

## **Griffith Halls of Residence**

<b>Title:</b>	GHR Resident Disciplinary Procedure
<b>Issue Date:</b>	25.04.13
<b>Related Documents:</b>	GHR Resident Code of Conduct
<b>Effective From:</b>	September 2007
<b>Responsible for Implementation:</b>	Accommodation Manager

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### **1. Objective**

- 1.1 To set out the Griffith Halls of Residence’s Disciplinary Procedure and residents’ rights under this procedure

### **2 Scope**

- 2.1 The GHR Resident Disciplinary Procedure is applicable to all residents of the Griffith Halls of Residence (in this code referred to as “the GHR”). The management responsible for administration of the Griffith Halls of Residence in this document shall be referred to as the “GHR Management”

### **3. Responsibilities**

This document sets out the rights and responsibilities of the following in relation to disciplinary matters as regards to the GHR:

- 3.1 Resident
- 3.2 Accommodation Manager
- 3.3 Accommodation Officer
- 3.4 Chair of Disciplinary Board
- 3.5 Secretary of Disciplinary Board
- 3.6 Disciplinary Board
- 3.7 Director of the GHR
- 3.8 Appeals Panel I and II
- 3.9 President of Griffith College

#### **4. Introduction**

- 4.1 The Management of the GHR is committed to fair, equitable and appropriate disciplinary procedures
- 4.2 The GHR Resident Disciplinary Procedure shall be invoked where a resident has allegedly acted contrary to the GHR Resident Code of Conduct or has allegedly carried out some such other activity which has been harmful to the GHR or to Griffith College Dublin
- 4.3 The GHR Resident Disciplinary Procedure is intended to ensure a speedy and efficient resolution of issues. The aim is to prevent unnecessary delay whilst ensuring a full and fair assessment of the particular circumstances of an individual case
- 4.4 Residents are asked to familiarise themselves with their obligations provided in the Lease Document and in the GHR Resident Code of Conduct and the GHR Resident Disciplinary Procedure and their rights under this procedure.

#### **5. Definitions of Misconduct**

- 5.1 In terms of misconduct, the Management of the GHR recognises that there is a distinction between a *minor infringement*, a *major infringement* and *gross misconduct* as defined below:
  - 5.1.1 **Minor Infringement:** Minor Infringements include, but are not limited to, noise, disorderly conduct and minor damage
  - 5.1.2 **Major Infringement:** Major Infringements include but are not limited to, repeated minor offences, injury or threats to the person, harassment, bullying, abusive or dangerous behaviour, nuisance, damage to property
  - 5.1.3 **Gross Misconduct:** Gross Misconduct includes, but is not limited to, assault causing serious harm (including sexual assault), serious or repeated harassment, extreme nuisance, tampering with and / or disabling of fire, security and safety systems, serious damage to property and use of illegal substances

#### **6. Standard of Proof**

- 6.1 For the purpose of this GHR Resident Disciplinary Procedure and having regard to the gravity of the matter for decision, a resident shall be deemed to have acted contrary to the GHR Resident Code of Conduct in circumstances where the adjudicating body is satisfied that the case presented in support of the charge is proven on the balance of probabilities.

## **7. Right of Attendance and Representation at a Disciplinary Hearing and Appeal Hearing**

7.1 In sections 9.6.1, 9.6.5.2, 14.4, 14.9 and 14.13 below reference is made to the resident's right to attend and be represented at a disciplinary hearing and an appeal hearing. The following points are relevant:

7.1.1 A resident who is the subject of a disciplinary proceeding or who has requested an appeals hearing has the right to attend the hearing convened for the purpose of adjudicating the disciplinary hearing / appeal hearing, to be represented, to hear the evidence presented, to challenge the evidence on cross-examination and to present his / her own evidence

7.1.2 A representative at a hearing may be a fellow resident, a relative, a friend, an adviser or a legal representative<sup>1</sup>

7.1.3 A representative may speak on behalf of the resident

7.1.4 A resident may choose to be accompanied by a translator<sup>2</sup>

7.1.5 A resident who chooses not to be represented shall be requested at the hearing to confirm in writing that he /she has been informed of his / her right of representation and has declined to exercise it

7.1.6 If a resident fails to attend the hearing, the hearing shall proceed in the absence of the resident.

## **8. Suspension During Investigation**

8.1 The GHR Management retains the right to suspend a resident suspected of misconduct whilst the investigation into the incident(s) is taking place. Such investigations shall be conducted as quickly as possible

8.2 The Chair of the Disciplinary Board shall ensure that the resident is provided with formal notification of the suspension

8.3 An order of suspension may include a request that the resident should have no contact with a named person or persons.

