedly contacting another person by phone, email, text or on social networking sites against the wishes of the recipient of the contact)
 - V. behaviour which constitutes abusive comments relating to an individual's sexual orientation, religion or belief, race, pregnancy, marriage or civil partnership status, gender, gender identity, disability or age
 - VI. behaviour which prevents, or is intended to prevent, any person exercising or intending to exercise his or her right to freedom of speech or freedom of belief within the law on LAMDA's premises
 - VII. behaviour that involves the unlawful possession, use or supply of drugs or weapons
 - VIII. anti-social behaviour, including but not limited to anti-social behaviour as a result of intoxication through alcohol or drugs
 - IX. any criminal offence committed by a student whilst a LAMDA student
 - X. behaviour relating to health and safety which does not follow safe practice or is otherwise in breach of LAMDA's or other relevant health and safety policy.

- e) **unprofessional behaviour**, including:
 - I. contravention of expected standards of professionalism as outlined in LAMDA's Academy Regulations and rules of practice in the Student Handbook
 - II. behaviour that is at variance with appropriate standards of conduct or published codes governing conduct whilst engaged in professional practice or training or employment, or whilst on placement forming part of his/her programme of study.

- f) **behaviour relating to LAMDA**, including:
 - i) disruption, obstruction or interference with the activities of LAMDA (including training, administrative or social activities) on LAMDA's premises or elsewhere, or any attempt to disrupt, obstruct or interfere in this regard
 - ii) disruption, obstruction or interference with the functions, duties or activities of any student or employee of LAMDA's or any visitor to LAMDA, or any attempt to disrupt, obstruct or interfere in this regard
 - iii) damage, or potential damage, to the reputation of LAMDA
 - iv) failure to disclose relevant criminal convictions or, where directed to do so, cautions or other warnings or sanctions imposed by the police or other law enforcement

- agencies, in accordance with the relevant LAMDA policies and guidance, including criminal convictions obtained subsequent to registering with LAMDA
- v) Repeated breach of any of LAMDA's regulations.

3. Interface with Other Policies and Procedures

3.1 Referral under Other Procedures

Where allegations of suspected misconduct are received, the Investigating Officer will determine the most appropriate action to be taken, including referring a case under other policies, procedures and/or regulations as appropriate. Students can expect to be signposted to appropriate sources of support by staff at every stage of a misconduct investigation.

3.2 Criminal Procedures

Where the alleged misconduct could also constitute an offence under the criminal law, LAMDA's own misconduct investigations or proceedings may be delayed until such time as the police and/or courts have completed their investigations and proceedings. In such circumstances, LAMDA's Director will determine:

- a) whether any action under this policy should commence or proceed or should be held in abeyance pending the completion of police and/or court investigations and proceedings, or
- b) whether any action already underway under this policy should be deferred or suspended and subsequently reviewed

In determining whether to commence or proceed with any action or process under this Policy, LAMDA is not bound by the outcome of any police or criminal investigation or prosecution.

Where a current registered student obtains a criminal conviction, the matter will normally be immediately referred to the Dean of the Drama School and/or Head of Technical Training, as appropriate, to consider whether any action under this policy should be taken, or whether there is justifiable cause not to do so and/or to follow an alternative process (for example, Fitness to Train).

Where a student is the subject of a criminal investigation, LAMDA will not take any internal disciplinary action against the student in relation to the matter that is the subject of the criminal investigation. However, LAMDA may take any action deemed necessary for safeguarding, as outlined above. LAMDA may also commence disciplinary action in relation to any matter which is not part of the criminal investigation.

In exceptional circumstances, the Director refer concerns to the police where they consider it appropriate (e.g. where there is a perceived legitimate risk), or where LAMDA is legally obliged to do so. LAMDA will co-operate with the police in their investigation of an alleged breach of the law or of any matter that may involve a LAMDA student.

Where a student alleges to LAMDA that they are the victim of a crime, only in exceptional circumstances will the alleged crime be reported to the police if this is contrary to the wishes of the victim.

3.3 Academic Misconduct

Where an incident may relate to both the academic and non-academic conduct of a student, LAMDA's Director, in consultation with the validating university as appropriate, shall determine the appropriate procedure(s) for its investigation and consideration. In some cases, it may be necessary for separate procedures to be followed simultaneously in handling allegations relating to both academic and non-academic misconduct regarding the same student.

3.4 Professional Misconduct

LAMDA students are embarking on vocational programmes working towards a professional standard of practice and behaviour in their chosen field. Professional conduct is contained within the academic practice of a programme and also within the rules and regulations that govern membership of the Academy as a student. Misconduct within training might, depending on the programme and the nature of the misconduct, be handled either through an academic process (at which the Assessment Board would review progress) or through this non-academic misconduct process.

3.5 Misconduct Relating to Admissions

Registered students who are alleged to have gained or facilitated admission to LAMDA by making false or misleading or incomplete statements or representations or producing falsified documents as applicants shall normally be subject to investigation and action under these procedures. This shall include any student found to have concealed or misrepresented offences, or to have deliberately provided misleading, incomplete or inaccurate information to the Disclosure and Barring Service (DBS).

