

ORDINANCE NO. 21

STUDENT BEHAVIOUR AND CONDUCT

The Council of the University of Tasmania makes this Ordinance under the *University of Tasmania Act 1992*.

PREAMBLE

The University is committed to providing a supportive and safe environment for all members of our University community.

The *University Behaviour Policy* sets out the standards of behaviour expected by students, and also identifies those behaviours or conduct which are unacceptable to our community.

Where informal processes for resolution have not resolved a matter (as set out in the *University Behaviour Procedure*) or where the student's inappropriate behaviour is of a more serious nature and/or may require immediate action, the matter will be dealt with in accordance with this Ordinance.

Academic misconduct and research misconduct are excluded from this Ordinance, and are dealt with by *Ordinance 9 Student Discipline* and *Managing Allegations of Research Misconduct Procedure*.

The Provost is responsible for the oversight of the Ordinance.

CONTENTS

Part		Page
1	Commencement	2
2	Appropriate and inappropriate behaviour	3
3	Referral in accordance with University Behaviour Procedure	5
4	Dealing with inappropriate behaviour	5
5	Unsatisfactory conduct or misconduct	6
6	Misconduct or serious misconduct	8
7	Power and procedures of Student Conduct Committee	9
8	Urgency provisions	11
9	Reasonable direction and orders	12
10	Student support	13
11	Appeals	13
12	General	16
13	Transitional provisions	17
14	Definitions	18
	<i>Appendix 1 (Ordinance process)</i>	20
	<i>Appendix 2 (Composition of Student Conduct Committee)</i>	21

PART 1 – COMMENCEMENT

- 1.1 This Ordinance takes effect on 1 January 2019.
- 1.2 This Ordinance replaces Part 2 – General Misconduct of Ordinance 9 (Student Discipline) made by Council on 28 February 2003 and as later amended by Council resolution.

PART 2 – APPROPRIATE AND INAPPROPRIATE BEHAVIOUR

2.1 Appropriate behaviour

As members of the University community, students must conduct themselves in a manner consistent with the standards and expectations of behaviour set out in the *University Behaviour Policy*.

These standards and expectations promote and ensure the good order and management of the University and a safe environment for all members of our University community.

Behaviour that is inconsistent with the *University Behaviour Policy* is considered to be inappropriate behaviour.

2.2 Inappropriate behaviour

- (a) The *University Behaviour Policy* also sets out those behaviours which are inappropriate in our University community, including but not limited to, unlawful discrimination, bullying, victimisation and sexual misconduct.
- (b) Inappropriate behaviour also includes conduct by a student, who knowingly or recklessly:
 - (i) causes, or threatens to cause, harm of any kind, including but not limited to physical harm or psychological harm, to another person;
 - (ii) causes, or threatens to cause, or behaves in a manner likely to cause, damage to, loss of, interference with or obstruction of the use of, property of the University or of another person;
 - (iii) disrupts or causes unreasonable interruption to a lecture, tutorial, or any other form of teaching, learning, research or University activity
 - (iv) breaches a law of a country in which the student is located for the purposes of a University activity;
 - (v) breaches a University Ordinance, By-law, Rule;
 - (vi) breaches any University policy including, but not limited to, the *University Behaviour Policy*; social media; use of or access to University sites; use of the library, computers, and information technology; and work health and safety;
 - (vii) breaches a provision of any University rule, guideline, agreement or code of practice relating to the protection of intellectual property, including copyright;
 - (viii) breaches any code of conduct (or equivalent) for professional bodies when undertaking Professional Experience Placements;

- (ix) fails to comply with a reasonable direction, including but not limited to those provided for in Part 9 and a request made by a security officer to produce identification, leave a University precinct or not to enter, access or otherwise be present on or in a University precinct;
- (x) engages in improper use of any University facilities, resources or equipment (including student accommodation facilities, resources or equipment), or obtains unauthorised access to them; or
- (xi) an act which is otherwise detrimental to the proper conduct of the University or the University's reputation.

2.3 Scope

As set out in the University Behaviour Policy, the expectations for student behaviour apply to students engaged in any activity on University premises and campuses, including (but not limited to) University residential accommodation.

It also applies to activities that extend or occur away from University premises or campuses that are reasonably connected to the University and our activities, including (but not limited to) field trips, University-related social activities, student placements and exchanges, student or study-related camps, and to behaviour and conduct that takes place via electronic communication (including social media) and in virtual environments.

2.4 Disciplinary action

Students who engage in or exhibit inappropriate behaviour face disciplinary action in accordance with this Ordinance.

