Monash University Procedure

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<th>Procedure Title</th>
<th>Student General Misconduct Procedures</th>
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<tr>
<td>Parent Policy</td>
<td>Student General Misconduct Policy</td>
</tr>
<tr>
<td>Date Effective</td>
<td>26 February 2018</td>
</tr>
<tr>
<td>Review Date</td>
<td>1 March 2019</td>
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<tr>
<td>Procedure Owner</td>
<td>Chief Operating Officer (COO)</td>
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<td>Category</td>
<td>Operational – Education Operations</td>
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</table>

**Scope**

These procedures apply to:

- All Monash University students (other than students of Monash University Malaysia and Monash University South Africa); and
- All Monash University staff employed in Australia;

Where the act of misconduct occurred at or in the vicinity of a university precinct or another place where a University activity is taking place, about to take place or has just taken place. General misconduct for students of Monash University Malaysia and Monash University South Africa is dealt with under the Student Discipline Guidelines.

A university precinct is defined in the Monash University (Council) Regulations, and include the university campus, within a university managed or operated residential accommodation facility, and at a university activity. A University activity includes: activities organised and managed by Faculties; activities organised and managed by University recognised campus based student associations and activities organised and managed by University recognised Clubs and Societies.

**Purpose**

To support the safety and wellbeing of University staff, students and property by setting out the processes and protocols for handling student general misconduct matters.

**PROCEDURE STATEMENT**

**Overview**

Under Part 7 of the Monash University (Council) Regulations, there may be four types of decision makers responsible for handling matters of student general misconduct:

1. Responsible Officer for General Misconduct (ROGM);
2. General Misconduct Panel (GMP);
3. General Misconduct Appeals Panel (GMAP); and
4. Another responsible officer (RO) or panel where the report concerns a combination of general misconduct and another type of misconduct and the report has been referred to the other RO or panel to be dealt with.
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The ROGM and GMP are both empowered to make primary decisions on a report of general misconduct, including by imposing a prescribed penalty. All primary decisions can be appealed to the GMAP. The decision of the GMAP is the final decision of the University.

The processes for handling a report of general misconduct are set out in the four stages below.

**Overarching Principles for Decision Makers**

In the process of handling a report of general misconduct, all decision makers are bound by the principles of natural justice. This means that:

- A student has the right to be informed of the allegations against him or her, and be provided with a reasonable opportunity to respond to the allegations.
- A student has the right to have the allegations determined by an unbiased decision maker.

What the principles of natural justice require in each case may differ depending on the facts and circumstances of the case.

The standard of proof required is the “balance of probabilities”. This means that a decision maker will find that an allegation of misconduct is proven if they are satisfied that it is more likely than not that the alleged misconduct took place.

It is up to the decision maker to determine the appropriate weight to be accorded to each piece of evidence, having regard to such issues as the relevance and reliability of the evidence, the contemporaneity of the evidence, the circumstances leading up to the relevant act or acts alleged to be misconduct, and whether the evidence is corroborated.

In making a determination as to whether misconduct is proven, the decision maker must document both the decision and the reasons for reaching the decision, including the relevant facts found to be proven, and the evidence on which the findings were based, and reasoning process in reaching the final decision.

The University may disclose the outcome of a misconduct proceeding to the complainant, any other person aggrieved by the misconduct where appropriate. The decision maker may also notify another area of the University about a pending or concluded misconduct proceeding on a strictly need-to-know basis, e.g. the relevant faculty, or graduation services.

**Stage 1: Report an act of general misconduct**

1.1 Any person who considers that a student may have engaged in general misconduct may report the student's conduct to a Responsible Officer for General Misconduct (ROGM). A report may be made in writing or orally.

1.2 A staff member who considers that a student may have engaged in general misconduct must report the conduct to the ROGM.

1.3 If a report of general misconduct is made to a staff member other than the ROGM, the staff member receiving the report should promptly refer it to the ROGM.

1.4 The ROGM may investigate general misconduct whether or not a report has been made, if he or she has reasonable grounds to believe that a student has committed an act of general misconduct.