Where an applicant to LAMDA (who is not a registered student) is suspected to have made false or misleading or incomplete statements or representations, or produced falsified documents, either in pursuit of an offer of a place, or as a means of having gained, or facilitating an offer of a place to LAMDA, such cases will be handled under the procedures outlined in LAMDA's Admissions Policy and, where applicable, the Criminal Records policy.

3.6 Other Rules, Regulations and Obligations

Nothing in this policy shall prevent LAMDA making rules of conduct relating to particular services, facilities or areas of our activity, or regarding student attendance. Use of these regulations for the investigation of misconduct does not preclude the use of LAMDA rules associated with conduct relating to academic or non-academic services, facilities or areas.

Nothing in this policy will prevent the Director from taking action under his/her emergency powers of Exclusion and Suspension (more information can be found in our policies or by contacting the Student Journey Team).

4. Procedures

4.1 Informal Procedures

LAMDA recognises that many concerns regarding student conduct can and should, where appropriate, be dealt with informally by members of staff. Signposting and engagement with specialist support such as wellbeing services to manage an investigation inclusively should be initiated by staff as appropriate.

Under such informal procedures, a member of staff authorised by the Director may issue an informal warning regarding future conduct to a student and/or indicate targets for improvement and/or a timeframe within which a further informal review of the student's conduct shall be conducted. An informal warning will not go on the student's record. As appropriate, the member of staff shall advise the student that failure to meet expectations may result in referral to the formal procedures.

Examples of misconduct which may lead directly to an informal warning may include:

- a) failure to conform to attendance requirements (early stage)
- b) inappropriate behaviour in class, including inappropriate attire
- c) inappropriate behaviour on LAMDA's premises, for example, littering.

4.2 Formal Procedures: Disciplinary Interview

Where, for whatever reason, the matter is not appropriate to be dealt with by informal procedures, the student may be called to a disciplinary interview. The student must be given at least 24 hours' notice of a disciplinary interview and be given the option of having a supporter present. The supporter should ordinarily be a staff member or peer from within LAMDA. The nature of the matter in question must be made clear to the student after s/he has confirmed that they know the purpose of the interview. The student must then be allowed to put her/his own case.

All students involved in a case will be signposted to appropriate forms of specialist support by staff conducting a disciplinary process. At any stage of formal procedures staff must be mindful of Learning Agreements or other specialist needs and ensure that communications are presented in a way which are clear and accessible to the students involved.

If during a tutorial a disciplinary matter is raised, then the tutorial must be terminated, and notice given that it has become a disciplinary interview. The student is fully within her/his rights to insist on being given 24 hours' notice. At the end of the disciplinary interview if the matter has not been resolved to the satisfaction of the member of staff a warning may be issued. There are three types of warning: **verbal warning**; **written warning** and **final written warning**. Warnings may also include one or more of the penalties listed at 4.4.7 a) – g) below.

A verbal warning is usually issued in the case of less serious issues and/or where it is the first disciplinary incident involving the student. In the case of serious breaches, except those that would necessitate immediate dismissal from LAMDA, LAMDA will reserve the right to initiate written warnings, or in severe cases a final written warning. A warning can only be given by an authorised member of staff of LAMDA and only after a disciplinary interview with the student.

The outcomes of a disciplinary interview will be shared with the student, Senior Management Team at LAMDA, and where deemed appropriate, with relevant academic staff to support future good practice. If the investigation has arisen from a complaint by another student, they will also be notified of the outcome but not the specific circumstances discussed in disciplinary interview/s. A report may be produced for the Senior Management

Team to consider by the investigating staff if the case highlights areas for LAMDA to improve its processes and procedures.

Verbal warning

If following a disciplinary interview a verbal warning is to be issued, the warning should be recorded for the student's file (ordinarily on Quercus) and should include the nature of the complaint and the acknowledgement of it by the student. In some cases parameters for improvement should be included (e.g. for timekeeping, an allowed number of absences in a specified time frame) and it should be understood by the student that failure to achieve or exist within these parameters will result in further disciplinary action being taken. Both parties should sign the warning. **A verbal warning will only stay on record for a maximum of one term.** After this period, it cannot be used against the student in further disciplinary interviews. An email summary documenting that the warning was given should be sent to the student and Senior Management Team by the member of staff conducting the interview.

Written warning

If following a disciplinary interview, it is established that there has been a continuation of misconduct, or that the nature of the breach of regulations/policies is deemed to be substantive, a written warning will be issued. Full details of the nature of the warning and the action points for improvement can only be recorded after the interview and as such there will need to be a further meeting to sign the warning. **A written warning will stay on record for a maximum of three terms.** After this period, it cannot be used against the student in any subsequent interviews. Should there be a repetition of the breach of protocol or further disciplinary interviews made within the time frame of the warning, then the Academy has two options. The first is to issue a subsequent written warning; the second is to issue a **final written warning**. In any event, a third written warning is a final written warning.

Final written warning

The final written warning is the last chance that a student has before being dismissed from the Academy. This fact must be clearly stated in the warning. A final written warning will be issued for continued misconduct or severe breaches of the academy regulations and policies. **A final written warning can stay on record for a maximum of three terms.** After this period, it cannot be used against the student in further disciplinary interviews. A breach of a final written warning may lead to dismissal.