A summary of the process involved is set out in Appendix 1.

2.5 Levels of inappropriate behaviour

In the event a student engages in or exhibits inappropriate behaviour, the University's response will be dependent on the level or severity of the inappropriate behaviour.

For the purposes of this Ordinance, inappropriate behaviour can be either:

- (a) **unsatisfactory conduct** which refers to behaviour of a student that falls short of the standard of behaviour that a member of the University community is entitled to expect of a student, where the extent, seriousness or impact of the behaviour is not substantial; or
- (b) **misconduct** refers to unsatisfactory conduct of a student, where the conduct involves a substantial or repeated failure to reach or maintain a reasonable standard of behaviour; or
- (c) **serious misconduct** refers to conduct which is either:

- (i) wilful or deliberate inappropriate behaviour that is inconsistent with the continuation of study or research;
- (ii) inappropriate behaviour that causes serious or imminent risk to the health and safety of a person.

PART 3 – REFERRAL IN ACCORDANCE WITH UNIVERSITY BEHAVIOUR PROCEDURE

- 3.1 The *University Behaviour Procedure* sets out the process for raising a concern or complaint about inappropriate behaviour by a student.
- 3.2 Following the receipt of a formal complaint (including an ‘own motion’ complaint initiated by the University), the Safe and Fair Community Unit will conduct a preliminary assessment.
- 3.3 Depending upon the nature of the complaint, an authorised officer within the Safe and Fair Community Unit, will determine following a preliminary assessment (amongst other things) that:
 - (a) the matter is best dealt with informally, in which case the *University Behaviour Procedure* will apply;
 - (b) urgency provisions apply (in which case Part 8 will apply); or
 - (c) due to the nature of the inappropriate behaviour, the complaint will be dealt with in accordance with the processes set out in this Ordinance.

PART 4 – DEALING WITH INAPPROPRIATE BEHAVIOUR

Safe and Fair Community Unit

- 4.1 Formal complaints regarding inappropriate behaviour are to be received and managed by an authorised officer in the Safe and Fair Community Unit.

Procedural fairness

- 4.2 Students will be afforded procedural fairness in the management of complaints of inappropriate behaviour.

Notice of inappropriate behaviour

- 4.3 Within 5 working days of making a decision to proceed to deal with a matter in accordance with this Ordinance, an authorised officer will write to the student concerned. This correspondence will include:
 - (a) setting out the manner in which the behaviour appears to have fallen below the required standards;
 - (b) describing the range of restorative or remedial outcomes or possible penalties that may apply;

- (c) inviting the student to a preliminary meeting with the authorised officer;
- (d) informing the student that they are entitled to bring a support person or representative (who is not a lawyer) to the meeting;
- (e) outline the range of student support services available; and
- (f) provide a copy of this Ordinance.

Preliminary meeting

4.4 During the preliminary meeting, the authorised officer will:

- (a) explain the nature of the inappropriate behaviour;
- (b) provide the student with a reasonable opportunity to respond to the complaint, including providing their version of events and any evidence in support, or to admit the inappropriate behaviour;
- (c) provide an opportunity for the student to discuss any personal or health matters that are affecting the student's behaviour; and
- (d) discuss appropriate action that is in the best interests of the student and the University community, including an explanation of the range of potential educative or remedial outcomes that are available or the penalties that may apply.

4.5 If a student does not respond to correspondence or make contact within 5 working days of receiving the notice, the authorised officer may deal with the matter in the absence of any evidence from the student and impose appropriate outcomes or penalties.

4.6 The authorised officer may meet with the student on more than one occasion.

Multiple students

4.7 In a situation where multiple students are involved in a matter of inappropriate behaviour, each complaint against the student will be dealt with separately.

PART 5 – UNSATISFACTORY CONDUCT OR MISCONDUCT

Resolving the inappropriate behaviour

5.1 At or following the preliminary meeting, the authorised officer will determine the most satisfactory way to resolve the matter.

5.2 This may include a decision that:

- (a) no further action will be taken and the matter will be dismissed;
- (b) informal resolution is appropriate to resolve the matter;
- (c) the behaviour amounts to unsatisfactory conduct or misconduct, and certain outcomes or penalties (as set out in clause 5.5) will apply; or
- (d) the inappropriate behaviour could amount to misconduct or serious misconduct and should be investigated and considered by the Student Conduct Committee in accordance with Part 6.

