

STUDENT DISCIPLINARY POLICY AND PROCEDURES

Version	3.0
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Policy owner	Head of Quality
Reference points	https://www.esc.ac.uk/about-esc/policies-and-procedures , https://www.bruford.ac.uk/about/who-we-are/policies-and-procedures/ , https://www.qaa.ac.uk/en/quality-code/advice-and-guidance/concerns-complaints-and-appeals
Audience/handling notes	Public
Dissemination and implementation plan	<p>This Student Disciplinary Policy and Procedure will be published on the NHAM website and student portal for reference by students, staff, and all other relevant stakeholders.</p> <p>Lecturers will receive training in how to apply this policy and its procedures. They will also be directed to where it is published. The Administration Manager will be responsible for the dissemination of the policy and procedures to academic staff; the Administration Manager will be responsible for the dissemination of the policy and procedures to support staff.</p> <p>Students will be informed by email that this information is available on the student portal and NHAM website.</p>
Date approved	September 2021

1. Policy Statement Student Disciplinary

1.1. This policy describes how the Academy of Contemporary Music (NHAM) looks upon the behaviour and conduct of NHAM students, specifically any instance where a student is not meeting the required standards outlined by NHAM or that could be reasonably expected from a student.

1.2. This policy applies to all students in NHAM buildings, on off-site visits or at other locations while undertaking work placement. The policy also applies to NHAM activities outside timetabled teaching activities such as events or activities organised by students that involve or are promoted by NHAM. The policy is designed to ensure that students are treated in a fair and equitable manner.

1.3. The Education Administrator is responsible for managing and reviewing this policy and Education Administration is responsible for the effective operation of the Student Disciplinary policy and procedures outlined below.

1.4. The content of this policy aligns with government legislation, the regulations of NHAM's awarding organisation and other external stakeholders to whom NHAM must make reference.

1.5. The Student Disciplinary Policy has a link with the following policies and procedures:

- Academic Misconduct
- Bullying & Harassment
- Equality & Diversity
- Safeguarding
- Student Disciplinary Appeals

2. Objectives

2.1. To explain in an open, transparent and accessible way how NHAM approaches the

issue of student discipline.

2.2. To describe the steps of the NHAM student disciplinary process.

3. Student Disciplinary Principles

3.1. This Student Disciplinary policy and procedure was developed with the following principles in mind:

All members of NHAM staff have a responsibility to ensure that student discipline is maintained. The Student Disciplinary procedure is designed to establish the facts quickly and to deal fairly and consistently with disciplinary issues.

- At every stage in the disciplinary procedure, students will be given details of the complaint against them and be given the opportunity to state their case before a decision is made.
- The procedure may be implemented from any stage, depending on how serious the alleged misconduct is.
- If a student feels that they have been unfairly treated, then they have the right to appeal against any disciplinary penalty. For more information, students should refer to NHAM's Student Disciplinary Appeals Policy and Procedure.
- If the student is over 18 the student has the right to be accompanied by another person at formal disciplinary meetings and at any subsequent appeal (please refer to NHAM's Student Disciplinary Appeals Policy and Procedure). Students under the age of 18 or vulnerable adults must be accompanied by a parent/ guardian.

3.2. NHAM will thoroughly investigate all transgressions of student discipline and in making judgements as to the appropriate course of action apply the principle of "balance of probability" based on the evidence available – NHAM is not required to prove "beyond reasonable doubt".

3.3. NHAM reserves the right to take disciplinary action against students for incidents not directly related to NHAM that could be considered to put other students or staff at risk or bring NHAM into disrepute e.g. allegations of assault or involvement in illegal drugs.

3.4. No student shall be suspended, excluded or expelled unless he or she has been given an opportunity to make representations in person to the Principal. Where for any reason it appears to the Principal that it is not possible for the student to attend in person, he or she shall be allowed to make written representations.