Conduct of disciplinary interviews

All disciplinary proceedings should be conducted in a calm, professional manner by all involved. If this does not occur, either party has the right to suspend the interview until such time as the Interview can be held in an appropriate manner. Student support services should be utilised as needed so that interviews are inclusive.

Appeals and Complaints

Where a student wishes to complain about or disagrees with the conduct or outcome of a Disciplinary Interview, they have the right to request the conduct of a Preliminary Investigation.

4.3 Formal Procedures: Preliminary Investigation

4.3.1 Preliminary Investigation: Procedure

On receipt of an allegation of suspected misconduct, where informal procedures or a disciplinary interview are not appropriate, for example in serious cases, the Director will

appoint a member of staff to act as the Investigating Officer. The Investigating Officer will conduct a Preliminary Investigation, the purpose of which is to determine which policy, procedure or regulations is/are applicable, and what action, if any, should be taken.

The Investigating Officer shall normally notify the student in writing of this investigation, giving an expected date/timeline for its conclusion, and of any support available.

The Investigating Officer has the discretion to determine if anonymous allegations will be investigated and/or to request that an oral report regarding an allegation is put into writing.

The Investigating Officer will review the information provided regarding the allegation and will determine whether there is sufficient evidence to proceed under this policy. To reach this determination, the Investigating Officer may make any necessary enquiries to acquire further information. This may include inviting the student against whom the allegation has been made to make a written response to the allegations, interviewing the student against whom the allegation has been made, and/or any parties who may be able to provide necessary information.

The Investigating Officer may delegate any investigative actions, including interviews, to other relevant staff, as appropriate.

4.3.2 Preliminary Investigation: Interview

- a) the student will be informed in advance in writing
- b) the student will not be required to attend (though it is in their interests to do so), nor will they be obliged to make a statement or give any explanation either in writing or in attendance at the meeting; however, failure to attend without good reason may result in the Investigating Officer proceeding in the student's absence
- c) the student may be accompanied for support to the interview by a member of staff, a student representative or a family member, who should not be connected to the incident concerned. A student may not be accompanied by a legal representative even if that person is a member of staff, student representative or family member.
- d) the student should normally give the Investigating Officer at least 24 hours' notice of anyone expected to accompany them
- e) no recording of the interview will be permitted; agreed written notes will be taken
- f) the Investigating Officer has the discretion to terminate the interview at any point (for example, if any attendee displays unacceptable behaviour)

4.3.3 Preliminary Investigation: Report

On completion of the Preliminary Investigation the Investigating Officer will compile a Report which will include details of the alleged breach of the policy, the established facts, the findings and the recommended outcome, i.e. whether any further action will be taken, and what that action will be. The Preliminary Investigation Report will state one of the following recommendations:

- a) no further action is required, or
- b) remedial action via the informal resolution route is recommended to address the case, or
- c) the case should be referred to a Misconduct Hearing.

The student will normally be notified in writing of the outcome of the Preliminary

Investigation **within seven days** of the date of the Preliminary Investigation Report.

4.4 Formal Procedures: Misconduct Hearing

4.4.1 Misconduct Hearing: Purpose

The purpose of a Misconduct Hearing is to consider cases referred to it by the Investigating Officer, in order to determine whether an allegation of misconduct has been substantiated and to determine appropriate outcomes; and, where appropriate, to advise Academic Board of any issues arising.

4.4.2 Misconduct Hearing: Adjudicator

The Misconduct Hearing will be conducted by an Adjudicator, appointed by the Director, who shall be a senior member of LAMDA's teaching or professional services staff unconnected with the student's programme of study and who has not had formal involvement in any previous consideration of the allegation, or a connection to, the misconduct to be considered.

Where it is not possible to appoint an Adjudicator from LAMDA's staff, for example, owing to a potential conflict of interest, a senior member of staff from another appropriate organisation approved by the Director may be appointed as the adjudicator.

The ruling of the Adjudicator shall be final on the admission of all evidence at the hearing, including the admission of written evidence and of oral evidence from witnesses or other parties at the appeals hearing. This shall include the power to refuse to admit evidence or hear witnesses on the basis of lack of relevancy. The Adjudicator has the sole discretion to determine whether to proceed with a hearing or adjourn it, in the absence of any particular witness.

The Adjudicator has the discretion to adjourn the hearing where the timeframes for providing documentation, or notifying witnesses, or for other good cause, have not been met.

For the purpose of the hearing, a decision on any point of procedure by the Adjudicator will be binding.

The Adjudicator may appoint a Secretary to carry out any administration in connection with the Hearing and to act as note-taker. The Secretary shall not take part in any decision-making.

4.4.3 Misconduct Hearing: Attendance and Support

Attendance

Where the student is unable to attend the hearing and wishes to attend, they may request a deferral of the hearing at the earliest opportunity and in any case at least 48 hours before the hearing, by contacting the Adjudicator in writing (this includes via email) stating the reason(s) for the request. Where appropriate and applicable, the Adjudicator may request that the student forward supporting evidence. Deferrals will only be granted where the Adjudicator is satisfied that reasonable grounds (e.g., illness, bereavement) exist to prevent

the student from attending the hearing. The Adjudicator has the ultimate discretion to grant or refuse a request for a hearing to be deferred.