5.3 Any consideration by the authorised officer into inappropriate behaviour will be conducted in a way that avoids interference or perceived interference with a current external agency process. In such circumstances, the authorised officer may determine that the matter should be suspended until the conclusion of the external process and advise the student accordingly.

Outcomes and Penalties

5.4 Wherever possible, the authorised officer should reach an agreement with the student as to the appropriate and proportionate outcomes or penalties.

5.5 The following outcomes or penalties may apply:

- (a) the student is counselled about the standards to be met and, if applicable, outlining any available support mechanisms which may assist the student to meet those standards in the future;
- (b) the student undertake counselling or other remedial measures;
- (c) the student pay compensation towards repair or replacement of damaged or lost property;
- (d) the student apologise either verbally or in writing to any person aggrieved by the student's conduct;
- (e) the student participate in an assisted resolution process including a facilitated discussion, mediation, shuttle mediation or conciliation;
- (f) the student assist with a University event or activity;
- (g) the student prepare a written reflective piece;
- (h) a reprimand, warning or formal direction is issued to the student, in order to prevent further occurrences of unsatisfactory conduct or misconduct;
- (i) a direction that the student refrain from having any or such specified contact with particular students, members of staff, or other members of the University community;
- (j) the student is placed on a required period of leave or exclusion (including on health or medical grounds);
- (k) imposing certain conditions on the student in order to return to or re-enrol at the University; or
- (l) any other reasonable outcome that is appropriate in the circumstances of the matter.

5.6 Where the student does not participate in the process or the authorised officer is

unable to reach an agreement with the student, they may decide to impose one or more of the outcomes or penalties listed in clause 5.5 on the student.

Health considerations

- 5.7 Before making a decision, an authorised officer may consult with anyone as appropriate, including where they have reasonable grounds to believe the student's unsatisfactory conduct or misconduct might be the result of a health condition.
- 5.8 In this case, the authorised officer may refer the student for assessment to an independent health professional or medical practitioner (at the University's cost).

Outcome of decision

- 5.9 The authorised officer will notify the student in writing within 5 working days of the agreed outcomes or where the outcomes are not agreed, within 5 working days after the decision is made.
- 5.10 The student will be given reasons for the decision and will also be advised that they are able to seek an appeal of the decision.
- 5.11 The original person who made the report and any other person relevant to the matter may be advised of the outcome by the authorised officer.

Right of appeal

- 5.12 A student has a right of appeal against a finding of unsatisfactory conduct or misconduct and a decision to impose an outcome or penalty.
- 5.13 A request for an appeal, which will be allowed on specified grounds as set out in clause 11.8, must be received by the Safe and Fair Community Unit within 10 working days of receiving the written decision (in accordance with clause 5.9).
- 5.14 The appeal is heard and determined by the Student Conduct Committee in accordance with Part 7. The Student Conduct Committee must follow the process outlined in Part 11 of the Ordinance as if references to the University Appeals Panel were references to the Student Conduct Committee, with any necessary changes.

PART 6 – MISCONDUCT AND SERIOUS MISCONDUCT

Investigation

- 6.1 Where a matter is to be referred to the Student Conduct Committee in accordance with clause 5.2(d), the authorised officer will undertake an investigation or where appropriate arrange for an external investigation into the allegation/s made against the student.
- 6.2 An investigation may also be undertaken following a referral by a decision maker in

accordance with Part 8 (Urgency provisions).

- 6.3 Following the principles of procedural fairness, an investigation will usually involve discussing the complaint with the student, communicating with witnesses or seeking other evidence or information to clarify facts. Generally, an investigation can take up to 1 month, or longer for more complex or serious matters.
- 6.4 The investigator is responsible for producing a report for the Student Conduct Committee. This report will:
- (a) set out and evaluate all relevant information gathered during the investigation;
 - (b) contain findings as to whether, on the balance of probabilities, having regard to the information obtained during the investigation, the complaint has been substantiated (in full or in part) or not substantiated;
 - (c) provide an analysis of whether the complaint identifies a breach of the *University Behaviour Policy* or this Ordinance;
 - (d) highlight whether the complaint is malicious or vexatious; and
 - (e) provide recommendations as to whether further process/es and/or investigation/s may be required.
- 6.5 Any investigation by the authorised officer into inappropriate behaviour will be conducted in a way that avoids interference or perceived interference with a current external agency process. In such circumstances, the authorised officer may determine that the investigation of these matters should be suspended until the conclusion of the external process and advise the student accordingly.

