

# Student Misconduct and Disciplinary Policy

## 1. Scope

- 1.1 This policy applies to students following a higher education or degree apprenticeship programme.

## 2. What is misconduct?

- 2.1 Walbrook is committed to values and behaviours that provides everyone in our on campus and online community with a considerate and safe environment. Misconduct is when you do not act appropriately either on campus and/or online:
- i **Towards other people:** examples include behaviours that negatively affect the working environment of others; violent, threatening, abusive or anti-social behaviour or language; physical misconduct; sexual misconduct; harassment; bullying; victimisation; making malicious complaints; breach of Walbrook's Equality and Diversity Policy; hate crimes; distributing or publishing information that is offensive, threatening or illegal; failure to respect the rights of others to freedom of belief and freedom of speech.
  - ii **Towards Walbrook or its community:** examples include damage to Walbrook property; unauthorised use of Walbrook property including IT networks; taking property that does not belong to you; creating an obstruction that prevents a person or Walbrook to operate normally; causing a potential or actual health and safety concern; fraud or deception; causing unreasonable reputational damage to Walbrook or to a member of Walbrook; failure to comply with a reasonable instruction from any member of Walbrook staff; failure to comply with a sanction issued for previous misconduct.
  - iii **In accordance with UK law:** either on or off Walbrook premises.
- 2.2 This policy sets out the actions that we will take to investigate allegations of misconduct and the potential penalties that may apply when cases are upheld. The Policy applies to any person who is registered on a Walbrook module or programme. If you are studying on a programme that is delivered in collaboration between Walbrook and another organisation, your Programme Specification will state the Student Misconduct and Disciplinary Policy applies.
- 2.3 The Academic Misconduct Policy will be used for managing allegations of *academic* misconduct.

## 3. Who can report misconduct?

- 3.1 We will investigate any allegations of misconduct that are reported to us. Misconduct can be reported by:
- i Another Walbrook student.

- ii A member of Walbrook staff.
  - iii A visitor to the Walbrook on-campus or on-line community.
  - iv Any other person concerned about and/or affected by your actions as a Walbrook student.
- 3.2 You can report an allegation of misconduct verbally, but this must be followed up by completing the [online reporting form](#).
- 3.3 You will not be disadvantaged by Walbrook by reporting the alleged or actual misconduct of another student other than if you make an allegation against another student on malicious or purposely false grounds; in that instance we may take disciplinary action.
- 3.4 We strongly encourage you to talk to a member of staff if, despite this assurance, you have a misconduct allegation that you do not feel you can raise without doing so anonymously.

## 4. Can I report an allegation of misconduct anonymously?

- 4.1 You can report alleged or actual misconduct anonymously. However, we are unlikely to be able to investigate allegations as we would be unable to complete an appropriately robust investigation. Further information about anonymous reporting is also available at [Harassment & Sexual Misconduct Policies & Procedures | Walbrook](#).

## 5. Malicious or purposely false allegations

- 5.1 We will consider taking disciplinary action if you make an allegation against another student on malicious or purposely false grounds.

## 6. Support

- 6.1 If you have been subject to alleged misconduct by another student, if you are reporting the alleged misconduct of another student, or if an allegation of misconduct has been made against you, confidential support is available from Student Support. It is particularly important to seek support if the situation is impacting negatively on your wellbeing or mental health.
- 6.2 We will also offer appropriate support to any student or member of staff affected by the alleged misconduct.

## 7. Confidentiality

7.1 Walbrook will manage misconduct allegations confidentially. It will be necessary for a limited number of people to know about the allegation for it to be investigated. These people include:

- i Staff (or externally appointed people) who manage the allegation, who undertake the investigation, who meet with you to discuss the case or who consider an appeal.
- ii Any witnesses that you or Walbrook bring forward.
- iii Members of the Walbrook Senior Leadership Team involved in overseeing the case and/or where the allegation has significant reputational implications.