Where the student and/or any other relevant parties do not attend the hearing, the Adjudicator has a discretion to determine if proceedings may continue or other action (such as rescheduling the hearing or giving an opportunity to make further written submissions) is appropriate.

Support

43. The student may be accompanied for support to the Misconduct Hearing by a member of staff, a student representative or a family member, who should not be connected to the incident concerned. LAMDA may also support the student to be accompanied by an appropriate person from our external network of Alumni and Person of Colour allies on request. A student may not be accompanied by a legal representative even if that person is a member of staff, student representative or family member. The student has the right to call witnesses.

4.4.4 Misconduct Hearing: Pre-Hearing Notice

What LAMDA will send to the student

In the event of a Misconduct Hearing being convened, written notice of the following will normally be sent to the student **at least 7 days in advance** of the hearing:

- a) the date, time and venue of the hearing
- b) details of how to contact the Adjudicator
- c) details of any witnesses and/or expert advisers called by LAMDA
- d) all documentary evidence, including the Preliminary Investigation Report and copies of any witness statements
- e) notification of the rules governing the conduct of Misconduct Hearings, as set out in this Policy, including the student's right to be accompanied.

What the student must send to LAMDA

The student must normally give written notice of the **at least 48 hours in advance** of the hearing:

- a) details of any documentary evidence, including any personal written statement and witness statements
- b) details of any witnesses to be called in their defence
- c) details of any mitigating circumstances, and any evidence in support of this, where appropriate.

Any such documentation submitted after this deadline will only be accepted at the discretion of the Adjudicator, where s/he is satisfied that it is reasonable to do so and that doing so will not unduly compromise the proceedings.

The Adjudicator has the discretion to refuse to permit a person to attend where prior written notice has not been given.

4.4.5 Misconduct Hearing: Procedure

- a) All parties will normally be present at the Misconduct Hearing at the same time, unless there is good reason otherwise.

- b) The Investigating Officer will normally present his/her case first, and call any witnesses
- c) The student may not ask questions of the witnesses but will be invited to reply to the allegations and may call witnesses. The student shall also be invited to present any mitigating circumstances which the student considers to be relevant to the case.
- d) The Investigating Officer, acting on behalf of LAMDA may ask questions of any witnesses
- e) At the conclusion of all presentations, the student may make a closing statement. At his/her discretion, the Adjudicator may also make a closing statement.
- f) The Adjudicator will endeavour to reach a decision and findings without adjournment. However, if at any point during proceedings the Adjudicator decides that s/he needs further information in order to reach a decision or for other good cause, s/he may adjourn the case. The student will be notified of the adjournment normally within 24 hours of the decision to adjourn.
- g) The decision(s) and findings of the Misconduct Hearing will be communicated in writing via a Hearing Outcome Letter to the student, the Investigating Officer and any other parties the Adjudicator deems necessary and appropriate, normally **within 7 days of the date of the hearing**.
- h) Should the Misconduct Hearing determine that the allegation(s) and/or concerns were not established, or without foundation, that decision will be communicated to all persons involved in the case, **normally within seven days of the date of the hearing**.

4.4.6 Misconduct Hearing: Findings and Action

- a) The Hearing will determine whether any misconduct allegation(s) have been substantiated
- b) In reaching its finding, the Hearing may also determine whether there are any other or further concerns which have emerged which should be taken into account, or which require further investigation.

Once the Misconduct Hearing has reached its findings, it will determine:

- a) any appropriate penalties which should be applied to the student
- b) any action deemed necessary by either the student, LAMDA or any other relevant party
- c) whether there are any matters which should be referred under alternative LAMDA policies and procedures.

As part of its decision-making, the following factors may be taken into consideration by the Adjudicator in reaching findings and determining an appropriate penalty:

- a) the severity of the offence, including any aggravating factors resulting from its impact
- b) the student's engagement with LAMDA during the misconduct process
- c) any evidence of malicious intention
- d) the number of previous and/or contemporaneous misconduct offences, both non-academic and academic
- e) whether concerns about conduct have been drawn to the student's attention prior to this instance
- f) whether the student is in receipt of any formal warnings, or any other sanctions

- g) any mitigating circumstances and/or aggravating factors accepted by the Adjudicator (see the Student Guide for examples).

4.4.7 Misconduct Hearing: Penalties

Where the Misconduct Hearing determines that an allegation of misconduct has been substantiated, the Adjudicator may impose one or more of the following penalties listed below. More than one penalty may be applied simultaneously as deemed appropriate by the Adjudicator.