4. Student Discipline Expectations

4.1. The welfare and well-being of all users of NHAM depends upon the reasonable and disciplined behaviour of NHAM students. NHAM expects students to take responsibility for their learning and actions and behave in a mature and appropriate manner at all times while involved in NHAM activities.

4.2. The need for disciplinary action is kept to a minimum by ensuring that students are made fully aware of their responsibilities as students and ensuring that when standards slip, measures are put in place to support students to continue their studies in a responsible manner.

4.3. The standards of student conduct are covered in separate policies and procedures and are also referred to in the Course Handbook.

4.4. All students are made aware of their responsibilities and NHAM's expectations of them as part of their induction to NHAM.

5. Definition of Misconduct

5.1. The conduct covered in this section shall constitute misconduct if it takes place on NHAM property or premises or elsewhere if the student concerned is involved in an NHAM activity, is representing NHAM or is present at that place because of his or her status as a student of the NHAM, including any work placement.

It shall also constitute misconduct in any location whatsoever if the actions bring the good name of NHAM into disrepute.

Any actions that contravene the principles of the Prevent Duty shall also be considered as misconduct and appropriate action taken, which may result in a charge of gross misconduct and subsequent dismissal. This activity may also lead to criminal proceedings. Refer to Appendix 1 for details of the Prevent Duty.

The following shall constitute misconduct:

5.2. Disruption of, or improper interference with, the academic, administrative, social or other activities of NHAM, whether on NHAM premises or elsewhere;

5.3. Obstruction of, or improper interference with, the functions, duties or activities of any student, member of staff or other employee of NHAM or any contractor or visitor to NHAM;

5.4. Violent, indecent, disorderly, threatening, defamatory or offensive behaviour or language whilst on NHAM premises or engaged in any NHAM activity;

5.5. Fraud, deceit, deception or dishonesty in relation to NHAM or its staff or in connection with holding any office in NHAM or in relation to being a student of NHAM;

5.6. Action which causes or is likely to cause injury or impair safety on NHAM premises; or when engaged in any NHAM activity;

5.7. Breach of the provisions of the Policies, Codes, Rules and Regulations of NHAM;

5.8. Behaviour which brings NHAM into disrepute;

5.9. Any form of harassment of any student, member of staff or other employee of NHAM or any contractor or visitor to NHAM whether in person, in writing, by email, via the internet (including social media) or otherwise;

5.10. Damage to, or defacement of, NHAM or associated property or the property of other members of the NHAM community caused intentionally or recklessly or by negligence, and misappropriation of such property;

5.11. Misuse or unauthorised use of NHAM premises or items of property, including computer misuse

5.12. Conduct which constitutes a criminal offence (including conviction for an offence) where that conduct:

- (a) took place on NHAM premises, or
- (b) affected or concerned other members of the NHAM community, or
- (c) damages the good name of NHAM, or
- (d) itself constitutes misconduct within the terms of this Policy, or
- (e) is an offence of dishonesty, where the student holds an office of responsibility in NHAM;

5.13. Failure to disclose name and/or other relevant details to an officer or employee of NHAM or its contractors in circumstances when it is reasonable to require that such information be given; or

5.14. Failure to comply with a previously-imposed warning under this Policy or any other Policies, Codes, Rules and Regulations of NHAM;

5.15. The deliberate false activation of a fire alarm;

5.16. Academic Misconduct: Warnings issued under Academic Misconduct regulations will be considered when applying this Policy;

5.17. Consumption of alcohol in a teaching and learning environment unless explicit permission has been gained e.g. as part of a private view/ show;

5.18. Bringing alcohol on to NHAM premises;

5.19. Coming in to NHAM in an unfit state to participate in lectures or other timetabled learning activities due to the consumption of alcohol, illegal or prescribed drugs;

5.20. Consumption of any food or beverages in a teaching area;

5.21. Unauthorised audio/video recording/photography of a learning activity;

5.22. Excessive printing or copying, or other unauthorised use of printing or copying facilities.

5.23. The above list is indicative and not exhaustive. Other forms of behaviour which are not documented here may be considered misconduct.