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<sup>1</sup> Any costs associated with legal representation of the resident shall be borne by the resident unless the Chair of the Disciplinary Board so otherwise determines

<sup>2</sup> Any costs associated with the appointment of a translator by the student shall be borne by the student, unless the Chair of the Disciplinary Board so otherwise determines.

## 9. Disciplinary Procedure

- 9.1 The following section describes the process which takes place when a complainant suspects that a resident has committed some form of misconduct
- 9.2 A complainant who suspects a case of misconduct shall gather all available information and / or documentation about the incident and refer the case(s) to the Accommodation Office
- 9.3 The relevant person<sup>3</sup> shall review all information and / or documentation available and discuss the suspected case of misconduct with the complainant and the resident. If the resident does not wish to challenge that misconduct has occurred the relevant person shall document the outcome of the meeting, detailing the penalty which shall be imposed [see Section 10]. A copy of this document shall be provided to the resident and kept on the resident's file for the appropriate period of time
- 9.4 If the resident wishes to challenge that misconduct has occurred, the relevant person shall make a determination as to whether he / she considers that the suspected breach of conduct can be substantiated
- 9.5 Should the relevant person determine that the suspected misconduct cannot be substantiated, no further action shall be taken and no record of the meeting shall be retained
- 9.6 Should the relevant person determine that the suspected misconduct, if substantiated, is a *minor infringement* (see 5.1.1) he / she shall:
  - 9.6.1 Notify the resident in writing 24 hours in advance of the hearing (or sooner by agreement with all parties) that the Accommodation Office is preparing a disciplinary case against him/her. The relevant person shall indicate the precise charge being made and the basic facts alleged to constitute the alleged offence. He /she shall also indicate the time, place and format of the scheduled disciplinary hearing, request the resident's attendance and inform the resident of his / her right of representation, right to hear the evidence presented, to challenge the evidence on cross-examination and to present his / her own evidence (as detailed in Section 7 above)
  - 9.6.2 A person, other than the relevant person who has investigated the incident and normally with an equivalent role, shall be appointed to act in the capacity of Chair of the Disciplinary Board and shall meet the resident and the complainant together to adjudicate at the disciplinary hearing
  - 9.6.3 Within 2 working days of the hearing, the Chair of the Disciplinary Board shall notify the resident of the outcome of the hearing. Where the Chair of the Disciplinary Board is satisfied that an incident of misconduct has arisen, he / she shall identify the associated

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<sup>3</sup> The Accommodation Officer or other person appointed by the Accommodation Manager shall be the relevant person.

disciplinary penalty [see Section 10 below] and the resident's right of appeal

9.6.4 In the event of the resident choosing to exercise his / her right of appeal, the application of the disciplinary penalty shall be suspended pending the outcome of the appeal. In the event of the resident not choosing to exercise his / her right of appeal, the disciplinary penalty shall be applied

9.6.5 Should the relevant person determine that the suspected misconduct, if substantiated, is a *major infringement* (see 5.1.2) or constitutes *gross misconduct*<sup>4</sup> (see 5.1.3) then:

9.6.5.1 The relevant person shall convene a Disciplinary Board to conduct a disciplinary hearing into the allegation. The Disciplinary Board shall consist of a person, other than the relevant person who has investigated the incident and normally with an equivalent role, and another senior member of staff drawn from outside of the Accommodation Office from which a Chair shall be appointed. None of the members of the Disciplinary Board shall have been previously directly involved with the allegation

9.6.5.2 The relevant person shall notify the resident in writing 2 working days in advance of the hearing (or sooner by agreement with all parties) that the Accommodation Office is preparing a disciplinary case against him/her. He /she shall also indicate the time, place and format of the scheduled disciplinary hearing, request the resident's attendance and inform the resident of his / her right of representation, right to hear the evidence presented, to challenge the evidence on cross-examination and to present his / her own evidence (as detailed in Section 7 above)

9.6.5.3 The Disciplinary Board shall then meet with the resident and the complainant together to adjudicate at the disciplinary hearing

9.6.5.4 Within 2 working days of the hearing, the Chair of the Disciplinary Board shall notify the resident, in writing, of the outcome of the hearing. Where the Disciplinary Board is satisfied that an incident of misconduct has arisen, the Chair of the Disciplinary Board shall identify the disciplinary penalty [see section 10 below] and the resident's right of appeal

9.6.5.5 In the event of the resident choosing to exercise his / her right of appeal, the application of the disciplinary penalty shall be suspended pending the outcome of the appeal. In the event of the resident not choosing to exercise his / her right of appeal, the disciplinary penalty shall be applied.