Table of Penalties

Penalties available at Disciplinary Interview, Misconduct Hearing or Appeal
<ul style="list-style-type: none"> a) A written warning b) A final written warning (for a repeated offence) c) A requirement to make a verbal/written apology to any party concerned, as, and if, appropriate d) The payment by the student of compensation for damage or loss caused, which shall not exceed the value of any damage caused or loss incurred e) Withdrawal of privileges (particularly any privileges abused by the student) for a stipulated period of time e.g. casting opportunities f) Requirement to remove material published either in hard copy or electronically which is deemed to be inappropriate g) Set conditions or expectations for the student's future behaviour
Penalties only available at a Misconduct Hearing or Appeal
<ul style="list-style-type: none"> h) Mandatory attendance at a workshop or course within a specified time period i) Restorative action such as a reflective statement or project j) Restricted ability to contact the complainant, where the complainant is a student or LAMDA staff member k) Requiring that the student does not represent LAMDA in a paid or unpaid capacity for a specified period of time. This could include employment by LAMDA on a contractual or casual basis, representing LAMDA at other events, including for scholarships, or voluntary roles such as student ambassador or similar. l) Conditions for the continuation of student status m) Exclusion from, or restrictions concerning, participation in specified activities (including external programme-related activities) or use of specified LAMDA facilities for a stated period. Conditions for return to those activities may be specified n) The suspension of the student's studies, in whole or in part, for a specified period or until an agreed review date o) Permanent exclusion and removal of student status, and with or without the right to re-register for any further programme of study with LAMDA p) Such other penalty as may be deemed appropriate, provided that the penalty is both proportionate and relevant to the offence.

The most serious penalty that can be imposed is permanent exclusion from LAMDA.

Where a student is required to complete a workshop, course or restorative exercise, this may result in a delay to graduation. The Misconduct Hearing and Misconduct Appeal will consider potential additional consequences when determining penalties and will ensure that sanctions remain proportionate.

Where a student is contracted to undertake paid employment for LAMDA, action may also be taken under LAMDA's staff disciplinary procedures.

Where a student's studies are suspended or in the case of exclusion, the Adjudicator will determine whether there is just cause to deprive the student of any credits already achieved and any award to which they may lead.

The Adjudicator may order that any penalty will be imposed immediately, or that the imposition should be deferred. The conditions of any such deferment will be clearly stated as part of the decision. The imposition may be contingent upon the student failing to fulfil any conditions set.

A record of the outcome and any penalty imposed will remain on the student's record at minimum until s/he ceases to be registered as a LAMDA student. Beyond this, the Adjudicator has the discretion to indicate a point in the future and/or the conditions under which a substantiated allegation of misconduct may be considered spent. Once spent, any record(s) of the misconduct will be removed from the student's file, including any records of any suspension or exclusion relating to it.

The findings and decisions of the Misconduct Hearing will be communicated to the student, the Director, and any other interested parties as deemed appropriate by the Adjudicator the Panel, and in accordance with the GDPR.

4.4.8 Misconduct Hearing: Outcome Letter

The student will normally be sent a Misconduct Hearing Outcome Letter (the letter) **within seven days of the date of the hearing**. The letter will set out the decision(s) of the Misconduct Hearing and the reasons for the decision(s) and provide information on the right of appeal.

The student will also be advised that the finding(s) and decision(s) of the Misconduct Hearing may be taken into consideration in the event of a future finding of misconduct under this Policy.

A copy of the letter will be placed on the student's file.

4.4.9 Impact of Misconduct Procedures on Progression and Release of Results

Normally academic progression through a programme will not be affected by the fact that misconduct allegations (including any appeal process against a Misconduct Hearing decision) are under investigation or consideration. A student will normally be permitted to progress through their programme where an Assessment Board need to reach a decision concerning academic progression in such circumstances.

This is no indication of LAMDA's view of alleged misconduct, nor is it an indication of any right to continue with a programme of study subsequent to a decision of the Misconduct Hearing or Misconduct Appeal, and it will not be taken into account as a mitigating factor in either proceedings.

If a student is in their final year of study, and an investigation into non-academic misconduct (including an appeal against a Misconduct Panel decision) is still continuing when the Assessment Board considers their marks for an assessment or award, the marks

or final result may be released but the student may not normally graduate until the conclusion of the misconduct case. This could mean that a student may not graduate with their peers. This extends both to the University of Kent graduation and to LAMDA graduation.

5. Misconduct Appeal

5.1 Appeal: Rights and Grounds

Where a student disagrees with a decision or finding(s) of the Misconduct Hearing, they have a right to appeal to the Director of LAMDA on one (or more) of the stipulated grounds. The decision of the Misconduct Hearing stands unless and until it is overturned following a successful appeal. The grounds of appeal are:

- a) there has been procedural irregularity, i.e. that some rules or procedures were not applied correctly
- b) there was prejudice or bias on the part of a decision-maker
- c) the decision(s) is/are wholly unreasonable and/or the sanction or outcome wholly disproportionate
- d) there is new evidence that is material to the case, which the student can demonstrate was for good reason not previously available, and sufficient evidence remains that this warrants further consideration by a Misconduct Appeal.

5.2 Notice of Appeal

An appeal must normally be made in writing within **14 days of the date of the Misconduct Hearing Outcome Letter**. Appeals submitted after this deadline may be rejected for being out of time.

To make an appeal, a student should submit an appeal form to the Director of LAMDA. which should:

- a) clearly state the ground(s) of appeal
- b) specify and include copies of any supporting documentation which they consider should be taken into account
- c) identify any evidence which they consider should be taken into account e.g. witnesses the student wishes to call
- d) include any information relating to mitigating circumstances.

Appeals which do not state any grounds may be summarily rejected.

