



# Student Disciplinary Policy 2021-22

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## 1. Introduction

- 1.1 NMITE is part of the local community in addition to having our own institutional community, and, as with members of staff, all students are expected to conduct themselves with due regard for the wellbeing of each other, local residents, and NMITE's reputation.
- 1.2 The form of the Student Disciplinary Procedures is set out to deal effectively with student discipline in a manner which is fair and appropriate to the behaviour involved.
- 1.3 All staff are expected to play their part in maintaining student discipline. They may do so by advising students on their behaviour, mediating in disputes, and providing NMITE with written reports of incidents and allegations.
- 1.4 Personal Tutors and the Head of Student Experience will be able to advise students on the procedures.
- 1.5 These procedures are not related to academic performance, which is dealt with under the Academic Misconduct Procedure.



## 2. General principles

- 2.1 NMITE is committed to upholding the highest ethical standards and to carrying out its activities fairly, honestly, openly and in a legally compliant manner.
- 2.2 When dealing with reported incidents, or allegations of students suspected of misconduct, NMITE will endeavour to address in a manner that:
  - i. where appropriate, seeks to resolve issues relating to non-academic student discipline informally through our student support system;
  - ii. manages allegations, investigations, and outcomes fairly, transparently and with appropriate seriousness;
  - iii. is carried out in a reasonable and transparent timescale;
  - iv. allows all parties to learn from the experience;
  - v. is in accordance with the policies and practices of both NMITE and The Open University;
  - vi. has due regard to any applicable law.
- 2.3 NMITE operates the Students' Disciplinary Procedure to ensure that all disciplinary matters are dealt with fairly and quickly.
- 2.4 Allegations or complaints regarding student conduct may be brought to NMITE's attention by any member of staff or student(s) or by third parties.
- 2.5 This procedure should be read in conjunction with other NMITE student related policies and procedures, including but not limited to: Code of Conduct, Student Bullying & Harassment Policy, Drug and Alcohol Policy, Student Equality, Diversity and Inclusion Policy, IT Acceptable Usage Policy, Student Social Media Guidelines and Student Handbook.
- 2.6 Where there is reason to believe that a student may have committed a criminal offence, NMITE is committed to informing the police. NMITE reserves the right to defer any disciplinary proceedings until the police have completed their investigations, and the matter has been dealt with by the police or by a court of law.
- 2.7 Students are responsible for their visitors to NMITE (including residential accommodation and social venues/events) and will be held liable for their behaviour on campus which may result in fines in relation to any damages caused being levied against the student.
- 2.8 Recovery of costs for damages may be invoiced directly to students without a formal hearing but only after the student has been communicated with in this regard.
- 2.9 All damages to NMITE property must be paid for. They will be determined by the most appropriate member of staff for the area the proposed fines relate to, and in conjunction with the Academic Registrar, to ensure parity of treatment for all students.



- 2.10 The student will be provided with a breakdown of costs and offered the option of a payment plan. Fines will not exceed the cost of repair or replacement. Unpaid fines may result in more severe penalties including further disciplinary action or a suspension of registration.

### **3. Procedures for dealing with Misdemeanours**

Please also refer to quick reference flow chart on Page 9.

- 3.1 These procedures may be used for minor breaches of discipline. A list of examples can be found in Appendix 1.
- 3.2 A senior member of staff (normally at the level of Head of Department or above) will appoint a trained member of staff, with no previous knowledge or involvement of the reported incident, to deal with the matter, who may meet the student informally. After investigation, one or more sanctions may be imposed by the member of staff as set out in Appendix 2.
- 3.3 When the sanction is decided, a member of staff will inform the student, and send a copy of the record to the Academic Registrar. This record may be used in future disciplinary hearings.
- 3.4 The student may appeal in writing to the senior manager within seven working days on one or more of the following grounds. The grounds for appeal are:
- i. Procedural irregularity.
  - or,
  - ii. There is new evidence to support the appeal that could not, for good reasons, be presented at the time.
  - or,
  - iii. The penalty was disproportionate to the available evidence.
- 3.5 The student will be informed of the decision within seven working days of receipt of the appeal. This decision will be final, and a letter of Completion of Procedures (CoP) will be issued to the student.

### **4. Procedures for dealing with Misconduct**

Please also refer to quick reference flow chart on Page 10.

- 4.1 These procedures may be used where the alleged breach of discipline is deemed by the Academic Registrar as more serious than a misdemeanour and a list of examples can be found in Appendix 3. The matter will be dealt with directly by the Academic Registrar or their nominee(s). Persistent misdemeanours may also be referred to the Academic Registrar.
- 4.2 The Academic Registrar or their nominee(s) will investigate the alleged misconduct as quickly as possible. Written reports (from staff, students, and witnesses) of the incident(s) will be required for any subsequent hearing.