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<sup>4</sup> See Section 12 below.

## **10. Outcomes**

- 10.1 In the case of *minor infringements*, the Chair of the Disciplinary Board shall issue a fine and/or an oral warning to the resident which shall be effective for six months. A note shall be retained on the resident's file until the six month period has expired
- 10.2 In the case of *major infringements* or *gross misconduct*, the Chair of the Disciplinary Board shall determine a fine.  
In addition to the fine, the Chair of the Disciplinary Board may, subject to the terms of the lease, impose one or more of the following penalties:
- 10.2.1 that the resident gives a written undertaking as to his / her subsequent conduct within the GHR
  - 10.2.2 that the resident gives a written or verbal apology
  - 10.2.3 that the resident pays for any damage to property he / she has caused, or recompenses the GHR Management for any loss it may have suffered or for any costs incurred directly or indirectly from the resident's misconduct
  - 10.2.4 eviction from the GHR

## **11. Eviction**

- 11.1 On the recommendation of the Disciplinary Board, under paragraph 10 above and subject to the terms of the lease, a resident may be evicted based on cumulative or summary residence

## **12. Criminal Offences**

- 12.1 If a resident is alleged to have behaved in such a manner that, if proven in a court of law, he/she would have committed a criminal offence the GHR Management may suspend the GHR Resident Disciplinary Procedure and refer the matter to the appropriate authorities.

## **13. Illness**

- 13.1 In cases where illness of whatever nature is perceived to be the cause of the behaviour which would normally warrant the GHR Resident Disciplinary Procedure to be invoked, the GHR Management shall have the right to exclude / suspend the resident from occupation of the GHR until such time as it is satisfied that he/she is fit to resume his/her residence.

## **14. Appeals**

A resident wishing to make an appeal may do so, normally on the following grounds:

A material procedural irregularity which, had it not occurred, might have impacted significantly on the validity of the original hearing and the subsequent penalty

New evidence which could not reasonably have been made available to the initial disciplinary hearing

That the penalty imposed by the disciplinary hearing was too severe bearing in mind the circumstances of the case

A resident wishing to appeal shall complete an Appeals Form (AP1) within 2 days of being informed of the disciplinary decision and shall submit it to the Director of the GHR. When submitting the form, the resident should state the grounds for appeal and may submit any additional evidence which the resident wishes to be taken into account

The Director of the GHR shall convene an Appeals Panel (Stage I) to conduct an appeals hearing. The Appeals Panel shall consist of three senior members of staff drawn from outside of the Accommodation Office from which a Chair and a Secretary shall be appointed. None of the members of the Appeals Panel shall have been previously directly involved with the allegation.

The Chair of the Appeals Panel shall ensure that the resident is notified in writing 2 working days in advance of the hearing (or sooner by agreement with all parties). He / she shall also indicate the time, place and format of the scheduled appeals hearing, request the resident's attendance and inform the resident of his / her right of representation, right to hear the evidence presented, to challenge the evidence on cross-examination and to present his / her own evidence (as detailed in Section 7 above)

The Chair of the Appeals Panel is responsible for submitting the Panel's report regarding the case to the Director of the GHR within 2 working days of receiving the Appeals Form

The Director of the GHR shall normally inform the resident of the outcome of his / her appeal within 2 working days of receiving the Appeal Panel's report

In the case of an unsuccessful appeal, the appellant may choose to submit a further appeal (AP2) to the President of Griffith College within 2 working days of being informed of the Appeal Panel's decision

The President of Griffith College shall convene an Appeals Panel (a Stage II Appeal Panel) to conduct an appeals hearing. The format and composition of this panel is a discretionary matter for the Chairman but the panel shall consist of at least two external members who are not directly associated with the GHR from which a Chair and a Secretary shall be identified. No person who has been involved in previous consideration of the resident's appeal shall act as a member of the Stage II Appeal Panel.

