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**Bristol School of Acting**

# **Student Non-Academic Misconduct Policy**

## **Introduction**

1. This document sets out BSA's policy and procedure for handling allegations relating to a student's behaviour or conduct. It does not cover allegations which relate to academic matters such as (for example) cheating in assessments.
2. In accordance with the Respect at BSA Framework, we aim to provide a safe, happy and comfortable training environment for students and staff to work in. Another part of the Framework is the Student Code of Conduct which defines types of behaviour which are unacceptable. If any student breaches this Code, whether or not intentionally, their actions can be reported via the Student Non-Academic Misconduct Policy and procedure described here. It covers both allegations made against you and how to make an allegation against other students yourself.
3. In this document "you" and "your" mean the student against whom allegations have been made; "we", "us" and "our" mean BSA.
4. In this document we refer to the Head of School at BSA. They may delegate their responsibilities to another person; in the event that either is unable to do this, another suitable senior officer may be appointed by the Chair of BSA Board.
5. The School's jurisdiction under this process is not limited to its own premises, as it also covers misconduct occurring in any place to which a student has access or reason to be present by virtue of their status as a BSA student. This includes, but is not limited to, external BSA activities and engagements (e.g. performances but also non-performance related activity such as promotional events), work placements and community/school experiences.

## **What is misconduct?**

6. The Student Code of Conduct gives definitions of misconduct. It includes:
  - a. Physical misconduct
  - b. Sexual misconduct
  - c. Offensive or abusive behaviour
  - d. Damage to property
  - e. Unauthorised taking or use of property
  - f. Causing a health and safety concern
  - g. Operational obstruction
  - h. Reputational damage



7. The above list is not exhaustive. When we consider allegations relating to a student's behaviour, we will take into account the context in which the alleged behaviour occurred in deciding whether to take action. We may consider allegations of student misconduct under another procedure – such as Fitness to Train, where appropriate.
8. We are not the police. Where an allegation relates to potentially criminal conduct by a student we will decide how to proceed. This may include:
  - a. With the consent of the person making the allegation, referring the matter to the police.
  - b. Pausing consideration of the allegations while the police undertake an investigation.
  - c. Suspending your registration, on a non-prejudicial basis, during the investigation.
9. We will not normally investigate allegations which are made anonymously; see below for further discussion.

#### **Outline of procedure: when an allegation of misconduct is made against you**

10. This is a summary of the procedure we will use in considering allegations of misconduct made against you. More detail is set out in the following sections, and guidance on **how to make an allegation of misconduct against another student** is given below.
11. *Stage 1 – Preliminary.* When an allegation of misconduct is made, we will first conduct an investigation to establish the facts of the matter. This will be done by a senior member of staff. On the basis of this investigation we will decide whether to:
  - a. Dismiss the allegations
  - b. Deal with the matter there and then
  - c. Refer the matter to a panel for a formal hearing
12. *Stage 2 – Misconduct Panel hearing.* When a matter cannot be dealt with at Stage 1, we will establish a Misconduct Panel to consider the matter. This Panel will consider the evidence in the matter and will decide what action to take. You will have a right to speak to the Panel and present evidence in your defence.
13. *Stage 3 – Appeal:* If you disagree with the outcome of the Misconduct Panel, you may submit an appeal.
14. If your appeal is unsuccessful and you are aggrieved at this outcome, you may at this stage complain to the Office of the Independent Adjudicator (OIA), the external independent body which has a remit to review unresolved complaints and disputes between students and their institutions. Under the OIA's rules, you may only submit a complaint to them when you have completed the internal procedures.



### Supporting you through the process

15. We recognise that you may find it difficult if you have allegations made about your behaviour which are being investigated under this procedure.
16. If you wish, we will identify a member of staff, unconnected with the case, who will be able to offer you support. If there is no suitable member of staff available, we will identify an external source for support for you.
17. When you attend meetings, panel hearings or appeal hearings under this procedure, you may be accompanied by a friend. This friend is not there to speak for you, and cannot be a legal representative, but is there to offer you support during meetings.