6. Warnings and Misconduct Offences

6.1. NHAM will normally adopt the following procedure:

- Informal / Verbal Warning
- First Warning
- Second Warning
- Third/Final Warning (possible suspension/exclusion)

6.2. This is a progressive process, which means that **each time** an offence is committed, the student may move on to the next stage.

6.3. NHAM may move immediately to the Second or Third/Final warning should it be felt the circumstances justify such action.

6.4. The following grading of offences is provided as guidance only and is not exhaustive:

6.4.1.

Stage 1: Minor Misconduct:

- Failure to respond positively to informal warnings, requests or advice Bringing unauthorised visitors onto NHAM premises
- General rowdiness and thoughtless behaviour or inappropriate behaviours or actions that do not cause a danger, threat or offence to others e.g. foul or abusive language or behaviour (non-discriminatory) Harassment: verbal / physical
- Spitting, littering, smoking in prohibited areas or other anti-social behaviour
- Repeated use of mobile phones or music-playing devices that disrupt scheduled teaching activities Unauthorised recording of a learning activity

6.4.2. The possible outcome of a confirmed incident of minor misconduct is:

6.4.2.1. Informal / Verbal Warning 6.4.2.2. First Written Warning

6.4.2.2 First Written Warning

6.4.3

Stage 2: Serious Misconduct:

- Repeated minor misconduct
- Inappropriate behaviours or actions that cause a danger, threat or offence to others
- Petty theft of personal property excluding cash
- Breaches of Health and Safety Regulations
- Damage to NHAM property or equipment
- Deliberate false activation of a fire alarm
- Deliberate refusal to provide information required for statutory purpose Failure to disclose identity when reasonably requested for it or giving incorrect information
- Use / issue fraudulent documentation NOT relating to qualifications / academic performance
- Knowingly making a false and vexatious allegation against NHAM or against any student or staff member

6.4.4. The possible outcome of a confirmed incident of serious misconduct is:

6.4.4.1. First Written Warning

6.4.4.2. Second Written Warning

6.4.5.

Gross Misconduct:

- Previous serious misconduct
- Fraud/ attempted fraud
- Use / issue of fraudulent documentation relating to qualifications/ academic performance
- Major disruption of the academic programme or of the running of NHAM Serious breaches of Health and Safety regulations
- Physical abuse or threat of physical abuse
- Carrying or possession of weapons
- Criminal activity - in or out of NHAM - including theft, violence, sexual assault, deliberate damage to property/ goods and/or dealing, possession of, or under the influence of, illegal drugs
- Bringing alcohol/ other illegal substances onto NHAM premises
- Unable to take part in lessons or activities due to consumption of alcohol or other substances
- Unauthorised publication of a recorded learning activity (e.g. on YouTube, Facebook, etc) with or without malicious or defamatory comment Deliberate misuse of the NHAM computer network, e.g. hacking

6.4.6. The possible outcome of a confirmed incident of gross misconduct is:

6.4.6.1. First Written Warning

6.4.6.2. Final/Third Written Warning and Suspension / Permanent Exclusion

7. Suspension of Students

7.1. NHAM may choose to suspend a student with immediate effect in the event of ***alleged gross misconduct***, and where it is considered that the student may pose a risk to him/herself, other students or staff, NHAM, or the conduct of an investigation.

7.2. Suspension will last until information has been gathered surrounding the incident of misconduct. In this instance, the student will subsequently be given opportunities to make representations in person to the Principal.

7.3. Suspension should not be seen, or used as, a punishment in itself and is a neutral act. It is a means of removing a student from a potentially difficult or dangerous situation whilst an investigation is carried out.

7.4. NHAM will inform the student, and parents/ guardians if the student is under 18 or a vulnerable adult, in writing within 24 hours of the reason for suspension and the restrictions this places on them.