- 4.3 The Academic Registrar or nominee will call the student to a disciplinary hearing – providing no less than five working days notice - which will consist of a panel of no less than two members of staff (and where feasible a student representative). The student has the right to be accompanied by a fellow student or a friend (but the friend may not be a lawyer acting in a professional capacity).
- 4.4 If the student fails to attend the hearing on time or not at all, the panel may proceed in absentia with the evidence presented, unless justifiable notice and a satisfactory explanation is received.
- 4.5 The chair of the panel will outline the procedure and the allegations. The student will be expected to respond personally to the allegations. The accompanying friend may make a supporting statement on the student's behalf. Members of the panel may question the student and other witnesses on the alleged behaviour in order to clarify or amend the report(s). Notes will be kept of the meeting and any decisions made.
- 4.6 The panel will consider its decision in private and may decide on one or more of the sanctions set out in Appendix 4. These sanctions will be recorded in writing and will remain on the student's file for one year unless otherwise specified. Any live sanctions may be produced as evidence in further disciplinary hearings involving the student during that period.
- 4.7 Under normal circumstances, the student will be informed of the panel's decision in writing within seven working days. The student will be informed of his or her right of appeal.
- 4.8 Following the decision of the panel, the student has the right to appeal to a member of the Executive Board not previously associated to the situation under review, within seven working days.
- 4.9 The appeal must be made in writing, clearly stating the reasons. The grounds for appeal are:
  - i. Procedural irregularity.
  - or,
  - ii. There is new evidence to support the appeal that could not, for good reasons, be presented at the time.
  - or,
  - iii. The penalty was disproportionate to the available evidence.
- 4.10 Decisions of the panel, including any sanctions imposed, will normally stand until the appeal process has been concluded.
- 4.11 The member of the Executive Board will review the documentation but will not hold a re-hearing of the case.



- 4.12 If the member of the Executive Board upholds the appeal, the sanction(s) will be rescinded, and the student's file amended. The student will usually be informed within seven working days.
- 4.13 If the member of the Executive Board rejects the appeal, the student will be given the reasons in writing within seven working days under normal circumstances.
- 4.14 If the member of the Executive Board modifies the sanctions imposed, the student will be given the reasons in writing within seven working days under normal circumstances.
- 4.15 The member of the Executive Board 's decision on this matter shall be final and will be communicated to the student within seven working days under normal circumstances and the letter of decision will serve as the Completion of Procedures (CoP) letter and will be stated as such in the letter.

## **5. Procedures for dealing with Gross Misconduct**

Please also refer to quick reference flow chart on Page 11.

- 5.1 These procedures may be invoked for more serious breaches of discipline or persistent misconduct. A list of examples can be found in Appendix 5.
- 5.2 Suspension:
  - i. a member of the Executive Board, on grounds of alleged gross misconduct, may suspend a student from NMITE until the investigations are completed, a disciplinary hearing held, and any appeal process concluded. The student will not normally be allowed on NMITE property during this period except with written permission from the Academic Registrar for valid reasons (e.g. attending an assessment).
  - ii. The student will be informed by an appropriate member of staff in the first instance. This will usually be confirmed in writing within seven working days. This communication will provide details of the reasons for the suspension, the expected timeframe and will provide a member of staff as a point of contact for enquiries the student may have within the suspension period.
  - iii. The member of the Executive Board will appoint a trained member of staff with no previous knowledge or involvement of the reported incident to undertake an investigation.
  - iv. On completion of the investigation, the investigator will present the evidence to the member of the Executive Board.
  - v. Additional evidence may come to light in the investigation and may be included in the statement of allegation.
  - vi. If the member of the Executive Board decides that after the investigation, the matter does not require further action, the suspension will be lifted immediately, and the student informed as soon as possible.
  - vii. On investigation, if there is reason to believe that Misconduct may have occurred (under section 4), member of the Executive Board will refer the matter to a



disciplinary panel under section 4 and will follow the procedures set out in section 4.

- viii. Following the investigations, if there is reason to believe that Gross Misconduct may have occurred, the matter will be referred to a Student Disciplinary Panel chaired by a member of the Executive Board which will normally hold a hearing within thirty working days of receipt of full reports of the investigation. NMITE will always seek to expedite proceedings at the earliest opportunity.

## **6. Student Disciplinary Panel (Gross Misconduct)**

Please also refer to quick reference flow chart on Page 12.