### Stage 1 – Preliminary

18. When an allegation of misconduct against a student or students is received, the Head of School will appoint a member of staff to act as Investigating Officer. The Investigating Officer will be someone who is not involved in the matter about which allegations have been made.
19. The Investigating Officer will conduct an investigation to establish the facts of the matter. This investigation may include reviewing documents and interviewing staff and students.
20. The Investigating Officer will ask to meet with you as part of this investigation. You do not have to attend the meeting, but we strongly recommend that you do, as having this face-to-face discussion can be very helpful in resolving the issue.
21. Once they have completed their investigation, the Investigating Officer will write a brief report. This will set out:
  - a. The details of the allegations made
  - b. The facts which have been established
  - c. The Investigating Officer's findings (see paragraph 20 below)
  - d. The next steps to be taken.
22. The Investigating Officer may find one of the following four possibilities:
  - a. That there is no case to answer – see paragraph 21 below.
  - b. That there is evidence of minor misconduct, which should be dealt with without a Misconduct Panel – see paragraphs 22 and 23 below.
  - c. That there is evidence of significant misconduct, which should be considered by a Misconduct Panel – see paragraph 25 below.
  - d. That the matter should be considered under a different BSA policy – see paragraph 25 below.
23. If the Investigating Officer finds that there is *no case to answer* (paragraph above) then no further action will be taken by us. We will write to you to tell you and everyone who has been involved in the investigation about the outcome.



24. If the Investigating Officer finds that there has been *minor misconduct* (paragraph above) they will decide on the penalty or penalties to be applied, choosing from the list set out in the paragraph below, and will write to tell you about this. A copy of the outcomes letter will be held on your file.
25. If you do not agree with the findings of the Investigating Officer in the event that they find that there has been *minor misconduct*, or the penalty that they decide to impose, you may object in writing to the Head of School. If you object, the matter will instead be referred to a Misconduct Panel.
26. If the Investigating Officer decides that there is evidence of *significant misconduct* (paragraph above), they will write to tell you and a Misconduct Panel will be established to consider the matter.
27. If the Investigating Officer decides that the matter should be considered under a different BSA policy, they will write to tell you, and will also inform any others as appropriate. Their report will form part of the documents used under the other procedure. No other action will be taken under this procedure.

## **Stage 2 – Misconduct Panel hearing**

28. Where a matter is referred to a Misconduct Panel, the Head of School will identify a Panel Secretary, who will not have been previously involved with the matter.
29. The Panel Secretary will convene a meeting of a Misconduct Panel, with the following members appointed by the Head of School of BSA:
  - a. A chair, who shall be a senior member of BSA's teaching staff, who has not had a previous connection to the case. Where this is not possible, the panel may be chaired by a senior member of staff from the validating university.
  - b. Two other members of BSA staff, unconnected to your programme of study. Where this is not possible, one or both of these Panel members may be a member of staff from the validating university.
30. The Misconduct Panel will have the following powers and responsibilities:
  - a. To make a finding in relation to the allegations of misconduct brought before it.
  - b. To determine any penalties to be applied, based upon the finding of the Panel
  - c. To report to the Head of School of BSA, as appropriate, on any matter arising from the case.
31. The Panel Secretary shall send to you; to the Panel; to the person presenting the facts for BSA; and to anyone else who is to appear before the Panel; no later than seven calendar days ahead of the Panel meeting, the following:



- a. The date, time and location of the Panel hearing
  - b. The names of the Panel members and any witnesses or expert advisers called by BSA
  - c. The name and contact details of the Panel Secretary
  - d. All documentary evidence, including the Investigating Officer's report and copies of any witness statements
  - e. The names of any witnesses you have already informed BSA that you will be calling
  - f. A copy of this policy and procedure
32. The Panel will conduct its meeting in line with the Procedure set out in the section *Procedures for Panel Meetings*, below
33. The Panel may find as follows:
- a. That there is no case to answer – see paragraph 35 below.
  - b. That misconduct has taken place – see paragraph 36 below.
  - c. That the case should be dealt with under a different policy and procedure – see paragraph below.
34. The Panel will decide an outcome, based on the findings, as follows:
35. If the Panel finds that there is *no case to answer* (paragraph 33.a above) then no further action will be taken by us. We will send to you a copy of the report of the Panel meeting and we will tell everyone who has been involved in the investigation about the outcome.
36. If the Panel finds that *misconduct has taken place* (paragraph 33.b above) it will decide on the penalty or penalties to be applied, choosing from the list set out in paragraph 54 below. The Panel Secretary will write to tell you about this. A copy of the outcome letter will be held on your file.
37. If the Panel finds that the case should be *dealt with under a different policy or procedure* (paragraph 33.c above) the Panel Secretary will write to tell you, and will also inform any others as appropriate. The outcome letter from the Panel meeting will form part of the documents used under the other procedure. No other action will be taken under this procedure.

### **Stage 3 – Appeal**

38. You may submit an appeal against the outcomes of a Misconduct Panel meeting on the following grounds:
- a. That has been a procedural irregularity in the conduct of the investigation or the hearing of such severity as to cast doubt that the outcomes would have been the same had it not occurred.
  - b. There was prejudice or bias on the part of one or more decisions-makers.
  - c. The decision of the Panel is unreasonable.