7.2 Section 15 sets out how we will record and/or share the outcome of any upheld cases.

## 8. Penalties

8.1 We will normally apply a penalty where you admit misconduct or where a case is upheld. The penalty will be dependent on the severity and impact of the misconduct and examples are provided in Appendix 1. The penalty will take account of any relevant mitigating circumstances.

## 9. Conflict of interest

9.1 Any person involved in the investigation, panel hearing or appeal will not have a conflict of interest and will not participate in a particular process (e.g. appeal hearing) if they have been involved in managing the case at an earlier stage (e.g. panel hearing).

## 10. Training or experience

10.1 Any member of staff or externally appointed person involved in a disciplinary should have appropriate experience or training so that the thoroughness, fairness and transparency of the process is ensured.

## 11. Receipt of a misconduct allegation

11.1 The Head of Student Support will receive a misconduct allegation and will:

- i Make a provisional assessment of whether the alleged misconduct is major or non-major. Appendix 1 provides more information about non-major and major misconduct.
- ii In cases of major misconduct, risk-assess if any temporary precautionary actions are needed (see Appendix 2).

- iii Provide a written acknowledgement to the person making the report within 7 calendar days of the allegation being submitted. Where the allegation has directly affected the reporting student (e.g. harassment) we will meet with you prior to providing you with a written acknowledgment to explain how we are taking forward the allegation and to ensure that you have access to support that you may need.
  - iv Notify the student in writing about the misconduct allegation, including what the allegation is and how it will be considered under this Policy. Where the allegation is of major misconduct and/or where we intend to take temporary precautionary steps (see Appendix 2), we will also meet with you to explain the situation and to ensure that you have access to support that you may need. If you are unable to meet with us, we will confirm the situation in writing and reference the support that is available to you.
  - v Confirm the need for confidentiality.
- 11.2 If you admit misconduct at this stage, we will decide on the actions we need to take to determine a proportionate penalty. Doing so may require us to undertake further investigation and meetings as set out in Sections 11 and 12, or there may be sufficient evidence available for a penalty to be made without further process. The Registrar or their nominee will determine on a case-by-case basis how the process should proceed to ensure a fair and transparent outcome, and we will inform you of our decision.

## 12. Investigation

- 12.1 In all other cases an **investigation** will be undertaken by a member of staff nominated by the Head of Academic Quality in which they will:
- i Consider the allegations.
  - ii Gather information from any person impacted by the alleged misconduct.
  - iii Draw together information from any witnesses (if they exist).
  - iv Gather information from you.
  - v Consider any other relevant information or evidence.
- 12.2 The purpose of the investigation is to assess if the alleged misconduct took place and, if so, the impact this had. Information will normally be gathered through meeting with each individual. If a person is invited to participate in the investigation and decides not to do so, this fact will be included in the investigation report to show the extent of the evidence available. It may be necessary during the course of an investigation for the investigator to meet with an individual/s more than once to follow up on matters that have been raised in other meetings.
- 12.3 The initial assessment of whether an allegation is non-major or major misconduct may change during the investigation process.

- 12.4 We **determine the outcome** of an alleged misconduct investigation case on the balance of probability. This means that for Walbrook to uphold an allegation of misconduct through the investigation process, we need to show sufficient evidence that either misconduct occurred or is more likely than not to have occurred. This standard is different to 'beyond reasonable doubt' which is the basis upon which cases are considered in the criminal justice system.
- 12.5 Where the investigation shows that the misconduct did not take place or there is insufficient evidence to show that it took place, this will be the end of the process, and you will be informed of the outcome.
- 12.6 Where the investigation shows that the misconduct occurred or is more than likely to have occurred, the report will be considered as follows:
- i Where you have admitted the misconduct and where that misconduct is non-major, the investigator will determine a penalty, taking into account any mitigation that you have provided where this is relevant and providing a reason for the penalty. Examples of penalties are published in Appendix 1.
  - ii Where you have admitted the misconduct and where that misconduct is major, the report will be referred to a disciplinary panel (see Section 12).
  - iii Where you dispute that the misconduct took place, the report will be referred to a disciplinary panel (see Section 12).
- 12.7 You will be informed of the outcome of the investigation in writing.