PART 7 – POWERS AND PROCEDURE OF THE STUDENT CONDUCT COMMITTEE

Student Conduct Committee

- 7.1 A Student Conduct Committee is established by this Ordinance and has authority to receive an investigation report and hear and determine allegations of misconduct and serious misconduct against students.
- 7.2 The Student Conduct Committee may also deal with:
- (a) any matter which is referred to it by the authorised officer; or
 - (b) an appeal of a decision made by the authorised officer under clause 5.9 of this Ordinance.
- 7.3 The composition of the Student Conduct Committee is set out in Appendix 2.

- 7.4 Any hearing by the Student Conduct Committee into inappropriate behaviour will be conducted in a way that avoids interference or perceived interference with a current external agency process. In such circumstances, the chairperson of the Committee must determine that the hearing be suspended until the conclusion of the external process and advise the student accordingly.
- 7.5 Where the matter is to proceed, the secretary to the Committee must, as soon as practicable, advise the student concerned of the time and place at which a Student Conduct Committee will be convened to deal with the allegation.

Hearing by the Student Conduct Committee

- 7.6 The student may attend the Committee meeting and may make a written submission to the Committee before the meeting or an oral submission at the meeting, or both.
- 7.7 The student may be accompanied to the meeting by a person who is not a lawyer. That person may assist the student during the meeting.

Making a decision

- 7.8 In determining an allegation of misconduct or serious misconduct, the Committee:
- (a) may follow any procedure it considers appropriate;
 - (b) is not bound by the rules of evidence or other technicalities or legal forms, and it may inform itself in relation to any matter in any manner that it thinks fit;
 - (c) must act fairly, in all the circumstances;
 - (d) may not take into account prior findings of misconduct when deciding whether or not to uphold an allegation of misconduct or serious misconduct;
 - (e) must inform the student of the evidence it intends to take into account in making its decision and give the student the opportunity to respond; and
 - (f) make sure that all documents that are to be relied on by any party at the meeting have been made available to the other parties.

Health considerations

- 7.9 Before making a decision, the Student Conduct Committee may consult with anyone as appropriate, including where they have reasonable grounds to believe the student's conduct might be the result of a health/medical condition.
- 7.10 In this case, the Student Conduct Committee may refer the student for assessment to an independent health professional or medical practitioner (at the University's cost).

Decision and outcome

- 7.11 The Student Conduct Committee will determine whether the allegations of inappropriate behaviour are substantiated or not, and decide to:
- (a) take no further action and the matter be dismissed;
 - (b) issue a written warning to the student;

- (c) require a period of leave or exclusion from the University on health or medical grounds; and/or
- (d) confirm a finding of misconduct or serious misconduct and impose a penalty in accordance with clause 7.12.

Penalties

- 7.12 If a finding of misconduct or serious misconduct is made, the chairperson of the Student Conduct Committee, on the advice of the full Committee where applicable, may impose one or more of the following penalties:
- (a) the removal of the student's access to any computer or other service provided by the University, permanently or for a specified time and on any specified terms and conditions;
 - (b) the exclusion of the student from specified parts of the University premises, either permanently or for a specified time and on any specified terms and conditions;
 - (c) the suspension or cancellation of the student's enrolment at the University;
 - (d) any restrictions on the student, in terms of contact with students or members of staff of the University or any conditions on enrolment, that are reasonable and necessary to protect those students or members of staff; and/or
 - (e) any other reasonable order that is appropriate in the circumstances of the matter.
- 7.13 Where the chairperson decides to impose one or more penalties under clause 7.12, they must as soon as practicable after the decision has been reached, notify the student concerned in writing of the decision and the penalties imposed.
- 7.14 The student will be given reasons for the decision and will also be advised that they have a right of appeal.

Right of appeal

- 7.15 A student has a right of appeal against a finding of misconduct or serious misconduct and a decision to impose an outcome or penalty.
- 7.16 A request for an appeal, which will be allowed on specified grounds as set out in clause 11.8, must be received by the Safe and Fair Community Unit within 10 working days of receiving the written decision (in accordance with clause 7.13).
- 7.17 The appeal process is set out in Part 11 (Appeals) of this Ordinance.