- d. The penalty or penalties applied by the Panel are disproportionate.
  - e. There is new evidence, material to the case, and sufficient to cast doubt that the outcomes would have been the same had it been available to the Panel, which was for good reason not previously available
  - f. If you wish to appeal, you must do so in writing, setting out your case, including evidence, under one or more of the grounds set out in paragraph 36 above, no later than fourteen calendar days after the letter advising you of the outcome of the Misconduct Panel.
39. You should send your appeal letter to the Head of School of BSA.
40. On receipt of an appeal, the Head of School of BSA shall appoint a Misconduct Appeal Reviewer from amongst the staff of BSA. The Misconduct Appeal Reviewer shall have played no part in previous consideration of the case.
41. The Misconduct Appeal Reviewer shall review the appeal submission and determine whether the appeal submission provides a case for appeal in line with one or more of the grounds set out in the paragraph above. In line with that determination:
- a. If the Misconduct Appeal Reviewer determines that the appeal submission makes a case for appeal in line with the grounds for appeal, the Director will appoint a Panel Secretary and a meeting of an Appeal Panel will be held.
  - b. If the Misconduct Appeal Reviewer determines that the appeal submission does not make a case for appeal in line with the grounds for appeal, the appeal will be summarily rejected. In such a case we will provide a completion of procedures letter so that you may, if you wish, take the matter further to the OIA.
42. The Panel Secretary will be appointed by the Head of School of BSA, and will be a member of BSA staff, or exceptionally an external person, who has had no previous contact with the case.
43. The Panel Secretary will convene a meeting of an Appeal Panel, with the following members appointed by the Director of BSA:
- a. A chair, who shall normally be a member of BSA Board;
  - b. A senior member of BSA staff unconnected with the case, normally drawn from the Senior Management Team; or where this is not possible a senior member of staff from your validating university
  - c. Another member, drawn from BSA staff, or from your validating university
44. None of the members of the Appeal Panel shall have had previous connections to the case.



45. The Appeal Panel will have the following powers and responsibilities:
  - a. To consider the appeal, and to determine whether the appeal is of sufficient merit to cast doubt upon the findings or the outcomes of the Misconduct Panel.
  - b. To consider what action if any to take in light of its decision about the appeal
  - c. To make any observations or recommendations arising from the appeal to the Head of School of BSA.
  
46. The Panel Secretary shall send to you; to the Panel; to the person presenting the facts for BSA; and to anyone else who is to appear before the panel; no later than seven calendar days ahead of the Panel meeting, the following:
  - a. The date, time and location of the Panel hearing
  - b. The names of the Panel members
  - c. The name and contact details of the Panel Secretary
  - d. All documentary evidence presented to the original Misconduct Panel hearing
  - e. The outcomes letter from the original Misconduct Panel hearing
  - f. Your appeal submission, including any supporting evidence
  - g. A copy of this policy and procedure
  
47. The Panel will conduct its meeting in line with the Procedure set out in the section *Procedures for Panel Meetings*, below.
  
48. The Panel may find as follows: either
  - a. That the appeal casts sufficient doubt upon the findings and/or outcomes of the original Misconduct Panel that the appeal should be upheld; or
  - b. That the appeal does not cast sufficient doubt upon the findings and/or outcomes of the original Misconduct Panel, and that the appeal should be dismissed
  
49. The Panel will decide an outcome, based upon the findings, as follows:
  
50. If the appeal is *upheld*, the Panel may:
  - a. Require that a new Misconduct Panel, with different membership to the first, be established, to consider the matter afresh. In this case you would have the subsequent right to appeal against the decision of the new panel, but not against the decision of the Appeal Panel in ordering a re-hearing.
  - b. Overturn or amend the findings of the original Misconduct Panel. In this case the Appeal Panel shall also, based upon its new finding, make decisions about any penalty to be applied.
  - c. Confirm the findings of the original Misconduct panel, but overturn the outcomes of that panel. In this case, the Appeal Panel shall also, based upon the original finding, make new decisions about any penalty to be applied.



- d. Determine that the case should have been heard under a different procedure. In this case, the Panel Secretary will write to tell you, and will also inform any others as appropriate. The outcome letter from the Appeal Panel will form part of the documents used under the other procedure. No other action will be taken under this procedure.

51. If the appeal is *dismissed* the findings and decisions of the original Misconduct Panel shall stand.
52. The findings and decision on outcomes of the Appeal Panel are final.