## 13. Disciplinary Panel

- 13.1 The Panel will be set up by the Quality, Policy and Regulation Team and will comprise the following membership. We will confirm with you who the people will be in advance of the meeting:
- i Chair: who will be a member of Walbrook's Senior Leadership Team.
  - ii Two members of staff who are not involved with you or your programme.
  - iii A Secretary (who will not be a decision-making Panel member).
- 13.2 You will also be provided with a copy of the investigation report in advance of the meeting. You may be accompanied at this meeting for moral support by another student or a friend, but it must be an individual who has not been involved in the alleged incident.
- 13.3 We strongly encourage you and any witnesses to attend the Disciplinary Panel meeting. If you choose not to attend, or to submit written evidence instead or attending, the Panel meeting will normally go ahead in your absence and will base its decision on the information that is available.
- 13.4 The Disciplinary Panel will:

- i Review the investigation report and agree the management of the meeting (Panel only).
- ii Meet with you to ask you questions arising from the report and to hear your response to the findings.
- iii Meet with witnesses (where relevant) to ask questions arising from the report.
- iv Determine the outcome (by a majority of its members) and any penalty (Panel only).

13.5 It is not the role of the Panel to undertake a further investigation but to seek clarification on points arising from the report to help it determine an outcome. This might require a break to proceedings whilst waiting for clarification to be given.

13.6 You will normally be notified of the outcome of the Panel within 7 calendar days of the hearing. Wherever possible, we aim to meet with you in person to provide you with the written outcome so that the contents can be explained. The outcomes can be:

- i There is insufficient evidence to show that misconduct occurred.
- ii You admit misconduct.
- iii There is sufficient evidence to show that misconduct occurred.
- iv In response to matters raised in the meeting, further investigation is required, and a follow-up meeting will be held with you once that investigation has concluded.

13.7 Where you admit misconduct or where there is sufficient evidence to show that it occurred, a penalty will also be provided depending on the nature and impact of the misconduct. A reason for the penalty will be given and will take account of any mitigating circumstances you shared.

13.8 You can appeal the outcome or penalty on the grounds set out in Section 14.

## **14. Allegations involving the same or similar allegations against more than one student**

14.1 We will decide how best to manage the investigation of an allegation that involves more than one student. In doing so, we will ensure that the principles of this Policy apply fairly and that each student has their own opportunity to share their account. We will also ensure that any penalties are applied on an individual basis.

## **15. Appealing an outcome or penalty**

15.1 You may appeal the outcome and/or penalty within 20 calendar days of receipt on the following grounds:

- i There is new evidence which you could not have reasonably made available to the Disciplinary Panel.

And/or

- ii There is evidence to show that the Disciplinary Panel was not conducted fairly or in accordance with this Policy.

And/or

- iii There is evidence to show that the penalty is disproportionate to the misconduct.

15.2 Your appeal will be considered by a review panel, chaired by a member of Walbrook's Senior Leadership Team and two other senior managers who have not had previous involvement with the you or the matter previously. The panel meets to assess if it meets the criteria and one of the following actions will then be taken:

- i Where your appeal does not meet the criteria set out above it will be rejected.
- ii Where there is evidence to show that the penalty was disproportionate to the misconduct, the review panel will have the authority to issue a revised penalty.
- iii Where there is evidence to show that the Disciplinary Panel was not conducted fairly or in accordance with this Policy, the review panel will request that a new panel is established with different membership and there will be a re-run of the process set out in Section 12.
- iv Where there is new evidence that could not have reasonably been provided originally, the Disciplinary Panel will reconvene to consider that new evidence and to determine if the original outcome and penalty should be adjusted or remain. The Panel has the option to meet with you or any other relevant people as part of this process.
- v If your appeal covers more than one criterion, the review panel will determine which process to follow.