PART 8 – URGENCY PROVISIONS

- 8.1 Where inappropriate behaviour by a student warrants immediate action, a decision maker may, after consulting with anyone as appropriate, authorise, verbally or in writing, one or more of the following actions be taken, pending the outcome of the investigation of the allegation:

- (a) temporary block of the student’s ICT access;
 - (b) restriction or exclusion of a student from any or all University premises; and/or
 - (c) suspension of the student’s enrolment from the University.
- 8.2 Without limiting clause 8.1, such action is appropriate where the decision maker reasonably believes that the student:
- (a) is behaving, or is likely to behave, in such a way as to pose a serious risk of injury to themselves, other students, members of staff or the public, or a serious risk of significant damage to property;
 - (b) has failed to comply with previous reasonable directions of a member of staff of the University, and has repeatedly disrupted the activities of the University; or
 - (c) has persistently breached University rules (Ordinances, By-Laws, Rules and Policies) in such a way as to cause disruption to the activities of the University.
- 8.3 The decision maker, within 24 hours of taking action under this Part, must send:
- (a) a written notice to the student advising of the action taken and the grounds for doing so, and setting out the allegation of misconduct or serious misconduct and the procedure for dealing with the matter;
 - (b) a copy of the notice to the authorised officer for further investigation in accordance with Part 5 or Part 6.

PART 9 - REASONABLE DIRECTIONS AND ORDERS

- 9.1 A University staff member with responsibility for management of a University facility or activity has authority to give a reasonable direction to a student, where the student is acting in an inappropriate manner or:
- (a) to ensure the safety of the student or of any other person;
 - (b) to prevent damage to, or destruction of, University property or facilities;
 - (c) to ensure the orderly conduct of any lecture, tutorial, or any other form of teaching, learning, research or University activity; or
 - (d) for the maintenance of good order.
- 9.2 Where a direction for a student to discontinue their inappropriate behaviour has not been complied with, a staff member with responsibility for management of a University facility or activity has authority to verbally order that a student be summarily excluded from those facilities, or participation in those activities, where the staff member believes that:
- (a) the student is disrupting, or causing or encouraging others to disrupt, the use of facilities or participation in activities; or
 - (b) there is a threat to the safety of persons or property.
- 9.3 An order for exclusion under clause 9.2 must specify the period of exclusion which

may include:

- (a) up to the duration of the activity; or
- (b) up to 24 hours.

- 9.4 If a student refuses to comply with an order to leave a facility or activity, staff may contact University Security Services for assistance.
- 9.5 Where necessary, the staff member must make reasonable and appropriate enquiries to ascertain the name of the student, and where the student's name is known to the person giving the direction and/or order, the staff member must provide the student with a written report of the incident including the reasons for the direction and/or order within 24 hours.
- 9.6 The staff member must report to a senior manager, University Security, and the Safe and Fair Community Unit each instance where they have made a direction and/or an order under this Part within 24 hours.

PART 10 – STUDENT SUPPORT

Student Advocate

- 10.1 At any stage of a process dealt with under this ordinance, a student is encouraged to consult with a Student Advocate for advice and assistance.
- 10.2 A Student Advocate may assist a student with a matter by:
- (a) providing advice and assistance in defining the concern or complaint regarding inappropriate behaviour;
 - (b) explaining the options for resolving the matter, including referral to appropriate parties;
 - (c) assisting students with the matter under this Ordinance; and
 - (d) attending any meetings, mediation or hearings to support the student.

Other support services

- 10.3 Counselling services are available to students involved in a complaint process.

PART 11 – APPEALS

University Appeals Panel

- 11.1 The University Appeals Panel will hear and determine appeals under this Ordinance.

- 11.2 Academic Senate will appoint a University Appeals Panel of at least 15 members. Members of the panel will be expected to serve for a period of 3 years. Academic Senate must ensure, before the end of each year, that there is a full complement of staff for the following year.
- 11.3 The Provost, or their delegate, must ensure that the University Appeals Panel hearing an appeal consists of:
- (a) the Chair or Deputy Chair of Academic Senate (who must chair the meeting); and
 - (b) a head of an academic unit; and
 - (c) one senior professional member of staff; and
 - (d) a representative of Tasmanian University Union Incorporated for the campus at which the student is enrolled, or that Campus President's elected student representative nominee; or
 - (e) in the case of a postgraduate student, the postgraduate president of the Tasmanian University Union Incorporated, or their elected student representative nominee.
- 11.4 A person ceases to be a member of the University Appeals Panel if they resign from the Panel.
- 11.5 The Provost, or delegate with responsibility for academic integrity, may fill a vacancy in the membership of the University Appeals Panel by appointing a person for the remainder of the term of office of the former member. If the former member was a student, the replacement member must be a student.
- 11.6 The Provost will ensure that no member of the University Appeals Panel for a particular case has had any prior involvement in the matter.
- 11.7 The Safe and Fair Community Unit may appoint a person to act as secretary to the University Appeals Panel.