5.3 Misconduct Appeal: Review

On receipt of an appeal against the decision of a Misconduct Hearing, the Director will either conduct a review of the appeal or delegate this to another senior member of staff.

The appeal submission is reviewed by the Director to determine whether it **discloses grounds** for an appeal, otherwise the appeal shall be rejected. Discloses grounds means that there is sufficient evidence that the appeal may meet one or more of the grounds of appeal, or that there is some other good cause for the appeal to merit further consideration.

It is not sufficient for an appeal merely to state the grounds upon which the student is appealing.

Where the Director is satisfied that the submission discloses grounds, a Misconduct Appeal will be convened to consider the appeal.

The Director may, for good cause, extend the time period in which the student may submit an appeal.

Where it is decided that the appeal submission discloses grounds, the student will be notified in writing of this decision, normally within 21 days of receipt of the appeal submission, and the case will be referred to a Misconduct Appeal. The student will be invited to submit any additional documentation or statements that they wish to have considered at the Appeal at the point they are notified of the Hearing.

Where it is decided that the appeal submission does not disclose grounds, the appeal will be rejected and the finding(s) of the Misconduct Hearing will stand. The student will be sent an Appeal Outcome Letter, normally within 21 days of receipt of the appeal submission, and either simultaneously or shortly after, the student will be issued with a Completion of Procedures Letter, normally no more than 14 days after the date of the Appeal Outcome Letter. On receipt of the Completion of Procedures letter, if the student remains dissatisfied, they may take their complaint to the Office of the Independent Adjudicator (see Section 7 of this Policy).

5.4 Misconduct Appeal: Terms of Reference

The Misconduct Appeal's terms of reference are:

- a) To consider cases referred to it in order to determine whether the evidence is of sufficient significance to cast doubt upon the reliability of the decision(s) arrived at by the original Misconduct Hearing
- b) To determine appropriate outcomes and action in accordance with these procedures
- c) To advise Academic Board on disciplinary matters or any related issues that may arise from the Appeals proceedings (including from the previous Misconduct Hearing proceedings).

The Misconduct Appeal will be heard by the Director of LAMDA or a suitable senior member of staff or other suitable person nominated by them. The Director will not hear the appeal if s/he has been involved in the case, or its consideration under this policy or there appears to be a conflict of interest.

The Director will appoint a Secretary who shall be unconnected with the case, to act as note-taker and administrator. The Secretary shall not take part in any decision-making.

Where the student and/or any other relevant parties are unable to attend, it will be at the discretion of the Director to decide if the appeal proceedings may continue or if any other action (e.g. a rescheduling of the hearing or the opportunity to make further written submissions) is necessary. Where a student is, for good reason, unable to attend a hearing on the scheduled date, a new date will normally be offered.

5.5 Misconduct Appeal: Notice to Student

In the event of a Misconduct Appeal being held, LAMDA will send written notice of the following to the student **at least 7 days** in advance of the hearing:

- a) The date, time and venue of the hearing
- b) The names of any witnesses called by LAMDA
- c) Contact details of the Secretary to the Appeal
- d) All documentary evidence, including:
 - I. all the documentation submitted to and considered by the Misconduct Hearing (including the Preliminary Investigation Report and copies of witness statements)
 - II. a copy of the Misconduct Hearing Outcome letter
 - III. a copy of the student's appeal
- e) Confirmation of the names of any witnesses the student wishes to call (allowed at the discretion of the Director).

5.6 Misconduct Appeal: Procedure

- a) The student may be accompanied for support to the Appeal Hearing by a member of staff, a student representative or a family member, who should not be connected to the incident concerned. LAMDA may also support the student to be accompanied by an appropriate person from our external network of Alumni and Person of Colour allies on request. A student may not be accompanied by a legal representative even if that person is a member of staff, student representative or family member. The student has the right to call witnesses. The Director has the ultimate discretion to allow to admit or refuse any representative.
- b) The student may submit any personal written statement and/or supporting evidence and/or witness statements for consideration. Details and copies of any relevant documentation must normally be submitted by the student to the Director **not less than 48 hours** before the appeal hearing. Any such documentation submitted after this deadline will only be accepted at the discretion of the Director.
- c) At the discretion of the Director, a hearing may take place *in absentia* for example, where there is reason to believe the student's behaviour or conduct would interfere with the due process of the appeal.
- d) All parties will normally be present at the hearing at the same time, unless any reasonable adjustment is required which would preclude this.
- e) The Director will determine the order of the hearing. This may include inviting either the student or LAMDA Representative to speak first, as deemed appropriate. It is at the discretion of the Director to invite parties to speak throughout the hearing as deemed appropriate. The Director will ensure that both the student and the LAMDA Representative are given fair and adequate opportunity to make any representations, call witnesses and to respond to questions as appropriate.
- f) At the conclusion of all presentations and questions, the LAMDA Representative will be asked if they have any final statement to make. The student will then be invited to make a closing statement. At their discretion, the Director may also make a closing statement.
- g) The deliberations of the Director are confidential, and will be held in private.
- h) The Director will endeavour to reach a decision and findings without adjournment. However, in the event that the Director determines at any point during proceedings that further information is needed in order to reach a decision or for other good cause, s/he

shall adjourn the case. The student will be notified of the adjournment normally within 24 hours of the decision to adjourn.