- 6.1 The Student Disciplinary Panel hearing will normally be chaired by the member of the Executive Board but excluding the Chief Executive Officer. It will include at least one senior member of NMITE staff and a representative with no prior association with the matter(s) being investigated. A secretary will be in attendance to take notes of the hearing. Others may be requested to attend.
- 6.2 The student will be invited to attend the hearing (with the time and place specified) - providing no less than five working days notice - by the Chair of the Panel. The student has the right to be accompanied by a fellow student or a friend (but the friend may not be a lawyer acting in a professional capacity).
- 6.3 The panel will receive the Statement of Particulars of Alleged Gross Misconduct, written reports about the allegations, new evidence from the investigation and any relevant live written warnings or other sanctions.
- 6.4 The student will receive all the papers given to panel and any subsequent papers, no less than five working days before the panel meets.
- 6.5 The student may submit a written response to the allegations within three working days of receiving the allegations, which then will be forwarded to the panel.
- 6.6 If the student fails to attend the Student Disciplinary Panel hearing on time or not at all, the members may proceed in absentia with the evidence presented.
- 6.7 At the hearing, the chair of the panel will outline the allegations in the report(s) and any relevant live written warnings or other sanctions imposed by previous disciplinary hearings.
- 6.8 The student will be expected to respond personally to the allegations. The accompanying fellow student or friend may make a supporting statement on the student's behalf.
- 6.9 Members of the panel may question the student on the alleged behaviour in order to clarify or amend the report(s).
- 6.10 The panel will consider its decision in private after all the evidence has been heard. The decision will be communicated by the chair to the student in writing



usually within seven working days of the hearing. The Academic Registrar will be informed of the decision.

- 6.11 The panel may decide to impose one or more of the sanctions set out in Appendix 6. These sanctions will be recorded in writing and held in the Academic Registrar's office. The record will remain on the student's file for a time specified by the panel. Any live sanctions may be produced as evidence in disciplinary hearings involving the student during that period.
- 6.12 The notes of the hearing, written reports and decisions will be kept in a central file in the Academic Registrar's office.
- 6.13 The student has the right to appeal against any decision by the Student Disciplinary Panel.

Please also refer to quick reference flow chart on Page 13.

- 6.14 The student will be informed about their right of appeal, which must be made in writing to the Chief Executive Officer within seven working days stating the grounds for the appeal. See Appeal Form. The grounds for appeal are:
  - i. Procedural irregularity.
  - or,
  - ii. There is new evidence to support the appeal that could not, for good reasons, be presented at the time.
  - or,
  - iii. The penalty was disproportionate to the available evidence.
- 6.15 Decisions made by the Student Disciplinary Panel will stand until the appeal process has been concluded.
- 6.16 The Chief Executive Officer will examine any significant additional or new relevant information which for valid reasons has not been available to date including any irregularities in the disciplinary procedures. The Chief Executive Officer will not hold a re-hearing of the case.
- 6.17 If the Chief Executive Officer upholds the appeal one or more of the sanctions(s) will be rescinded and the record removed from the student's file.
- 6.18 The Chief Executive Officer may decide to uphold the decision of the Student Disciplinary Panel and the original sanction(s).
- 6.19 In the light of new evidence, the Chief Executive Officer may decide to uphold the decision of the Student Disciplinary Panel and increase the penalty if warranted.
- 6.20 The decision of the Chief Executive Officer will be communicated to the student, the Academic Registrar and other appropriate NMITE staff in writing within fourteen working days of receipt of the appeal or as soon as is reasonably possible.



- 6.21 Any written reports and decisions will be held in the Chief Executive Officer 's office.
- 6.22 The decision of the Chief Executive Officer in this matter will be final and completes NMITE's Student Disciplinary Procedures. The letter of decision will serve as the Completion of Procedures (CoP) letter.