7.5. Suspension and Exclusion bars a student from all NHAM activities on or off-site, prohibits access to NHAM facilities and premises and any external events or activities held on NHAM premises, without prior written permission from the relevant member of the Principal.

8. Criminal Offences

8.1. If there is a genuine reason to believe that a student has committed a criminal offence, NHAM will refer the matter to the police as appropriate.

8.2. The following procedures will apply where the alleged misconduct constitutes an offence under criminal law if proved in a court of law.

8.3. Where the offence under criminal law is considered not to be serious, action under this Policy may continue, but such action may be deferred pending any police investigation or prosecution.

8.4. In the case of all other offences under the criminal law, no action (other than suspension or exclusion) will be taken under this Policy unless the matter has been reported to the police and either prosecuted or a decision not to prosecute has been taken, at which time the Principal shall decide whether disciplinary action under this Policy should continue or be taken.

8.5. Where a finding of misconduct is made and the student has also been sentenced by a criminal court in respect of the same facts, the court's penalty shall be taken into consideration in determining any disciplinary action.

8.6. Except in cases considered not to be serious, if the victim will not report the matter to the police or will not co-operate in their enquiries NHAM will not use its internal procedures to proceed with the matter.

8.8. NHAM will normally refer all offences relating to controlled drugs to the police.

9. Representation

9.1. Student Representation

All formal invitations to disciplinary meetings will outline the student's rights to bring with them a friend, parent, mentor or other representative. Students under the age of 18 or vulnerable adults must be accompanied by a parent/ guardian. Any other representation is not normally allowed except with express permission by the Chair of the disciplinary panel.

9.2. Advocacy

Helping a student to speak for themselves during the disciplinary procedure and ensuring that they are heard is known as "advocacy". It is the responsibility of NHAM to ensure that a student is provided with appropriate support.

9.3. Students will be offered a meeting with a member of Education Administration to outline the Student Disciplinary process.

9.4. Additionally, some young people, vulnerable adults and those who do not have English as a first language may need help to speak for themselves and to get other people to listen to what they say. This is particularly true when they are being disciplined by other people who are in a position of power over them. Students will be offered a meeting with a member of Education Administration to discuss this further if student needs are identified.

10. Confidentiality

10.1. Some aspects of discussions or evidence may be confidential or inappropriate to share amongst a wider audience. The person chairing the meeting will make a decision as to the appropriateness of what information should be disclosed e.g. names of witnesses where there is a concern about their welfare or safety.

Procedures (Student Disciplinary)

1. Student Disciplinary Framework

1.1. The framework consists of the following stages:

- Informal / Verbal Warning
- Stage One – Minor Misconduct
- Stage Two – Serious Misconduct
- Stage Three – Gross Misconduct

2. Informal Procedure

2.1. Any member of staff can, and should, discuss minor issues of misconduct or unsatisfactory standards of work with students advising them of the standards required and the possible consequences of further or repeated unsatisfactory behaviour or work. 2.2.

Members of staff will only bring minor infringements to a student's attention for their benefit or the benefit of others; it is in everyone's interest for students to co-operate.

2.3. This advice is classed as informal or verbal warnings and does not require official documentation; however staff may be required to provide evidence that verbal warnings have been given in subsequent stages of the student disciplinary framework.

3. Formal Procedure

3.1. Most minor faults will be dealt with informally by members of NHAM staff. In the event that a student fails to respond positively to informal warnings or advice, the formal student disciplinary procedure should be followed.

3.2. The responsibility for conducting and managing the formal NHAM Student Disciplinary procedure lies with the areas detailed below. In the absence of the appropriate member of staff, a person in a similar role should be appointed to take on the process.

- Minor Misconduct – Education Administrator / Nominated Lecturer
- Serious Misconduct – Education Administrator / Nominated Lecturer
- Gross Misconduct – Principal
- Appeals against Gross Misconduct outcome – Senior Management Member of the NHAM group. The member of staff hearing a student's appeal will never be the same person who has been involved in the application of the original disciplinary action against them.