- i) The decisions and findings of the Director will be communicated in writing to the student, the LAMDA Representative and any other parties the Director deems appropriate, normally within seven days of the date of the Hearing.

5.7 Misconduct Appeal: Outcomes

After considering all the evidence, the Director will determine whether the appeal has met the grounds and therefore whether it should be upheld, by making one of the following finding(s):

- a) **the appeal is upheld:** there is sufficient evidence to demonstrate, on the balance of probabilities, that one or more of the grounds of appeal have been met, which warrants a review of the decision(s) and/or finding(s) of the Misconduct Hearing
- b) **the appeal is not upheld:** there is no evidence, insufficient evidence, and/or that s/he is not satisfied, on the balance of probabilities, that one or more of the grounds of appeal have been met, and therefore the original decision of the Misconduct Hearing stands.

Appeal Upheld

In the event that the appeal is upheld, the Director may: **overturn**, **amend**, or (having reviewed the outcomes) **confirm** that the original findings and/or decision should stand.

Where the original findings and/or decision are overturned, the Director will make new finding(s) and/or decision(s), which will replace those of the original Misconduct Hearing.

Appeal Not Upheld

In the event that the appeal is not upheld, the original finding(s) and decision(s) of the Misconduct Hearing will stand. However, the Director has the authority to make any reasonable orders (including referring the student under different procedures) or make any recommendations to Academic Board in accordance with its findings, as stated in the Misconduct Appeals Terms of Reference above.

5.8 Matters Taken into Account

As part of its decision-making, the Misconduct Appeal may take the following into account:

In determining whether an appeal should be upheld:

- a) Whether the evidence is of sufficient significance to cast doubt upon the reliability of the finding(s) and/or decision(s) arrived at by the original Misconduct Hearing
- b) whether there are any other or further concerns which have emerged which should be taken into account, or which require further investigation or warrant referral under another procedure (for example, Fitness to Train)

In reaching decision(s):

- c) whether any penalties previously handed down to the student warrant amendment (including an increase in severity, where fair and reasonable in the event of new evidence or information), or rescindment
- d) any action deemed necessary by either the student and/or LAMDA
- e) whether there are any matters which should be referred under alternative procedures

Generally:

- f) the severity of the offence, including any aggravating factors resulting from its impact;
- g) the student's engagement with LAMDA during the misconduct process;
- h) any evidence of malicious intention;
- i) the number of previous and/or contemporaneous misconduct offences, both non-academic and academic;
- j) if concerns about conduct have been drawn to the student's attention prior to this instance;
- k) whether the student is in receipt of any formal warnings, or any other sanctions;
- l) any mitigating circumstances and/or aggravating factors which are accepted by the Director (or delegate).

A record of the outcome of an appeal will normally remain on the student's record at minimum until s/he ceases to be registered as a LAMDA student. The Misconduct Appeal has the discretion to indicate a point in the future and/or the conditions under which a substantiated allegation of misconduct which it has determined should stand following an appeal hearing, may be considered spent. Once spent, any record(s) of the misconduct will be removed from the student's file, including any records of any suspension or exclusion relating to the offence.

5.9 Appeal Hearing Outcome letter

The student will be sent an Appeal Hearing Outcome Letter, normally **within seven days of the date of the hearing**. The Misconduct Appeal Hearing Outcome Letter will set out the decision(s) of the Director and the reasons for the decision(s), and information concerning Completion of Procedures (see below).

A copy of the Appeal Hearing Outcome Letter containing the finding(s) and decision(s) of the Panel will be placed on the student's file. As applicable, the student will also be advised that the finding(s) and decision(s) of the Misconduct Appeal (and where applicable the original or new Misconduct Hearing) may be taken into consideration in the event of a future finding of misconduct or unprofessional behaviour under this policy. The finding(s) and decision(s) of the Appeal may also be taken into consideration by LAMDA when determining whether to exercise powers of temporary exclusion or suspension in the future.

The student will be advised of their right to take a complaint, if applicable, to the Office of the Independent Adjudicator (see section 7 below).

6. Failure to Comply with Decisions

Failure by a student without good reason, in LAMDA's view, to:

- a) comply with any decision reached or order issued by LAMDA under this policy and procedures (including by the Investigating Officer, a Misconduct Hearing, a Misconduct Appeal or LAMDA's Director), or
- b) comply with the terms of a temporary exclusion or suspension made under this policy and procedures

may itself constitute an act of misconduct and may therefore be dealt with either in accordance with this Policy, or under LAMDA's Fitness to Train procedures, as deemed appropriate by the Director or their nominee.

7. Office of the Independent Adjudicator

Where a student wishes to complain about, or disagrees with, a decision or finding(s) of the Misconduct Appeals Panel, they may be able to take their complaint to the Office of the Independent Adjudicator for Higher Education (OIA).

Once a Completion of Procedures Letter has been issued, a student may apply to the Office of the Independent Adjudicator for Higher Education (<http://www.oiahe.org.uk>) for external review in accordance with the OIA's rules. LAMDA will follow the guidance published by the Office of the Independent Adjudicator in issuing Completion of Procedures Letters to students.