1.5 Where a report of misconduct relates to the conduct of more than one student arising out of the same or related circumstances, the matters can be heard together, if so determined by the ROGM.
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Stage 2: ROGM processes

Initial assessment

2.6 Where the ROGM receives a report of general misconduct, he or she must consider the report and determine whether to:

i. Dismiss the report and take no further action;

ii. Refer the report for resolution in another way, e.g. informal counselling or grievance;

iii. Investigate the report and either make a determination or refer the report to the GMP;

iv. Refer the report for investigation and determination by another responsible officer, in accordance with paragraphs 2.8 and 2.9 of these procedures; or

v. Refer the report to a GMP if determined that escalation to a GMP is appropriate.

2.7 In deciding which course of action to take upon receiving a report of general misconduct, the ROGM may have regard to any matters the ROGM considers relevant, including but not limited to:

i. Whether the allegation is minor, trivial, vexatious or frivolous in nature; and

ii. Whether the matter could be more appropriately dealt with through an alternative University process (e.g. the Student Complaints and Grievance Policy).

2.8 Where a report of misconduct includes both general and research misconduct, the ROGM will refer the matter to the responsible officer for research misconduct and the matter will not be investigated or determined in accordance with these procedures.

2.9 Where a report of misconduct includes both general and academic misconduct, the ROGM has the discretion to refer the matter to the responsible officer of the faculty in which the student in question is enrolled, for investigation and determination as a matter of academic misconduct, and the matter will not be investigated or determined in accordance with these procedures.

2.10 A faculty responsible officer may refer a matter to the ROGM if, in the opinion of the faculty responsible officer, the matter is more appropriately dealt with by the ROGM under these procedures.

2.11 The ROGM will endeavour to conduct and conclude an investigation expeditiously, having regard to the circumstances of the case.

Investigation

2.12 If the ROGM decides to investigate the report of misconduct, they will undertake the following steps:

i. Identify how the allegation made in the report could amount to misconduct under the Monash University (Council) Regulations;

ii. Consider the evidence available to them;

iii. Determine his or her own procedure, including by arranging a meeting with a student, making any follow up inquiries, or obtaining additional evidence relevant to the allegation;

iv. Use appropriate internal University or external resources available to assist in the conduct of the investigation; and

v. If required for the good conduct of the investigation and the safety of any person, request information from any person at any time, having regard to the gravity of the alleged misconduct, and set a deadline for a response. Unless there are exceptional circumstances this request should be made in writing. The request should state that the request is made by the ROGM under the Monash University (Council) Regulations, but need not disclose the reasons for the request of information. If no response is received by the deadline, the ROGM will proceed with the investigation on the basis of existing information.
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Student response

2.13 Unless there are exceptional circumstances, the student will be informed of the alleged misconduct in writing and invited to respond to the allegations in writing or at a meeting. The written notice will set out:
   
   i. The relevant provision of the Monash University (Council) Regulations;
   
   ii. The specific allegation(s) made against the student, including where and when the conduct is said to have taken place and the role the student is alleged to have played; and
   
   iii. Where appropriate, a copy of the evidence against the student, will be provided as an attachment to the notice.

2.14 The ROGM will give due consideration and care to the provision of evidence that may expose a person to a risk to their health and safety. Where necessary, a redacted version of the evidence may be provided, or the substance of the evidence may be relayed to the student.

2.15 Once notified of the alleged misconduct, a student must be given a reasonable opportunity to respond to the allegation. Normally this is not less than 5 working days, unless there are exceptional circumstances to justify a shorter timeframe. If a student does not provide a response in the time specified, the ROGM may make a determination based on the material available.

Conclusion of investigation

2.16 At the conclusion of an investigation, the ROGM must either:
   
   i. Dismiss the report;
   
   ii. Find that the misconduct is proven and determine a penalty; or
   
   iii. Where they are satisfied that the allegation of general misconduct is sufficiently serious or complex to warrant escalating the matter, refer the matter to the General Misconduct Panel for hearing and determination.

