

# Student General Misconduct Procedure

## Intent

This procedure outlines the University's management of an allegation of conduct which contravenes the obligations and expectations identified in the Student Code of Conduct. Allegations of Professional, Academic or Sexual Misconduct are excluded from this procedure as they are dealt with under separate procedures.

## Scope

All students undertaking study or research with James Cook University in respect of all actions and activities (including inaction or inactivity) relating to or impacting on the University or its students, staff, volunteers, contractors, visitors, or members of the public. The scope of this Procedure includes conduct that may occur at or in connection with (but is not limited to):

- the University's Australian campuses and study centres;
- managed Student accommodation (including University-owned or operated accommodation, and privately owned or operated accommodation, and regardless as to whether the accommodation is within or outside a University campus);
- sporting and recreational clubs and facilities to the extent that they fall within the University Community;
- managed digital environments (including the use of information technology and other University-operated digital platforms); and
- conduct and activities related to the University's business that are not conducted on University's premises, including (but not limited to):
  - field trips
  - conferences
  - Student camps
  - inter-University events
  - parties and other social functions.

## Definitions

Except as otherwise specified in this Procedure, the meaning of terms used in this procedure are as per the Student Code of Conduct. Other terms used in this procedure may also be found in the [Policy Glossary](#).

## Procedure

### 1. General

- 1.1 Any staff or student or member of the University community or public should immediately refer an instance of suspected criminal conduct to the Police.
- 1.2 Where the alleged inappropriate conduct concerns a student who is also a resident and the conduct is in connection with a residential College activity or taking place within the boundaries of the JCU Halls of Residence, other University-managed or associated student residences or Affiliated Colleges, will be referred to the Manager/Head of Halls of Residence/ Affiliated College for appropriate action in accordance with Hall/College procedures (except for Sexual Harassment or Sexual Assault).
- 1.3 Conduct on the part of students as part of JCUSA Clubs or Societies activities that may occur on campus or off-campus will be referred to the relevant Club or Society for appropriate action in accordance with the constitutions of said Clubs or Societies (except for Sexual Harassment or Sexual Assault).

### 2. Referral of allegations of Student Misconduct to Director, Student Services

- 2.1 Any staff, or student, or member of the University community or public may refer an instance of suspected General Misconduct to the University.
- 2.2 The Chair of the University's Behaviour Risk Group (Chief of Staff) may refer an allegation of Student Misconduct where a pattern of behaviour has escalated to General Misconduct to the Director, Student Services in accordance with their Terms of Reference for high risk or escalating inappropriate behaviours.
- 2.3 All other allegations of General Misconduct shall be lodged with the Director, Student Services who will conduct a preliminary evaluation of the allegation as presented. The Director, Student Services may:
  - a) dismiss the matter if the evidence is insufficient, or the allegation(s) is deemed to be unfounded or trivial, and send written advice of the dismissal and reasons for the dismissal to the referring person; or
  - b) refer all or part of the matter to the relevant College Dean or other authorised delegate for appropriate action; and/or
  - c) where appropriate, refer the matter to the Police or other relevant external authority, and/or
  - d) if sufficient detail and evidence is provided to enable an allegation to be put to the student the Director Student Services may do so under clause 2; and/or
  - e) impose particular requirements as a condition of the student's continued attendance at University under clause 3; and/or
  - f) suspend the student under clause 3.

### **3. Misconduct Allegations**

- 3.1 The Director Student Services will notify the student in writing that an allegation of General Misconduct has been received. The student will be provided with sufficient detail including supplying any evidence presented, to enable them to understand the precise nature of the allegation, and will be asked to provide a written response to the allegation(s) within timeframes determined by the Director, Student Services. Due consideration will be given to the nature of the allegation(s), but usually the written response will be required within ten (10) working days.
- 3.2 A student who receives notice of allegation(s) is to respond in writing and may attend a meeting with the Director Student Services to address the allegation(s). An administrative officer will attend all such meetings to record the discussion and outcomes (see clause 8 below).
- 3.3 A student may be assisted by a support person or representative (such as a JCUSA Student Advocate) to prepare his or her written response to the allegation(s). The student may be accompanied by a support person, but may not be legally represented when attending any meetings with the Director Student Services.
- 3.4 If the student does not respond within ten (10) working days of the notification, or otherwise refuses to engage in the process, this does not halt the misconduct process, and the authorised delegate will move to clause 3.5.
- 3.5 The Director Student Services will then make findings of the known facts, after considering:
  - a) the materials provided by the person alleging the Student Misconduct weighing up the sufficiency and reliability of various evidence;
  - b) any oral and/or written testimony provided by the student or others who may have information or evidence relevant to the allegation; and
  - c) then determine whether the allegation is proven or not proven on the balance of probabilities.
- 3.6 Within five (5) working days (or as otherwise negotiated with the student) of receiving the Response to Allegations, the Director Student Services will notify the student of the decision regarding the allegations and, if the allegation(s) of misconduct are proven, the penalty applied in accordance with Appendix 3 of the Student Code of Conduct Policy.

### **4. Suspension, restrictions or conditions placed on enrolment**

- 4.1 At any time throughout the process, the College Dean or Chief of Staff where they are involved in the process, may recommend to the Director Student Services to immediately suspend the student, or place restrictions or conditions on the student's enrolment if necessary for the University to discharge its duty of care to its students, staff or Placement Partners until the matter is finalised, and there is prima facie evidence supporting the allegation(s).
- 4.2 This may involve conditions or restrictions on access to the Campus, specific workplaces/areas of the University may be suspended; and/or directions regarding communication with the University, its staff, students or affiliates. Any immediate suspension, restriction or condition will be placed on the student's file, a sanction applied in the Student Management System, and relevant officers in the University will be notified noting clause 9 below.
- 4.3 Restrictions on a student under clause 4 may be revoked or revised by the Director, Student Services, should additional relevant information be presented at any time before the matter is finalised.