15.3 We aim to provide you with an outcome, or information on the steps we are taking, within 10 calendar days of receiving your appeal.

15.4 If you are dissatisfied with the outcome of your appeal, you may be able to progress your case with the Office of the Independent Adjudicator.

## **16. Recording information about allegations, investigations, disciplinary panels and penalties**

16.1 Walbrook will take the following steps in accordance with the Data Protection Act:

- i Section 6 of this policy sets out how we manage confidentiality of initial allegations.

- ii We will keep on your student file any upheld cases of misconduct for the duration of your time at Walbrook, including the investigation report and the penalty imposed.
- iii We will keep a permanent record of any exclusions.
- iv We reserve the right to share any penalties in information that is provided to third parties, for example, in references for employers or other institutions We will inform the reporting person when we have concluded the investigation and any follow-up disciplinary process where a case is upheld. Where your behaviour has had an adverse impact on the person reporting the incident, or on any other individuals, we will let them know the remedy or action we have put in place.
- v The overall number and nature of upheld misconduct cases will be recorded so that activity and can be monitored and reported within the governance structure.
- vi We will take any other reasonable steps in relation to recording or sharing information.

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## Appendix 1 - Examples of Misconduct and Penalties

The following are examples of major misconduct:

Behaviour	Type of actions
Physical misconduct	Excessive misconduct which may also include use of implements or weapons against others.
Sexual misconduct	Sexual intercourse or engaging in a sexual act without consent; attempting to engage in sexual intercourse or engaging in a sexual act without consent; sharing private sexual materials of another person without consent; kissing without consent; touching inappropriately through clothes without consent; inappropriately showing sexual organs to another person; repeatedly following another person without good reason; making unwanted remarks of a sexual nature.
Abusive behaviour	Threats to hurt another person; hate crimes, abusive comments relating to an individual's sex, sexual orientation, religion or belief, race, pregnancy/maternity/paternity, marriage/civil partnership, gender reassignment, age, disability; victimisation; bullying; acting in an intimidating or hostile manner; use of inappropriate language; distribution of offensive, threatening or illegal material
Engaging with illegal drugs	Using, distributing or selling illegal drugs

Criminal behaviour	Actions included in other sections of this misconduct table (e.g. harassment, hate crimes, use of illegal drugs) as well as any other actions which break UK law.
Deception or fraud	Actions intended to deceive Walbrook
Reputational damage	Behaviour which has caused damage or could have caused damage to the reputation of Walbrook.
Malicious behaviour	Making an allegation of misconduct which is solely based on malicious grounds, submitting vexatious complaints to Walbrook
Any other behaviour	Actions which have a significant negative impact on other people or the Walbrook community.

The following are examples of misconduct that could be classified as major or non-major depending on their severity and/or impact:

Behaviour	Type of actions
Physical misconduct	Pushing, shoving, punching, kicking, slapping, biting or other similar forms of actions
Causing and health and safety concern	Action that did cause or could have caused a health and safety concern or incident on Walbrook premises

Behaviour	Type of actions
Damage to Walbrook property or facilities (including network/online)	Causing damage to Walbrook property or facilities or to the property of students or staff or visitors to Walbrook.
Unauthorised taking or use of property (including network/online)	Unauthorised entry to, or unauthorised use, of Walbrook premises or facilities; taking Walbrook property without permission.
Operational obstruction (including network/online)	Disruptive behaviour that prevents other students, staff or visitors of Walbrook go about their work, or Walbrook operating as normal.
Failure to comply with reasonable instruction	Ignoring the reasonable request of a member of staff in relation to your behaviour towards others or towards Walbrook property/facilities (including network/online)
Failure to comply with a misconduct penalty	Behaviour that does not comply with a penalty that has been issued in response to a previous incident of misconduct
Repeated misconduct	Carrying out any misconduct on further occasions

Behaviour	Type of actions
Breach of Walbrook requirements	Not adhering to requirements in institutional policy, regulation and any other relevant documentation where there is a potential or actual impact on any aspect of the Walbrook community
Any other behaviour	Actions which have a negative impact on other people or the Walbrook community.