## **7. Office of the Independent Adjudicator (OIA)**

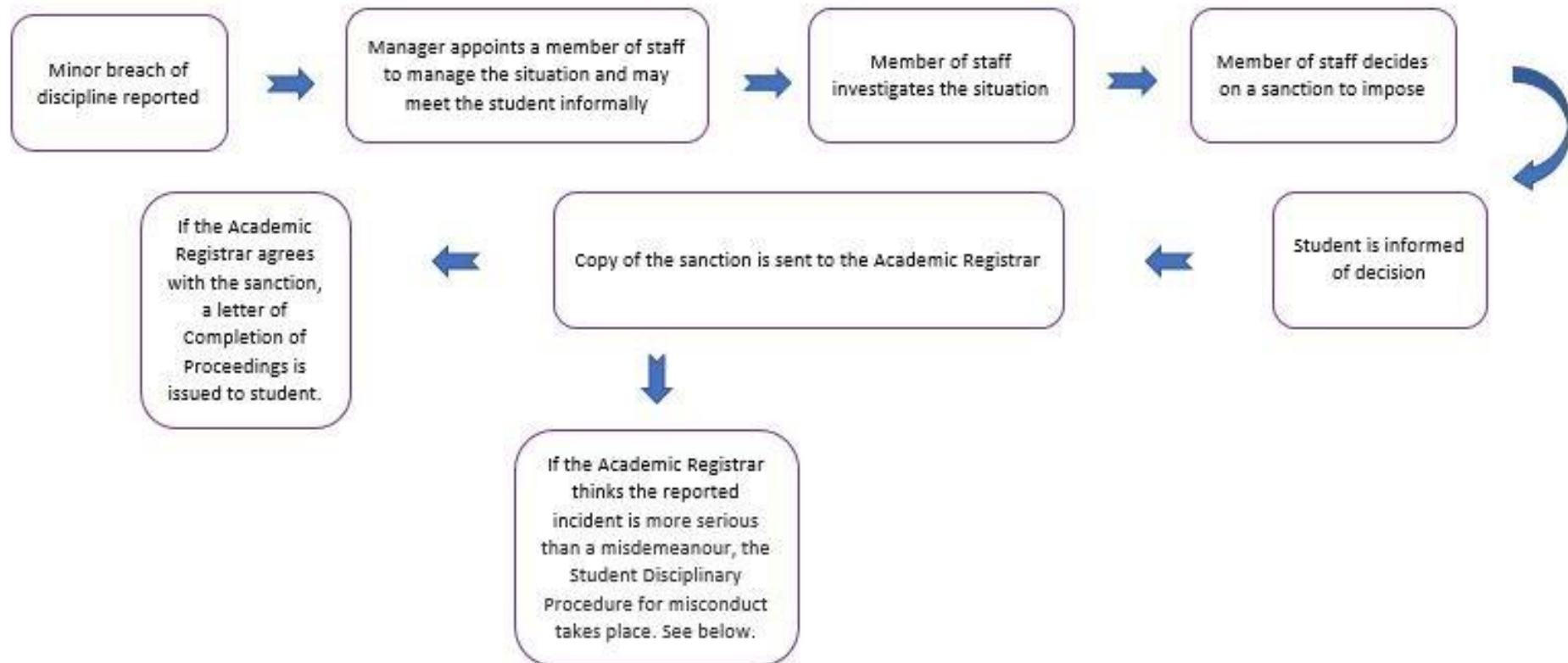
- 7.1 If a student believes that the internal appeal process has been incorrectly conducted or feels that the outcome is unreasonable in relation to the evidence, then they have the right to raise the matter for external and independent review by the Office of the Independent Adjudicator (OIA) [www.oia.org.uk](http://www.oia.org.uk) Information on the process may be obtained directly from the OIA at: <http://www.oiahe.org.uk> and will be included in the letter of completion.