3.3. A member of staff who identifies or who is made aware of the misconduct shall draw it to the attention of the student. This interaction may be recorded and should it be considered actually or potentially serious it will be drawn to the attention of the above member of staff in writing and the student informed that this is happening.

3.4. At each stage the following will be in place:

3.4.1. **Recorded** – All aspects of the formal process, including notification of a Final Written Warning, Suspension or Exclusion, will be recorded by Education Administration, filed centrally and the student's electronic record updated. The student will also be given a copy of the written record.

3.4.2. **Action Planned** – In all cases the outcome should identify any action that is required by the student to demonstrate sustained improvement.

3.4.3. **Additional Support** – In some cases it may be necessary to identify and recommend additional support, either from within NHAM or from external agencies that may aid the student's progress.

3.5. Stage 1: Minor Misconduct

3.5.1. If a student is not meeting the expectations being placed upon him or her by NHAM and there is a "cause for concern" (whether formally reported or not) it is the responsibility of the Pathway Leader to undertake a 1-to-1 meeting and:

- Discuss why there is "Cause for Concern" (CFC) and the reason for the meeting;
- Identify any support needs that may be required e.g. Additional Learner Support, Financial Support etc.;
- Identify and agree the required actions and timescales for improvement.

3.5.2. This meeting will be recorded by a member of Education Administration, acting in a supporting role, filed centrally and the student's electronic record updated. The student will also be given a copy of the written record.

3.5.3. Where necessary a copy of this will be sent to other stakeholders / support services as appropriate.

3.5.4. It is the responsibility of the Education Administrator in conjunction with tutors to monitor progress against the identified actions. To this end, the Education Administrator should arrange another meeting within **six weeks** of the original meeting with the student to monitor progress. If the student has not made the required progress and is consistently failing to meet the required standards he /she should be referred to Stage 2.

3.5.5. Possible Outcomes:

- No further action
- Verbal Warning
- First Written warning - If appropriate additional sanctions may be imposed such as restricted participation in NHAM events or trips, loss of access to course enrichment benefits.

3.6. Stage 2: Serious Misconduct

3.6.1. In the event of alleged serious misconduct or if at Stage 1 no progress has been made, a Disciplinary Panel meeting will be convened within 10 working days consisting of, as appropriate:

- Administration Manager
- Tutor / Lecturer
- Advocate / representative – if appropriate Parent(s) / Guardian – if appropriate
- Other agencies / persons as appropriate e.g. Social Services / Connexions / Student Services, etc.

3.6.2. Participants must be given a minimum of **3 working days** notice of the meeting in writing.

3.6.3. Before the meeting, evidence should be gathered by the Tutor/Lecturer with support from the Education Administrator as a part of an investigation of the alleged serious misconduct.

3.6.4. The allegation of serious misconduct will be put to the student by the Education Administrator based on evidence collected as part of the investigation. The student will have an opportunity to respond and seek clarification.

3.6.5. This meeting will be recorded by Registry, filed centrally and the student's electronic record updated. The student will also be given a copy of the written record.

3.6.6. Where necessary a copy of this will be sent to other stakeholders (e.g. parents / employer) and support services as appropriate.

3.6.7. Possible Outcomes

- No further action
- First Written warning - If appropriate additional sanctions may be imposed such as restricted participation in NHAM events or trips (including Students Union), loss of internet access etc.
- Final Written Warning - If appropriate additional sanctions may be imposed such as restricted participation in NHAM events or trips and loss of access to course enrichment benefits.

3.6.8. NB: Students cannot be removed from elected or representative positions without prior consultation and agreement of the Principal.