Grounds for appeal

- 11.8 The only grounds on which a student may appeal against a decision under this ordinance are:
- (a) personal bias or ill will on the part of the person or body that has made the decision;
 - (b) failure to comply with the principles of natural justice where it had the potential to affect the decision, including where the procedure for dealing with the matter was unfair in the circumstances because one or more of the following things occurred:
 - i. the individual affected was not given a reasonable opportunity, appropriate to the circumstances, to present his or her case or provide an explanation, before the decision was made;

- ii. the decision maker in making the decision, took an irrelevant consideration into account;
 - iii. the decision maker in making the decision, failed to take a relevant consideration into account;
 - iv. the decision maker in making the decision, acted dishonestly or for an improper purpose;
 - v. there was no evidence to justify the decision made by the decision maker;
 - vi. the decision was so illogical or unreasonable that it could not have been rationally made;
 - vii. the decision maker made the decision in the particular case in accordance with the wishes of another person;
 - viii. the required procedure for making the decision was not followed;
- (c) evidence that the student did not have at the time of the decision, and could not by reasonable diligence have obtained at that time, and that would probably have affected the decision;
- (d) receipt of a manifestly excessive or inappropriate penalty; and/or
- (e) administrative error.

Request for an appeal

- 11.9 Upon receipt of an appeal by the Safe and Fair Community Unit, the authorised officer, shall make a preliminary assessment as to whether there is sufficient evidence upon which the matter should proceed and where necessary, request further information be provided by the student within 10 working days.
- 11.10 Within 5 days of receiving all relevant information from the student, the University Appeals Panel must consider the request for appeal and decide whether it discloses a reasonable basis on which any of the grounds set out in 11.8 could be made out. If the Panel decides that the request does not disclose a reasonable basis, it must not hear the appeal.
- 11.11 The Chair of the Panel will notify the student in writing within 5 working days of the Panel's decision whether or not to hear the appeal. The student will be given reasons for the decision and will also be advised of their right to seek an external review in accordance with 11.17 (where the matter is not to be heard).
- 11.12 The secretary collates all documents relevant to the appeal and disseminates them to all panel members and the student including a meeting notice specifying the time, date and venue for the hearing.
- 11.13 The University Appeals Panel must be convened within 21 working days of receipt of the appeal by the Safe and Fair Community Unit. in exceptional circumstances where it is not practicable for the Panel to meet within that time, the secretary must make sure that the Committee meets at the earliest possible time.

Hearing of appeal

11.14 The University Appeals Panel must:

- (a) act fairly; and consider all available evidence;
- (b) make sure that all documents that are to be relied on by a party at the meeting have been made available to the other parties; and
- (c) give each party the opportunity to state their case and to correct or contradict any relevant statement that they believe to be prejudicial to their case.

11.15 A support person (who is not a lawyer) may accompany the student to the meeting. That person may assist the student during the meeting.

Decision

11.16 After considering all the material relied on in support of the appeal, or in opposition to it, the University Appeals Panel must either dismiss the appeal or uphold it, and confirm, set aside or vary any decision made, or substitute its own decision for it. The University Appeals Panel must make its decision within a reasonable time.

11.17 The decision of the University Appeals Panel must be in writing, provide reasons for decision, and be signed by the Chair.

11.18 The decision of the University Appeals Panel is final.

External review

11.19 Where the student is not satisfied with the decision of the University Appeals Panel, they are able to make a complaint to the Tasmanian Ombudsman or other relevant external agency.

PART 12 – GENERAL

Standard of proof

12.1 The standard of proof for all decisions made under this Ordinance is the balance of probabilities, that is, it is more likely than not that the inappropriate behaviour occurred or took place.

Record keeping and reporting

12.2 All relevant records at all stages of a process in relation to inappropriate student behaviour must be documented by staff in the designated system. Records should be complete and provide reliable and accurate evidence in support of actions and decisions.

12.3 The Provost maintains a register summarising all deliberations, findings and decisions of student unsatisfactory conduct, misconduct and serious misconduct made under this Ordinance for reporting purposes; as well as a register summarising all reviews arising from this Ordinance.

- 12.4 Where any action is taken under this Ordinance, the Provost is to report to the Council annually, summarising the nature of the inappropriate behaviour and any decisions or findings made.
- 12.5 Summarised de-identified accounts of misconduct and imposed penalties may be published on the University website at the discretion of the Provost and can be used as case studies for educative purposes for both students and staff.