## Student Disciplinary Procedure

### 1. Misdemeanors

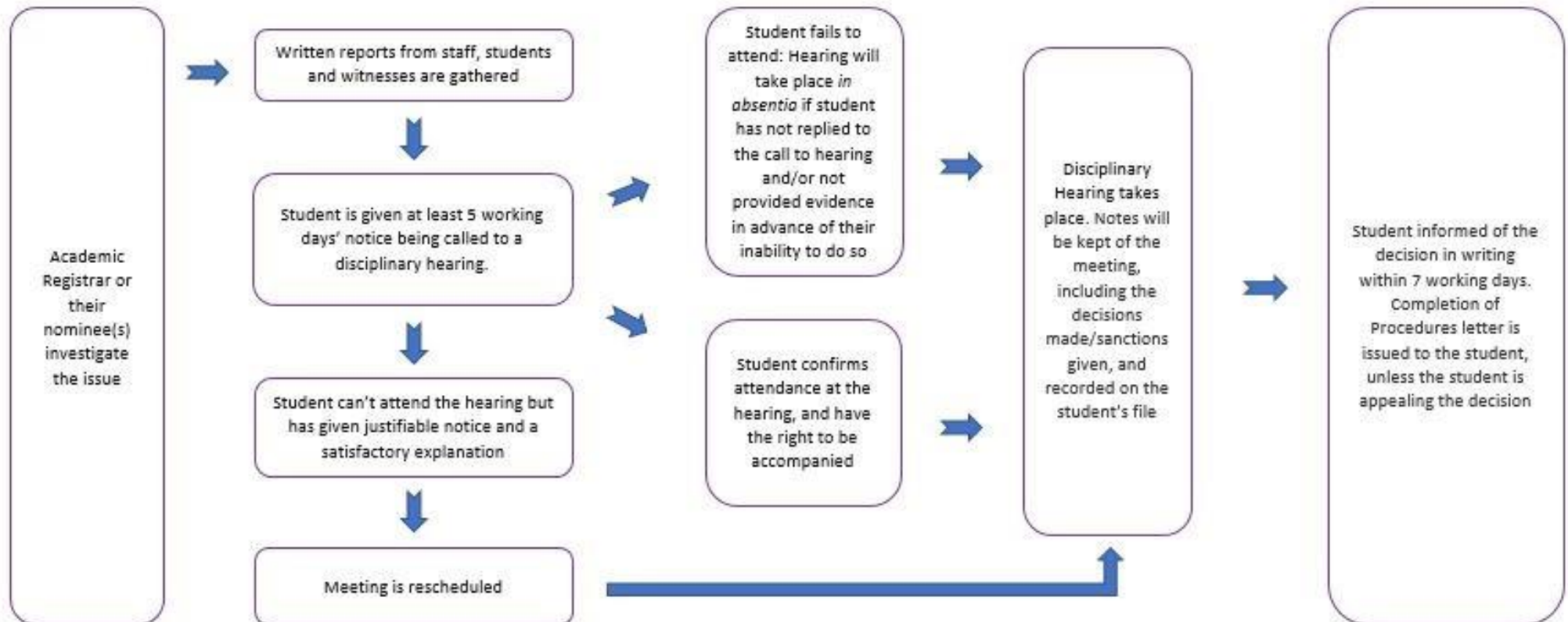




## Student Disciplinary Procedure

### 2. Misconduct

If a reported incident is deemed to be more serious than a misdemeanour by the Academic Registrar, they will take over the incident and treat it as a misconduct. Repeated misdemeanours may also be referred to the Academic Registrar to take over proceedings.