The following are examples of penalties that will be issued for upheld cases of misconduct. Please note that these are a guide and a disciplinary panel or person issuing the penalty will have the discretion to award different penalties depending on the severity and impact of the misconduct as well as consideration of any relevant mitigating circumstances presented by the student:

Penalty	Details	Non-major	Major
First written warning	<p>This penalty may be used for a first non-major offence. It will confirm the nature of the misconduct, the findings of the investigation and reference to the impact that the misconduct had, any mitigation that the student put forward and the extent to which this was accepted by Walbrook in relation to the penalty that has been given and the student's right to appeal the outcome.</p> <p>The warning will also include information about the future behaviours required of the student to address and avoid future misconduct, and that further disciplinary action will be taken if those behaviours are not evident.</p>	✓	✗

Penalty	Details	Non-major	Major
	<p>It can be used as a penalty or in conjunction with another penalty (e.g. written apology).</p> <p>The warning will be held on the student's file for a period to be determined by the Panel or person issuing the penalty.</p>		
Final written warning	<p>This penalty may be used where (i) the student has not addressed the requirements of a first written warning or (ii) where a first case of misconduct is significant but does not warrant expulsion. It will confirm the nature of the misconduct, the findings of the investigation and reference to the impact that the misconduct had, any mitigation that the student put forward and the extent to which this was accepted by Walbrook in relation to the penalty that has been given and the student's right to appeal the outcome.</p> <p>The warning will also include information about the future behaviours required of the student to address and avoid future misconduct, and that further disciplinary action will be taken if those behaviours are not evident.</p> <p>It can be used as a penalty or in conjunction with another penalty (e.g. written apology)</p> <p>The warning will be held on the student's file for a period to be determined by the or person issuing the penalty.</p>	x	✓

Penalty	Details	Non-major	Major
Written apology	<p>This penalty may be used where the misconduct has had an impact on another individual and should include the student's self-reflection on their behaviour and the impact it has had.</p> <p>It can be used as a penalty or in conjunction with another penalty.</p> <p>In requiring a student to issue a written apology, consideration should be given by the Panel as to whether an apology would be welcomed by the person impacted by the misconduct including its timing if that person has been traumatised or if a non-contact order has also been issued as a penalty. Advice can be taken (e.g. from Student Support) by the Panel or the person issuing the penalty.</p>	✓	✓
Non-contact order	<p>This penalty may be used where it is appropriate for the student to have no contact (in person and/or online) with one or more others who have been impacted by their actions.</p> <p>It can be used as a penalty or in conjunction with another penalty.</p> <p>Confirmation of the non-contact order will also be provided by Walbrook to those impacted by the student's actions.</p>	✓	✓

Penalty	Details	Non-major	Major
Fine	<p>This penalty may be used where there has been damage to the property or facilities of Walbrook or any other situation where Walbrook has incurred costs because of the misconduct.</p> <p>It can be used as a penalty or in conjunction with another penalty.</p> <p>A deadline for payment will be provided to the student. In issuing a fine, consideration should be given to the consequences of a student not having the immediate resources to pay and the option of instalment payments across a defined period.</p>	✓	✓
Walbrook unpaid community service	<p>This penalty may be used where it is considered that the student owes service to Walbrook because of their misconduct.</p> <p>It can be used as a penalty or in conjunction with another penalty.</p> <p>Consideration should be given to the student's mode of study (on campus or online) and the applicability of the type of service proposed.</p>	✓	✓
Suspension	<p>This penalty may be used where the nature of the misconduct means that it is necessary or appropriate for the student to be formally disconnected from Walbrook for a specified period.</p>	✗	✓