Notice to Students

- 12.6 Where the University is required to give notice to a person (including a student), that notice will be deemed to have been given if it is in writing and is:
- (a) hand delivered to the person; or
 - (b) if the person has an allocated University email address, emailed to that address; or
 - (c) posted to the person at the address provided by that person recorded by the University as being their address for correspondence.
- 12.7 A notice is deemed to have been received:
- (a) immediately when hand delivered;
 - (b) 24 hours after it was sent by email; or
 - (c) if sent by post, on the fifth working day after it was sent.

Non-compliance with outcomes or penalties

- 12.6 Where a student does not comply with an outcome and/or penalty, the authorised officer may restrict or limit the student's ability to:
- (a) enrol;
 - (b) receive any results of assessment;
 - (c) graduate or receive a diploma, degree or any certificate stating that the student is qualified to graduate or receive a diploma or degree from the University; or
 - (d) receive a certificate of academic record.

PART 13 - TRANSITIONAL PROVISIONS

Existing discipline procedures

- 13.1 Any complaint or report of inappropriate behaviour that is alleged to have occurred before the commencement of this Ordinance must be dealt with under this Ordinance, unless in the opinion of the Provost, its application is unreasonable having regard to the circumstances of the matter.

In such circumstances, the matter must be dealt with under the previous Ordinance (Part 2 – General Misconduct) in No 9 Ordinance (Student Discipline)), as in force

immediately before its revocation ('Previous Ordinance').

- 13.2 Any discipline proceedings that are, at the commencement of this Ordinance, in progress (in accordance with the previous Ordinance) must be completed under the Previous Ordinance.

PART 14 - DEFINITIONS

authorised officer is a person(s) nominated within the Safe and Fair Community Unit appointed to deal with complaints against students.

decision maker means the Provost, Chief Operating Officer, Executive Dean of the relevant College, the Chief Executive, University College or the Executive Director, Student Experience, including the person for the time being acting in or occupying that position, or, if that position no longer exists, the position substantially similar.

Safe and Fair Community Unit means a nominated unit within the University who are responsible for receiving and dealing with matters of inappropriate behaviour, and other related and administrative matters.

senior manager means Provost; Deputy Vice-Chancellor; Pro Vice-Chancellor; Chief Operating Officer; Chief Executive, University College; Executive Dean; Head of Academic Unit; Executive Director or Head of administrative section.

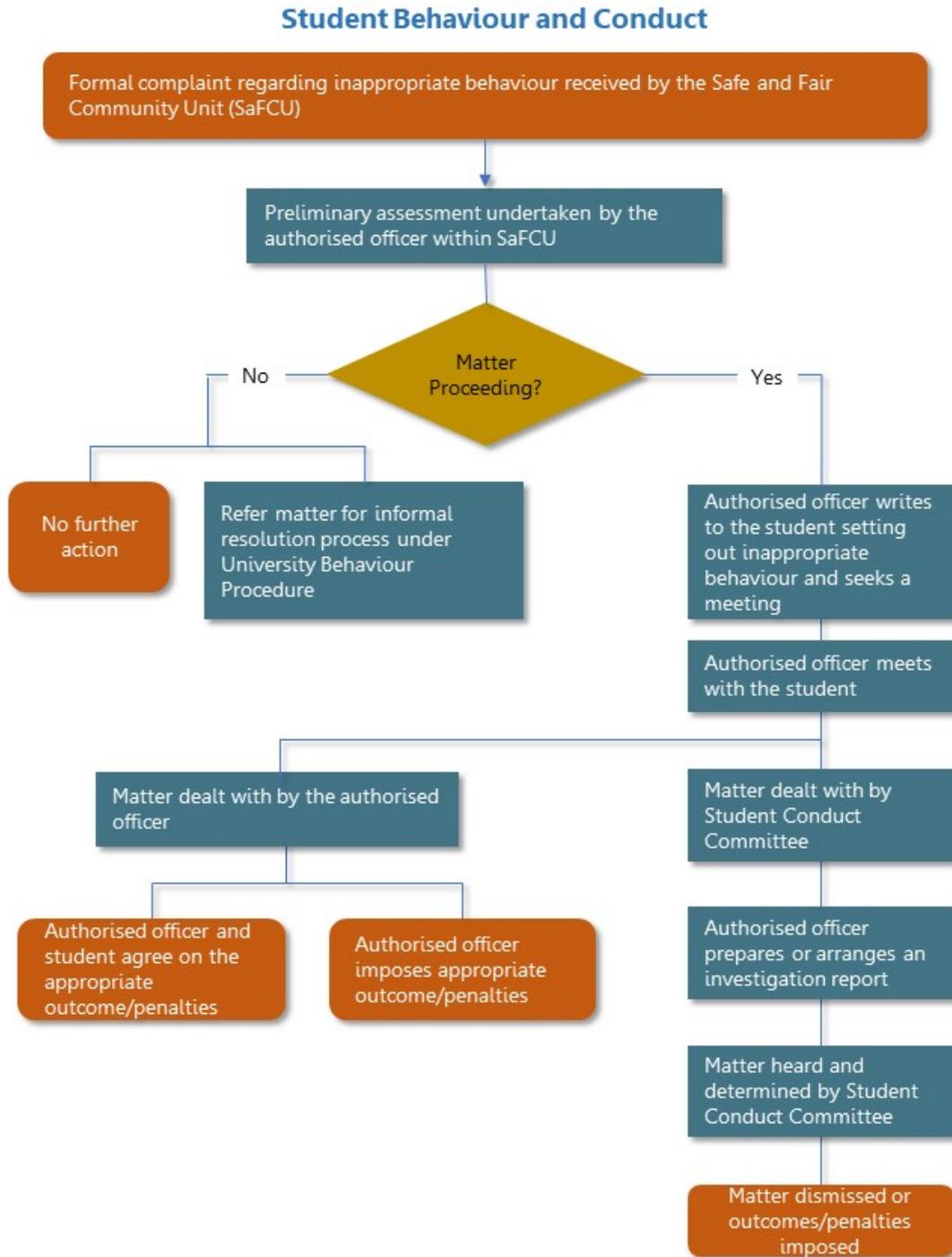
student means:

- (a) a person who has been admitted as a student of the University but who has not yet enrolled in any program or unit of study or research;
- (b) a person who is enrolled in a unit of study or research provided by the University;
- (c) is enrolled in a course of study but is not actively enrolled in a unit of study or research and has not sought a leave of absence nor has withdrawn;
- (d) a person who is enrolled in a program or unit of study or research at or offered by an educational institution affiliated with the University which is approved as an award program or a unit of study or research by the University;
- (e) a person who has completed a program or unit of study or research at the University but has not yet been awarded the applicable academic award;
- (f) a person who is on leave of absence from or who has deferred enrolment in a program or unit of study or research offered by the University or by an affiliated educational institution which is approved as an award program or unit of study or research by the University; and
- (g) a person who was a student at the time of any alleged inappropriate behaviour.

University residential accommodation means accommodation facilities provided by the University for its students. It includes those owned, operated or managed by the University, and also those affiliated with the University (including (but not limited to) Homestay and Springvale).

Made by Council on 14 December 2018.

APPENDIX 1 - ORDINANCE PROCESS



APPENDIX 2 - COMPOSITION OF THE STUDENT CONDUCT COMMITTEE

1. The Provost must appoint a staff member as Chair and Deputy Chair of the Student Conduct Committee, each for a term of 3 years.
2. The composition of a Student Conduct Committee may vary from case to case, having regard to:
 - (a) the nature of the inappropriate behaviour;
 - (b) the need for the members dealing with the matter to have the appropriate knowledge and experience; and
 - (c) the need for an appropriate member to be appointed as Chair.
3. Where the Chair or Deputy Chair of the Student Conduct Committee (chairperson), is of the view that the misconduct or serious misconduct may have occurred and after considering the matters set out in (2) above must either:
 - (a) appoint a single member of the Student Conduct Committee; or
 - (b) appoint a full Student Conduct Committee,to hear and determine the allegation in accordance with this Ordinance.
4. A full Student Conduct Committee consists of at least 3 members (gender balanced where possible), including:
 - (a) the chairperson;
 - (b) a head of an academic unit or a professional staff member at HEO Level 10 or above, nominated by the chairperson;
 - (c) a student (undergraduate or postgraduate where appropriate) nominated by the recognised student organisation who has received appropriate training by the authorised officer,and where determined appropriate by the chairperson, may also include an external specialist member.
5. The authorised officer must ensure that no member of the Student Conduct Committee for a particular case has been in anyway involved in, or associated with, the circumstances relating to the allegation, or have any close association with the parties involved in the matter.
6. Where a Student Conduct Committee is convened, the membership of the Student Conduct committee must remain the same throughout the hearing of the matter notwithstanding any adjournment. A quorum for a full Student Conduct Committee will be any three members.
7. At any time during the hearing of a matter, the Student Conduct Committee may consult with or seek advice from anyone they consider appropriate.
8. The officer may appoint a person to act as secretary to the Student Conduct Committee.