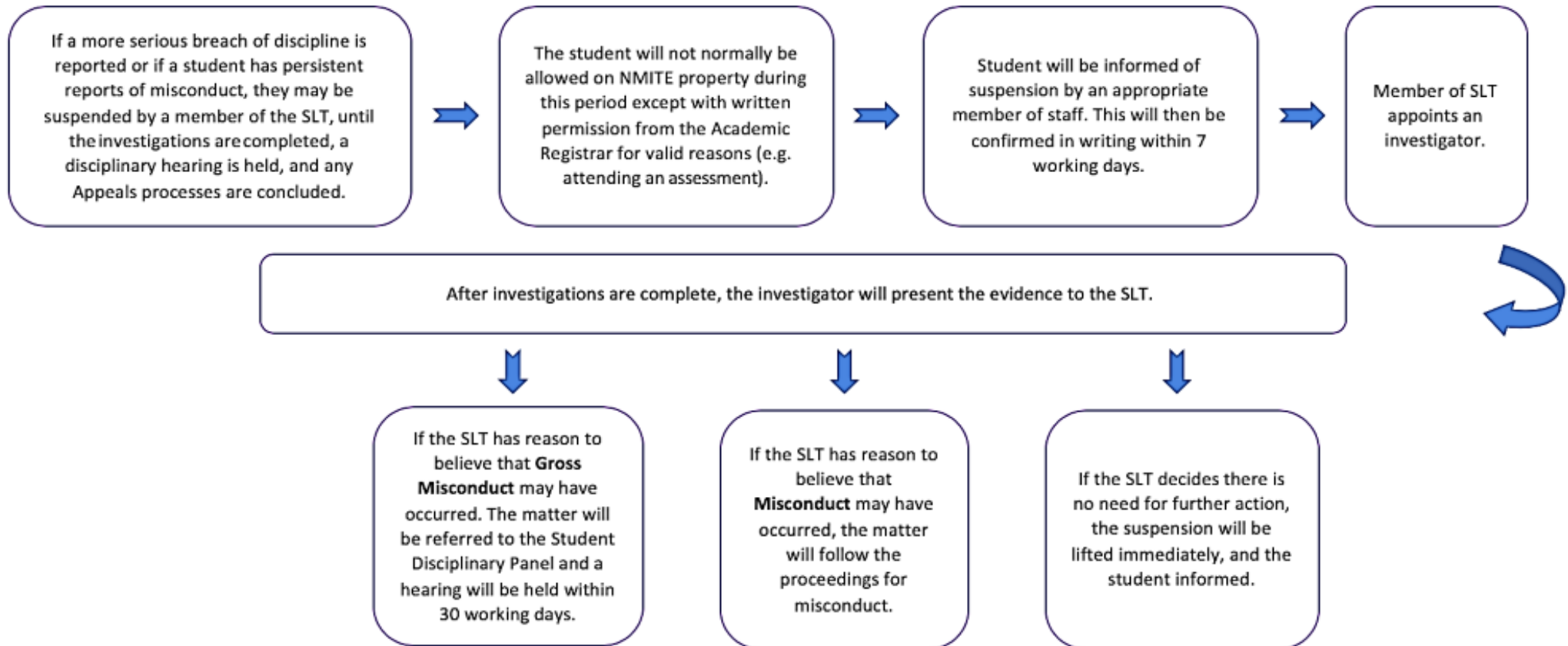






## Student Disciplinary Procedure

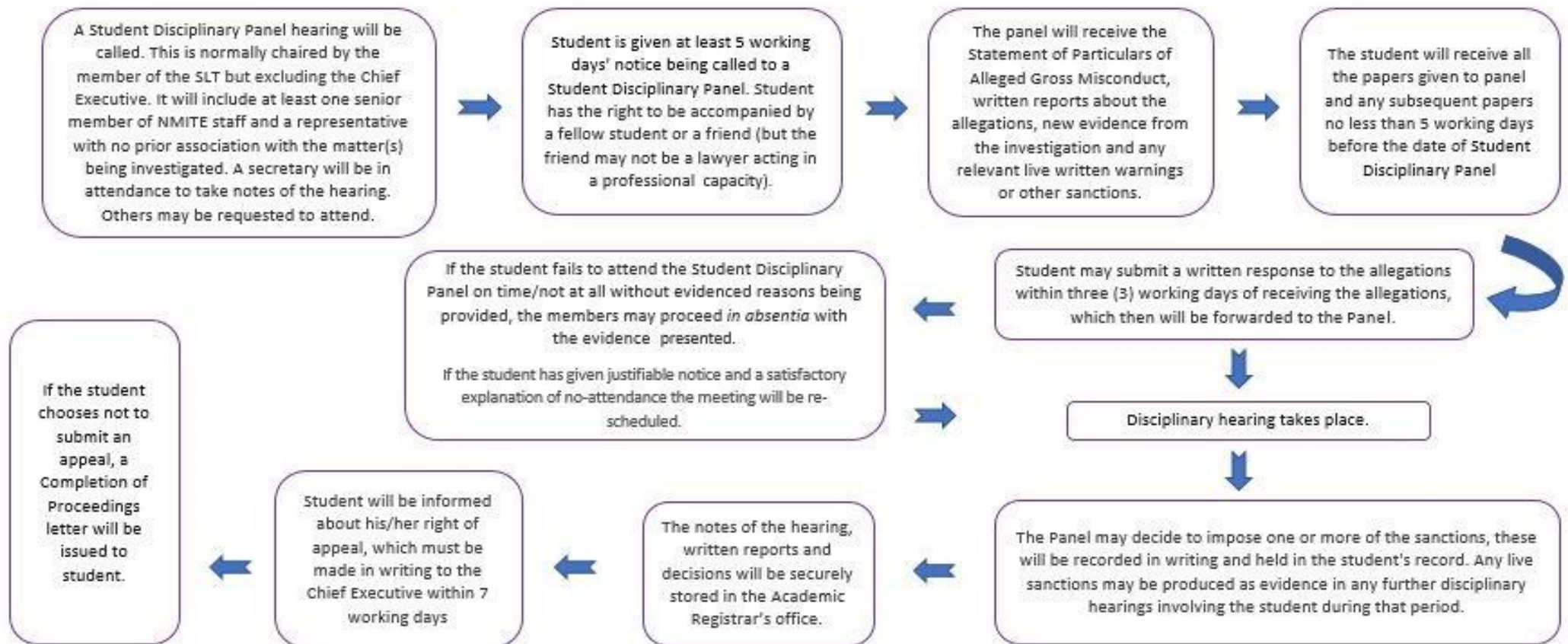
### 3. Gross Misconduct





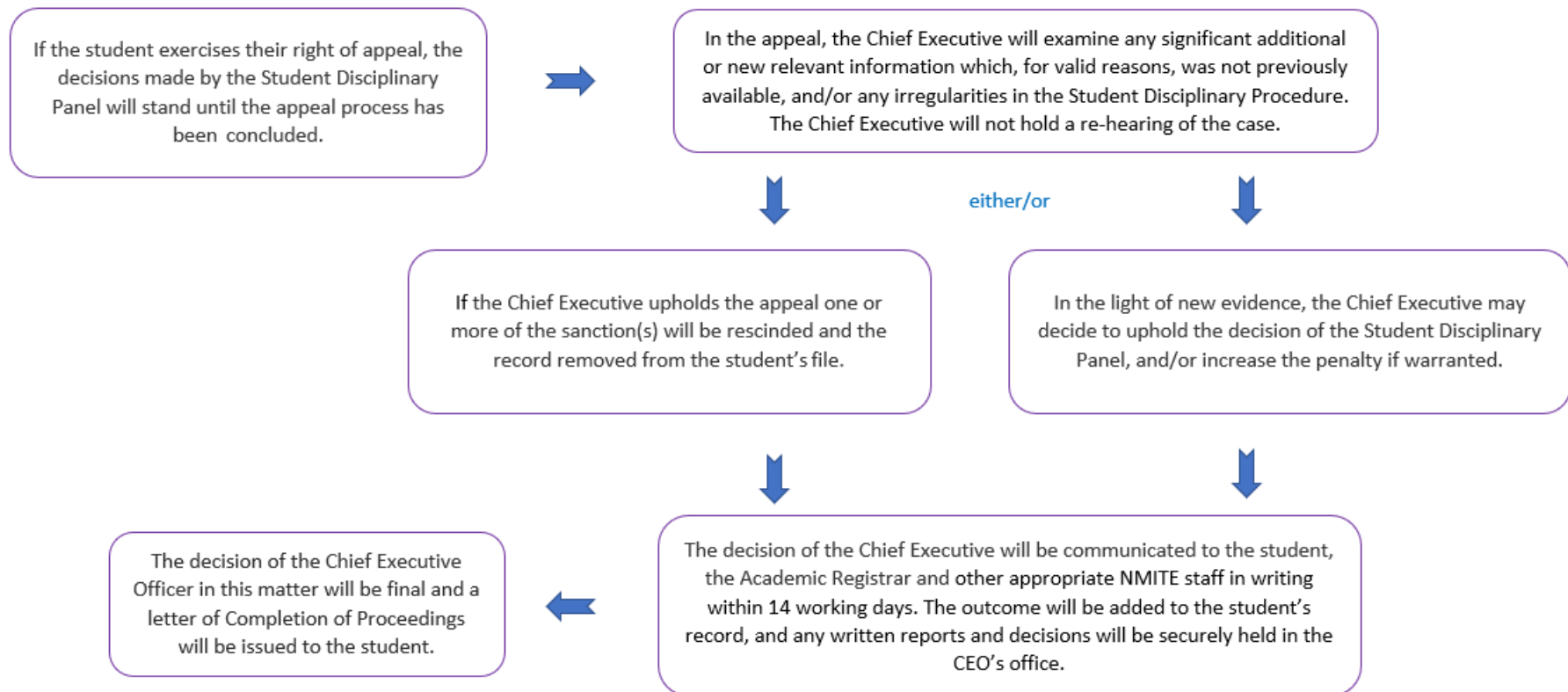
## Student Disciplinary Procedure

### Student Disciplinary (Gross Misconduct)





## Student Disciplinary Procedure



**Please note:**

Any student who considers that NMITE has failed to properly discharge its duties under this procedure should refer to Section 7 of the Student Disciplinary Procedure.



## **8. Appendix 1 - Examples of Misdemeanours**

(NB. These are examples only and not intended to provide an exhaustive list.)

- i. Minor breaches of the Accommodation Licence Agreement in the residential accommodation.
- ii. Minor disturbance within the premises, grounds, and precincts of NMITE (e.g. adjoining roads or streets).
- iii. Minor disturbance during taught sessions or in learning spaces.
- iv. Minor disturbances during visits to external partners or within the community which do not impinge upon NMITE's reputation.
- v. Minor damage to NMITE property.

## **9. Appendix 2 - Sanctions following procedures dealing with Misdemeanours**

One or more of the following sanctions may be imposed for proven misdemeanours:

- i. A verbal reprimand.
- ii. A written warning.
- iii. The payment of a fine in relation to any damages caused to property or resources (e.g. learning resources, residential accommodation, fire safety equipment (Ref. 2.10-11))



## 10. Appendix 3 - Examples of Misconduct

(NB. These are examples only and not intended to provide an exhaustive list.)

- i. Disruption of, or improper interference with the academic, administrative, sporting, social or other NMITE activities, wherever they are held.
- ii. Obstruction of, or improper interference with, the functions, duties or activities of any student, member of staff, or other NMITE employee or any authorised visitor.
- iii. Unauthorised possession of NMITE property or property of another member of the NMITE community or guest.
- iv. Unauthorised possession of public property (e.g. road signs).
- v. Bullying or harassment of students or staff (including cyber-bullying).
- vi. A false or malicious accusation against staff or students.
- vii. Misuse or unauthorised use of NMITE premises or items of property, (including computer misuse – please refer to the IT Acceptable Usage Policy