The Chair of the Appeals Panel shall ensure that the resident is notified in writing 2 working days in advance of the hearing (or sooner by agreement with all parties). He / she shall also indicate the time, place and format of the scheduled appeals hearing, request the resident's attendance and inform the resident of his / her right of representation, right to hear the evidence presented, to challenge the evidence on

cross-examination and to present his / her own evidence (as detailed in Section 7 above)

The Secretary is responsible for submitting a report on behalf of the Stage II Appeal Panel to the Chairman within 2 working days of receiving the Appeals Form (DHA2)

## **15. Records and Follow Up**

- 15.1 Documentation pertaining to all alleged, investigated and (if applicable) confirmed instances of misconduct shall be compiled and retained by the Accommodation Manager
- 15.2 Documentation regarding penalties imposed for proven misconduct shall be retained on the resident's file for the time periods indicated in Section 10 above
- 15.3 Documentation regarding eviction shall form a permanent record on the resident's file.

## **16. Confidentiality**

- 16.1 Where the GHR Management is satisfied at any stage within these procedures that misconduct has not taken place, no documentation relating to the alleged misconduct and the associated investigations shall be retained in the resident's file
- 16.2 The disciplinary process, once entered into, is confidential to all parties. Therefore, it is essential that any individuals involved in the process respect this paramount need for confidentiality. Breaches of such confidentiality may lead to disciplinary action being taken.



## **Appendix I: Guidance on the Conduct of a Disciplinary Hearing & Appeals Hearing**

### **1. Purpose**

- 1.1 The purpose of a disciplinary hearing / appeals hearing shall be to hear both the complaint and the response in the former and the case for an appeal of the outcome of a disciplinary hearing in the latter.

### **2. Documentation**

- 2.1 The disciplinary hearing / appeals hearing will have access to all previous documentation in connection with the alleged misconduct; in addition the resident and the complainant are each asked to produce an A4 synopsis of their case for distribution during the course of the hearing to the Panel and the other party
- 2.2 Witnesses may appear in person at either hearing. In addition, the resident and the complainant are permitted to provide written statements in advance of the meeting which will be considered with the previously mentioned documentation.
- 2.3 Other documentary evidence may be tabled at the discretion of the Chair.

### **3. Process**

- 3.1 A disciplinary hearing / appeals hearing will be convened by the relevant person - as indicated in the GHR Resident Disciplinary Procedure. The notice convening the disciplinary / appeal hearing in accordance with Appendix 2 given to the resident shall state clearly the rights of the resident in relation to the hearing.
- 3.2 The resident shall be entitled to representation as detailed in Section 7 of the GHR Resident Disciplinary Procedure
- 3.4 The Order of Proceedings at a disciplinary hearing or appeals hearing is normally as follows:
  - 3.4.1 Introduction of those present
  - 3.4.2 Outline of the purpose of the disciplinary hearing / appeals hearing
  - 3.4.3 The Chair of the Disciplinary / Appeals Board as the case may be shall read to the resident the resident's rights in relation to the hearing and shall request the resident to confirm that he/she understands these rights. The Chair shall then ask the resident if he/she needs further time

to exercise any of these rights and shall offer an adjournment of the hearing if necessary for this purpose. In the event of the resident wishing to proceed immediately with the hearing or on commencement of the adjourned hearing, the resident will be requested to sign a confirmation in accordance with Appendix 3 that he/she is aware of his/her rights in relation to the appeal and has been given sufficient notice and opportunity to exercise them.

- 3.4.4 Reference to any witness statements if relevant
- 3.4.5 An A4 synopsis summarising the main points of their case shall be distributed by both parties
- 3.4.6 Accommodation Office presentation (approx. 15 minutes/max. 20 minutes) (in case of disciplinary hearing)
- 3.4.7 The Panel and the resident shall be given the opportunity to question the Accommodation Office's presentation (in case of disciplinary hearing)
- 3.4.8 The resident and/or representative presentation shall follow (approx. 15 minutes/max. 20 minutes) (in case of disciplinary hearing and appeals hearing)
- 3.4.9 The Panel and the Accommodation Office shall be given the opportunity to question the resident's presentation (in case of disciplinary hearing and appeals hearing)
- 3.4.10 The Accommodation Office shall respond to any new evidence adduced or claims made by the resident in the course of his or her presentation.
- 3.4.11 The Accommodation Office shall sum up (5 minutes) [new evidence is not admissible at this time] (in case of disciplinary hearing)
- 3.4.12 The resident and/or representative shall sum up (5 minutes) [new evidence is not admissible at this time] (in case of disciplinary hearing and appeals hearing)
- 3.4.13 The Disciplinary Board / Appeals Panel shall adjourn and consider its submission in private
- 3.4.14 Further information or clarification of matters may be required by the Disciplinary Board or the Appeals Panel.

#### **4. Conclusions and Recommendations**

- 4.1 Any conclusions and recommendations shall be communicated in writing to the resident and the Accommodation Office within the specified time scale.