Penalty	Details	Non-major	Major
	<p>It can be used as a penalty or in conjunction with another penalty, for example, a non-contact order if that is relevant to the misconduct.</p> <p>The suspension may have conditions and/or allow the student to engage in specific ways e.g. undertake assessments if there has been appropriate prior access to learning and teaching. The Academic Regulations should be consulted.</p>		
Exclusion from specific activities or facilities	<p>This penalty will be used where the nature of the misconduct means that it is necessary or appropriate for the student not to be allowed to engage with certain activities or facilities.</p> <p>It can be used as a penalty or in conjunction with another penalty.</p> <p>Consideration should be given to any negative impact this penalty would have on a student being able to engage with their studies and, if so, if an alternative penalty would be more appropriate.</p>	✓	✓
Expulsion from Walbrook	<p>This penalty will be used where the nature and/or impact of the misconduct means that it is no longer possible for the student to be a member of the Walbrook community. The student's registration would be terminated, and they would have no further rights to Walbrook services or facilities. The Panel can also consider if it wishes to rescind any transcript or award in consultation with the Academic Regulations.</p>	x	✓



## Appendix 2

### Temporary Precautionary Measures

**Step 1** is a **risk assessment** of the nature and impact of the alleged misconduct to address any potential risk to the Walbrook community (people, facilities and premises). This risk assessment is undertaken by Head of Student Support and the Director of Students, plus other staff members where relevant. Where no risk is identified, the process will move to Step 2. Where a potential risk is identified, we will take action which can include but is not limited to temporarily:

- Suspending you from your programme
- Excluding you from all or part of Walbrook's premises or use of facilities
- Establishing a non-contact agreement with another member of Walbrook

Any action that we take does not pre-determine the outcome of an investigation (see Section 11) and is a precautionary measure. We will inform you in writing of any actions we put in place and for what period they will apply. Where a non-contact agreement is put in place, we will also inform the student/s concerned.

Where feasible, we will allow you to continue with your studies while any temporary measures are in place. Where this is not possible (e.g. because you are not permitted to be on Walbrook premises and/or do not have access to learning resources), we will consider if any study adaptations can be made or if you will need to suspend your studies.

We may also consider if there is evidence to show that that you are potentially not well enough to engage with your programme at this time. The Student Misconduct and Disciplinary Procedure will normally be suspended temporarily if we decide that the Support to Study Policy needs to be used first.

**Step 2** is to consider any **criminal implications** of the alleged misconduct, and this action may take place concurrently with Step 1 depending in the nature of the allegation.

- If your alleged misconduct is a criminal offence against Walbrook, we will decide if we intend to report this matter to the police or manage the circumstances through this Policy as a non-criminal matter.
- If the alleged misconduct is a criminal offence against another individual (e.g. student, staff), it will normally be their decision as to whether they report the matter to the police. We will provide information to any student on the options available where they report alleged misconduct that may also be a criminal

offence. We also reserve the right to inform the police – or any other external body – of the alleged misconduct in exceptional circumstances, if justified on grounds of protecting the reporting individual or others from harm.

- Where alleged misconduct may also constitute a possible criminal offence, the notes taken by Walbrook may also be requested by the police to use as part of a criminal investigation.
- Where your alleged misconduct is reported as a criminal offence or where Walbrook receives information that you have allegedly committed a criminal offence off Walbrook premises, we will undertake a risk assessment and put in place any relevant measures as set out above. We will normally suspend the investigatory part of this Policy while criminal proceedings are in progress. Where you are acquitted of a criminal offence, we may subsequently decide to progress the misconduct case if there is evidence that your actions were in breach of this Policy.

If you are convicted of any criminal offence that occurred on or off Walbrook premises, we will consider the nature and impact of the offence in relation to your on-going registration.