### **Penalties**

53. The penalties which may be imposed under this procedure are:
  - a. Requiring you to make a written apology
  - b. A formal warning to you about your conduct.
  - c. Conditions set for you to continue as a BSA student
  - d. A monetary fine.
  - e. Payment by you of compensation for damages caused.
  - f. Suspension as a student for a fixed period of time, or until specified conditions have been met.
  - g. Your expulsion from BSA.
54. Penalties may be combined.
55. The Student Code of Conduct sets out guidance about what penalties may apply for particular types of misconduct. We will take this guidance into account when deciding what penalties to apply in a specific case.

### **Procedures for panel meetings**

56. The standard of proof required shall be on the balance of probabilities.
57. You are presumed to be innocent of the allegations made against you until a finding determines otherwise.
58. Meetings of Panels under these procedures shall be held in private, and the public shall not be admitted to observe or participate.
59. The chair of a Misconduct Panel or an Appeal Panel shall determine whether any friend accompanying you is permitted to speak at the meeting.
60. Neither you nor BSA may be legally represented at a meeting of a Misconduct Panel nor an Appeal Panel.



61. You may call witnesses for a meeting of a Misconduct Panel and, exceptionally, for a meeting of an Appeal Panel. You must let the Panel Secretary know the names of any witnesses that you intend to call no later than two calendar days before the Panel hearing. The chair has the final say in deciding whether any witness should be permitted to attend a hearing and speak.
62. If you do not attend a Panel meeting it will normally proceed in your absence. If you give good reason why you cannot attend, with at least two calendar days' notice, the chair will sympathetically consider postponing the meeting and rearranging it for another day.
63. All members of the Panel must be present for the meeting to proceed. Exceptionally (for example, a continuation of a private panel meeting after adjournment) one or more members may join the meeting by video link or conference call; this will be at the chair's discretion.
64. The decision of the chair on any procedural point during a hearing shall be final.
65. Decisions of a Panel on findings and outcomes shall be made by consensus; if no consensus can be reached a majority vote will determine the question.
66. The chair may adjourn a meeting of a Panel in order to obtain more information on a particular point, or for other good reason. The Panel will reconvene as soon as is possible, normally within ten calendar days, and the Panel Secretary will give you at least two calendar days' notice.
67. All of those attending a Panel to present, or as witnesses (that is, you, any friends or witnesses that you are bringing; the person presenting the case for BSA, and any witnesses that they are calling) shall enter and leave the room together. This is to ensure that neither you nor BSA have privileged access to the Panel.
68. If you wish to ask a question of the person presenting BSA's case, or their witnesses; or the person presenting BSA's case wishes to ask a question of you or your witnesses, you and they must do so via the chair.
69. Order of proceedings for Panel meetings
  - a. The Panel and the Panel Secretary will initially meet in private.
  - b. The Panel Secretary will call all of those attending the meeting into the room.
  - c. The chair will introduce the panel and set out the order of business.
  - d. The chair will determine who starts proceedings. In the case of a Misconduct Panel, normally BSA will first present its case and witnesses, and then you will then present your case and witnesses. In the case of an Appeal Panel, normally you will first present your case and any witnesses, and then BSA will present its case and any witnesses.
  - e. During the presentation of evidence, you and the BSA representative may, through the chair, ask questions.



- f. Panel members may ask questions at any point.
- g. At the conclusion of the evidence and questions, you and the person representing BSA may give closing statements. Normally, the person presenting the case for BSA will speak first; you will have the opportunity to make the final statement.
- h. All of those attending the meeting, save the Panel and the Panel Secretary, will then withdraw, while the Panel conducts its deliberations.
- i. You will be notified of the outcome of the Panel meeting by letter, within seven days of the conclusion of the Panel's discussions. At the chair's discretion, you and the person representing BSA may be called back into the meeting at the conclusion of the Panel's discussion to be told of the outcome.

### **Record keeping**

70. We will keep records of cases dealt with under this policy and procedure for the duration of your registration at BSA, and for a period of no more than twelve months after you have finished as a student at BSA. Detailed papers relating to the case will be kept securely, and separately from your general student file.
71. We may share such details as are necessary with partners who work with us on the delivery of programmes. This includes your validating university, as well as, where circumstances require, other external organisations with which we work, such as employers and placement providers.
72. Where we consider it necessary (for example, in the case where a referral to the police is justified) we may share the outcomes of disciplinary processes, and information which we have found out during the course of investigations, with external agencies such as the police.