## **5. Withdrawal or referral of allegations**

- 5.1 At any stage the person who referred the allegation of Student Misconduct to the Director Student Services may withdraw the allegation. All parties will be notified in writing that the allegation(s) has been withdrawn. In most instances, the University will then deem the matter resolved.
- 5.2 In certain circumstances, the University may deem the matter serious enough to continue to investigate the allegation and make a determination or to refer the matter to an external agency (such as the Police).

## **6. Internal Appeal**

- 6.1 A student who remains dissatisfied with a University decision regarding misconduct should refer to the Student Appeal Policy and Procedures.

## **7. External Appeal**

- 7.1 A student can appeal a decision of the University to the Queensland Ombudsman. The Ombudsman focuses on issues relating to procedural fairness rather than issues relating to academic or professional judgement and will usually only review a matter once all internal rights of review have been exhausted.
- 7.2 Students studying at the Singapore campus can appeal a decision of the University via the Singapore Government's SkillsFuture Singapore (SSG) dispute resolution service. The student may approach SkillsFuture Singapore for help. Note: after reviewing a complaint, SkillsFuture Singapore may refer students to the SSG Mediation – Arbitration Scheme and there may be additional costs to use this Scheme.

## **8. Record keeping**

- 8.1 Notes and documentation must be kept at all stages of the Student Misconduct process, including records of meetings, discussions, and precautionary actions proposed or taken. These documents may be used in Appeal processes.
- 8.2 All records and notes produced and documents considered must be stored in an appropriate, confidential University file. The file must be created and stored in line with University policy.
- 8.3 No record of any misconduct allegation or proceedings brought against a student will be included on the student's academic transcript.

## **9. Confidentiality**

- 9.1 All parties involved in a student misconduct complaint are to maintain confidentiality. Information and records about a misconduct matter are divulged to those with direct involvement with the following exceptions:

- d) where there is a risk of harm to a person or persons, it may be necessary to share information;
- e) where the matter is subject to legal proceedings or other action which require the presentation of JCU-held records by way of subpoena or similar;
- f) where a student lodges a complaint or appeal regarding a decision under these procedures; or
- g) where there is a clear public interest or obligation to share information (such as a duty to disclose information to a professional accreditation board, or a duty to report under legislation).

## Related policy instruments

[Risk Management Policy](#)

Incident Management Policy

[Health, Safety and Environment Policy](#)

[Compliance Policy](#)

Student Code of Conduct

HDR Responsibilities

[Review of a Student's Suitability to Continue a Course Involving Placement Policy](#)

Social Media Policy

Bullying, Discrimination, Harassment and Sexual Misconduct Policy

Digital Technologies Acceptable Use Procedure

Library Use Policy

Student Complaint Management Policy and Procedure

Student Appeal Policy and Procedure

## Related documents and legislation

The listing below is not meant to be exhaustive and contains key legislation and standards as updated from time to time:

Work Health and Safety Act

Fire and Emergency Services Act

Police Powers and Responsibilities Act

Security Providers Act

## Administration

NOTE: Printed copies of this policy are uncontrolled, and currency can only be assured at the time of printing.

### Approval Details

Policy Domain	Academic Governance
Policy Sub-domain	Student Experience
Policy Custodian	Deputy Vice Chancellor, Education
Approval Authority	Academic Board
Date for next Major Review	09/05/2024

### Revision History

Version	Approval date	Implementation date	Details	Author
24-1	NA – administrative	22/10/2024	Administrative amendment to clause 7.2 to update reference to SkillsFuture Singapore (SSG).	Student Matters Advisor
21-1	20/04/2021	20/04/2021	Administrative amendments to update name of Committee (previously Council	Quality, Standards and Policy Officer

			for Private Education, now Committee for Private Education)	
19-2	28/10/2019	19/11/2019	Amended to clarify process for external appeals, administrative amendments	Project Manager, Student Facing Policy
19-1	09/05/2019	09/05/2019	Significant amendment to reflect the Student Code of Conduct, the Student Appeal Policy and other procedural amendments	Vanessa Cannon, Chief of Staff
16-2	23/08/2016	24/08/2016	Minor amendments: 1. Alignment with Council approved Academic and Student Delegations Register; 2. Clause 11. b. amended to ensure a Council member is represented on the Disciplinary Appeals Committee.	Associate Director, Enrolment and Client Services
16-1	10/05/2016		Minor amendment - reference to Conditions for Use of University Computing and Communication Facilities replaced with: ICT Acceptable Use Policy.	Quality, Standards and Policy Officer
15-1	24/06/2015		Policy sponsor and approval authority amended to reflect approved policy framework	QSP
14-1	19/05/2014		Roles changed to reflect new organisation structure	Policy Officer
12-1	20/04/2012	21/04/2012	Amendments to clauses 5.1, 6b, 6c and 7.3.	
11-1	14/07/2011	15/07/2011	Change of approval authority only from Council to Vice Chancellor	
08-1	09/10/2008	10/10/2008		
04-2	24/06/2004	25/06/2004		
04-1	18/03/2004			
03-1	13/11/2003		Interim policy approved by Chancellor on 13/11/2003 and ratified by University Council on 04/12/2003.	

Keywords	conduct, behaviour, discipline, student misconduct
Contact person	Chief of Staff