3.7. Stage 3: Gross Misconduct

3.7.1. NHAM may choose to suspend a student with immediate effect in the event of **alleged gross misconduct**, and where it is considered that the student may pose a risk to him/herself, other students or staff, NHAM, or the conduct of an investigation. If a member of staff observes behaviour which may be considered gross misconduct, this must be reported to the Principal for a decision to be made as to whether the student should be suspended.

3.7.2. Suspension will last until information has been gathered surrounding the incident of misconduct. In this instance, the student will subsequently be given opportunities to make representations in person to the Principal.

3.7.3. In the event of alleged serious misconduct or if at Stage 1 or 2 no progress has been made, a Disciplinary Panel meeting will be convened within 10 working days consisting of, as appropriate:

- Principal
- Tutor or Lecturer
- Student
- Advocate / representative – if appropriate
- Parent(s) / Guardian – if appropriate
- Other agencies / persons as appropriate e.g. Social Services / Connexions / Student Services, etc.

3.7.4. Participants must be given a minimum of **5 working days' notice** of the meeting in writing.

3.7.5. Before the meeting, evidence should be gathered by Education Administration in conjunction with the Principal a part of an investigation of the alleged gross misconduct.

3.7.6. The allegation of gross misconduct will be put to the student by the Chair based on evidence collected as part of the investigation. The student will have an opportunity to respond and seek clarification.

3.7.7. This meeting will be recorded by Education Administration, filed centrally and the student's electronic record updated. The student will also be given a copy of the written record.

3.7.8. Where necessary a copy of this will be sent to other stakeholders (e.g. parents / employer) and support services as appropriate.

3.7.9. **Possible Outcomes**

- No further action
- First Written warning - If appropriate additional sanctions may be imposed such as restricted participation in NHAM events or trips and loss of access to course enrichment benefits.
- Final Written Warning - If appropriate additional sanctions may be imposed such as restricted participation in NHAM events or trips and loss of access to course enrichment benefits
- Temporary Exclusion – A period of up to 10 working days may be considered as an outcome. This is not to be confused with suspension.
- Permanent Exclusion – A student may be permanently excluded where it is considered that this would be in the best interests of NHAM and other learners.

3.7.10. NB: Students cannot be removed from elected or representative positions without prior consultation and agreement of the Principal.

Appendix 1: Prevent Duty

1. Introduction: Legal Context and the Academy Approach

1.1. The Counter Terrorism and Security Act 2015 places a duty on all RHEBs (Relevant Higher Education Bodies, including those engaged in Further Education) to have due regard to the need to prevent people from being drawn into terrorism. This legislation is given specific statutory force

through the Prevent duty guidance for higher education institutions in England and Wales, referred to as the 'Prevent Duty'.

1.2. The underlying considerations adopted by the Academy in implementing the Prevent Duty are:

- a commitment to the safety and wellbeing of our staff and students and all who interact with NHAM including not being victims of, or complicit with any activities linked to radicalisation;
- preserving equality and diversity as foundations of NHAM life, whilst ensuring these values are not threatened;
- supporting campus cohesion and harmonious relations across all parts of the NHAM community;
- that the requirements described in this Policy are implemented in a proportionate and risk-based manner, relevant to the local context in which NHAM is based.

1.3. The legal definition of terrorism as defined in the Terrorism Act 2000 applies to the Prevent duty. NHAM acknowledges and upholds the position that the definition of terrorism in the Terrorism Act is broad, in describing it as "the use or threat of action which involves serious damage to property; or endangers a person's life; or creates a serious risk to the health and safety of the public or a section of the public; or is designed seriously to interfere with or disrupt an electronic system. The use or threat must be designed to influence the government or to intimidate the public and is made for the purpose of advancing a political, religious, racial or ideological cause."

1.4. Terrorism may take the form of extremist behaviour and acts. The statutory Prevent Duty Guidance defines extremism as "vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs and calls for the death of members of our armed forces, whether in this country or overseas".

1.5. In accordance with this definition, NHAM considers that extremist ideologies, and those who express them, undermine the principles of freedom of speech and academic freedom.