- viii. Breaches of the provisions of the NMITE's Freedom of Speech Policy.
- ix. Conduct that damages or destroys the property of other institutions or businesses to which students have access (including sporting venues).
- x. Behaviour that may be offensive or cause a nuisance to local residents, students, families, and visitors.
- xi. Behaviour that may be offensive to partner organisations or other members of the learning community.
- xii. Inappropriate use of internet, internet social networking sites (e.g. Facebook, Twitter, etc.) and text messaging.
- xiii. Knowingly making a false statement to any NMITE employee or agent on matter related to NMITE.
- xiv. Failure to disclose name and other relevant details to an NMITE officer or employee in circumstances when it is reasonable to require that such information be given (e.g. security staff investigating an incident).
- xv. Conduct that damages or attempts to damage NMITE property, or property which belongs to other members of NMITE and/or its visitors.
- xvi. Persistent serious misconduct or disregard of a previous live written warning.
- xvii. For students who are in NMITE's residential accommodation or managed accommodation: serious or persistent breach of the Accommodation Licence Agreement.
- xviii. Failure to comply with a previously imposed penalty under these procedures.





## 11. Appendix 4 - Sanctions following procedures dealing with Misconduct

One or more of the following sanctions may be imposed by the panel:

- i. Termination of the Accommodation Licence Agreement.
- ii. A ban from entering the residential accommodation for a stated period.
- iii. A ban from all areas of NMITE for a specified period.
- iv. A ban from all areas of NMITE except learning and teaching facilities for a specified period.
- v. A ban from attending the Graduation Ceremony.
- vi. A written warning placed on file for a specified period (normally one year).
- vii. The payment of a fine in relation to any damages caused to property or resources (e.g. learning resources, residential accommodation, fire safety equipment (Ref. 2.10-11) A requirement on the student to give an undertaking as to his/her future conduct within NMITE;
- viii. Another appropriate measure related to the offence (e.g. a letter of apology).