### **Office for the Independent Adjudicator (OIA)**

73. The OIA is the external independent body which reviews unresolved complaints and disputes between students and their institutions. Once we have completed our internal procedures, and you have no further action which you could take under these procedures to seek to address any concerns you may have, we will issue to you a *Completion of Procedures* letter. This is the confirmation which is needed by the OIA before they will consider a complaint.
74. This means that we will issue you with a completion of procedures letter when either
  - a. You have sought to appeal against the outcome of a Misconduct Panel, but your appeal has not been considered because it did not meet our grounds for appeal; or
  - b. You have appealed against the outcomes of a Misconduct Panel and the Appeal Panel has completed its work.
75. You can see further information about the OIA at its website: [www.oiahe.org.uk](http://www.oiahe.org.uk).



## **How to make an allegation of misconduct against other students**

76. Note that if you have serious concerns regarding staff conduct, course delivery, School procedures or facilities you can raise complaints about these using the Student Complaints policy. To make an allegation of misconduct against one or more other students the procedure is as follows.
77. First, assure yourself whether you think the matter can be resolved informally between you and the other student(s). This is suggested not to actively discourage you from entering the following procedure, but to ensure that you are absolutely certain of the need to commence the process. In some instances a face-to-face discussion of the matter can immediately address and resolve the issue, especially if the other party is genuinely unaware of their transgression or does not realise their conduct has caused any issues. If other students are party to the issue concerned, whether they are involved or have witnessed the conduct in question, you should discuss the matter with them before proceeding. If these discussions and any attempt to approach the student(s) in question have not resolved the matter, commence the formal process as described below.
78. We recommend that you make an allegation of misconduct as soon as possible following the events concerned. You should try to do this within 14 calendar days of the events. It may be difficult for us to investigate misconduct alleged to have occurred some time ago as evidence may be lost and/or witness recollections faded. Complete the Allegation of Student Misconduct form. Please include with your submission any supporting evidence such as timeline of events, emails, notes/letters, screenshots, signed witness statements and any other material you think is pertinent to the allegation.
79. Your submission will be treated as confidential and handled within the normal bounds of School practice for sensitive materials and in line with the Data Protection Act. However, bear in mind that the details of your allegation (via a copy of your complaint form) will have to be given to anyone against whom it is being made, and from whom a response is required. No details or materials that do not directly relate to them will be given to them. Also keep in mind that while you may have reasons for not wishing to set out all the details of your allegation this may result in the School not being able to take into account the full scope of your situation during its investigation.
80. Anonymous allegations of misconduct against students will not normally be investigated as it would not be possible to properly and fairly explore such allegations. You are able to raise concerns anonymously using the Report A Concern facility. The matters reported anonymously via this link are considered seriously but cannot be investigated under the misconduct process if they relate to the behaviour of a named individual or group. To report via the student misconduct process you must submit your own allegation and evidence; it cannot be submitted by another person acting on your behalf. Students who have concerns on behalf of other students can report these to the Report A Concern facility.



81. If you have any concerns about the process or the reaction of the student(s) against whom your allegation is made, you can meet with a member of your course team, and be accompanied by a registered BSA student (or other member of staff) to support you.
82. Once you have submitted your allegation, you will be told if the student misconduct procedure has been invoked and if so, following its conclusion, whether a penalty has been imposed on those against whom you made the allegation. You will not be told any details of the penalty or any other sanction, in line with the Data Protection Act.
83. We may terminate consideration of a misconduct allegation if we consider it to be frivolous (made without foundation) or vexatious (in bad faith, mischievous, spiteful, vindictive or malicious). Examples of frivolous or vexatious allegations may include but are not limited to:
  - a. allegations which are obsessive, harassing, or repetitive;
  - b. insistence on pursuing non-legitimate allegations and/or unrealistic outcomes;
  - c. insistence on pursuing what may be legitimate allegations in an unreasonable manner;
  - d. allegations which are designed to cause disruption or annoyance;
  - e. demands for redress which lack any serious purpose or value.
84. The School may consider possible action under the relevant provision(s) of disciplinary regulations in the case of a student held, at any stage in the process, to have brought forward a frivolous or vexatious allegation of misconduct under this procedure. Action may include the student making the allegation to be subject to the misconduct procedure themselves. Students making allegations against other students which the School considers unsubstantiated or defamatory will be required to retract or delete the relevant statement or comment, and may be subject to the misconduct procedure.
85. If your allegation is not taken forward for further investigation, or you are in any way dissatisfied with the outcome of an investigation, you can resubmit your formal allegation as an appeal strictly on the basis you are providing significant new evidence that could not have been presented at the time of the original allegation. If this does not result in the investigation being taken further forward, or if it does and you are subsequently still dissatisfied with the outcomes, you will have no further internal right of appeal and may contact the OIA as outlined in above.

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