8. Monitoring

In accordance with their terms of reference, a Misconduct Hearing or Misconduct Appeal may refer matters relating to individual student cases to Academic Board. Academic Board monitors disciplinary matters, statistical data and any related issues arising from these procedures.

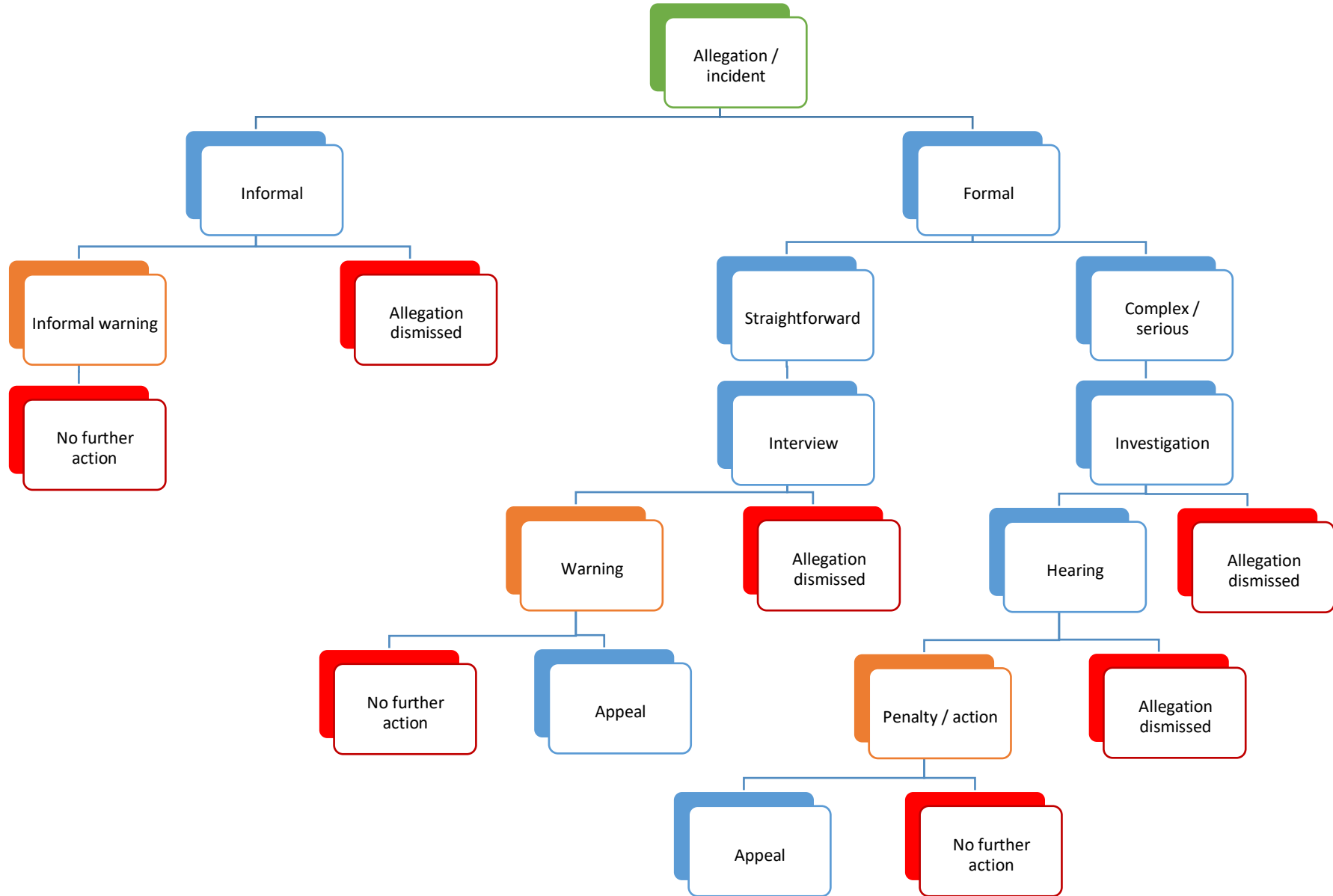
Academic Board is responsible for:

- a) reviewing and acting upon urgent recommendations made by the Misconduct Hearing and/or Misconduct Appeal
- b) monitoring outcomes of cases, and any recommendations arising
- c) conducting, for quality assurance and enhancement purposes, an annual review of all cases, recommendations and outcomes arising from the misconduct process and panel proceedings
- d) reporting annually to the University of Kent, including matters relevant to quality assurance and enhancement.

Where misconduct has been established in a case, or where a student has been temporarily suspended or excluded, or expelled under this policy, copies of the summary record and the outcome letter shall be placed on the relevant student's file and a record of the proceedings of every Misconduct Panel and Misconduct Appeals Panel shall be kept by the Registry for record and monitoring purposes. Both records shall be retained in accordance with LAMDA's records management policy.

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Policy Owner	Head of Student Journey & Academic Services

Appendix 1: Flow Chart – Formal Misconduct Procedures



Appendix 2: Flow Chart – Misconduct Appeal Procedures