### **Note:**

- (a) These sanctions will be recorded in writing by the Academic Registrar and will remain on the student's file for one year, or for the length of time indicated by the disciplinary panel.
- (b) Any live sanctions may be produced as evidence in disciplinary hearings involving the student during that year.



## 12. Appendix 5 - Examples of Gross Misconduct

(NB. These are examples only and not intended to provide an exhaustive list.)

- i. Fraud perpetrated against NMITE and/or its staff or students.
- ii. Theft of NMITE property or the property of its staff, students, or visitors.
- iii. Criminal damage of NMITE property, the property of another student or of a neighbour.
- iv. Falsely misrepresenting NMITE.
- v. Misleading NMITE (e.g. in relation to prior academic qualifications, criminal involvement, etc.).
- vi. Not complying with reasonable requests for important information (e.g. academic qualifications, information pertaining to incidents, etc.).
- vii. Intentional or reckless behaviour that constitutes a threat to the personal safety of staff and students of NMITE and/or its visitors.
- viii. Aggressive and threatening behaviour against members of staff, students, or visitors.
- ix. Discriminatory acts by conduct, spoken or written language.
- x. Acts of sexual misconduct.
- xi. Acts of indecent behaviour.
- xii. Using language directed at an individual or group which demean those individuals or groups or create an intimidating, hostile or demeaning environment.
- xiii. Continuous bullying or harassment of students or staff (including cyber-bullying).
- xiv. Persistent or grossly inappropriate use of the internet and/or social networking sites (e.g. Facebook, Twitter, etc.) and text messaging which demean individuals or groups or contribute to a hostile environment.
- xv. Persistent or grossly inappropriate use of internet sites (e.g. websites, blogs, etc.) that demean individuals or groups or contribute to a hostile environment.
- xvi. Persistent or grossly inappropriate use of internet sites (e.g. Facebook, website, blogs, etc.) that adversely affects the reputation of NMITE.
- xvii. Inappropriate use of NMITE's virtual learning environment and email to demean individuals or groups or contribute to a hostile environment.
- xviii. Reasonable suspicion of illegal drug dealing or use on NMITE premises.
- xix. Possession, dealing or use of illegal drugs on NMITE premises.
- xx. Assaulting or threatening to physically assault any member of NMITE and/or its visitors, whether on NMITE premises or elsewhere.
- xxi. Possession of any offensive weapon (e.g. replica weapon, knife, etc.), firearm or imitation firearm on NMITE property.



- xxii. Behaviour which brings NMITE into disrepute or which damages the good name of NMITE (e.g. antisocial behaviour in the neighbourhood, etc.).
- xxiii. Acts which violate the provisions of the health and safety rules, and regulations of NMITE and/or our partners.
- xxiv. Knowingly making a false accusation against a member of staff or a fellow student.
- xxv. Failure to comply with a previously imposed penalty under these procedures.
- xxvi. Persistent serious misconduct or disregard of a previous live written warning.
- xxvii. For students who are resident in NMITE owned or managed accommodation: serious or persistent breach of the Accommodation Licence Agreement.
- xxviii. Conviction for a criminal offence which affects NMITE's operation and/or reputation.
- xxix. Conduct judged by the Senior Leadership Team as serious.

**Note:** Where there is reason to believe that a student may have committed a criminal offence NMITE is committed to informing the police and reserves the right to defer any disciplinary proceedings until the police have completed their investigations, and the matter has been dealt with by the police or by a court of law.

### **13. Appendix 6 - Sanctions following procedures dealing with Gross Misconduct**

The Student Disciplinary Panel may decide to impose one or more of the following sanctions (these are not exhaustive):

- i. Termination of the student's registration at NMITE.
- ii. Termination of the student's Accommodation Licence Agreement.
- iii. Exclude the student permanently from NMITE and from all its facilities and services including academic.
- iv. Exclude the student from a specified area of NMITE for a specified period.
- v. Exclude the student from all areas of NMITE for a specified period.
- vi. Exclude the student from residential accommodation for a specified period of time.
- vii. Exclude the student from all areas of NMITE except learning and teaching facilities for a specified period.
- viii. Exclude the student from NMITE events (e.g. Graduation Ceremony).
- ix. Issue a final written warning.
- x. Require the student to give an undertaking (in writing) as to their future conduct at NMITE.



- xi. The payment of a fine in relation to any damages caused to property or resources (e.g. learning resources, residential accommodation, fire safety equipment (Ref. 2.10-11) Any other sanction judged reasonable by the Student Disciplinary Panel.