2.17 The ROGM will make a finding in accordance with the Overarching Principles for Decision Makers set out at the start of these procedures.

Determination of a penalty

2.18 If the ROGM finds misconduct proven through their investigation, they may impose one or more of the penalties prescribed in Part 7 of the Monash University (Council) Regulations (also set out in Table 1 of Schedule 1 to these procedures).

2.19 The specific penalty or penalties imposed is at the discretion of the ROGM, having regard to the following factors:
   
   i. The objectives of punishing the students;
   
   ii. The objectives of deterring future misconduct;
   
   iii. The objective of rehabilitating the student;
   
   iv. The objective of protecting the university community or a university precinct;
   
   v. The objective of protecting any relevant public interest;
   
   vi. The nature, and severity of the misconduct;
   
   vii. The personal circumstances of the student, including any mitigating or aggravating circumstances;
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viii. The personal circumstances of the student;
ix. Any measures already taken in relation to the student in response to the misconduct;
x. Any loss, damage or harm caused by the misconduct to the University or any other person; and
xi. Any previous findings of misconduct against the student and/or previous penalties imposed on the student.

Notice of decision

2.20 A copy of the decision and the reasons for decision will be provided to the student in an expeditious manner, and normally within 7 working days of the decision and reasons being made.

2.21 The notice of decision should enable the student to understand clearly how the decision was reached and why the ROGM came to the decision that they did. The notice should include: the decision, including the penalty imposed; the reasons for the decision and the penalty imposed; any relevant facts found to be proven; the evidence on which the findings were based, and any mitigating or aggravating factors taken into account in imposing the penalty.

Stage 3: GMP processes

Constitution of the GMP

3.1 If the matter is referred to a GMP, the Director – Student Education and Business Services must constitute a GMP in accordance with the process outlined in Schedule 2.

Hearing notice

3.2 The chair of the GMP must arrange for the student to be sent a hearing notice to inform them of the allegation(s) made against them and provide them with an opportunity to respond. Further detail on processes for issuing a hearing notice is in Schedule 3. Paragraph 2.14 sets out the protection that will apply if provision of evidence to a student may expose any person to a risk to their health and safety.

Student’s rights prior to hearing

3.3. The student may object to a panel member on the ground of a reasonable apprehension of bias within 4 working days after the date of service of the hearing notice, unless otherwise agreed by the chair of the GMP. If the student objects to a panel member, the person who appointed the panel or their nominee will resolve the student’s objection in accordance with the process set out in Schedule 2.

3.4. The student may also elect to substitute the student member with a further staff panel member from the pool of members. The substitute staff panel member will be appointed by Direct of Student Education and Business Services. The student’s election must be made in writing within 4 working days after the date of service of the hearing notice, unless otherwise agreed by the chair of the GMP.

3.5. The student must give written notice of the names of any witnesses that they wish to give evidence at the hearing at least 4 working days prior to the hearing date, or as otherwise agreed by the chair of the GMP.

3.6. The student may provide a written response or submission prior to and during the hearing.
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Investigation by the GMP

3.7 Once a matter has been referred to the GMP, the GMP may request information verbally or in writing from any other person at any time, having regard to the gravity of the alleged misconduct, and set a deadline for a response. Unless there are exceptional circumstances this request should be made in writing. If the request is made in writing, it should state that the request is made by the GMP under the Monash University (Council) Regulations, but need not disclose the reasons for the request for information.

3.8 If no response to the request is received by the deadline, the GMP should proceed with the investigation on the basis of existing information.

3.9 University staff are bound by the requirement to respond to a request. Persons outside the university are not bound to respond a request. A person responding to a notice may provide legitimate reasons for not providing the information or record sought, including that they do not exist anymore.

3.10 In conducting an investigation, the GMP may make use of any internal university resources or external resources available to it. The GMP may choose to conduct an investigation irrespective of whether the ROGM has already conducted an investigation.

Process for conducting a hearing

3.11 The chair of the GMP has a responsibility to manage the orderly and fair conduct of a hearing. The procedure used is at the discretion of the panel, recognising that the process should be sufficiently flexible to respond to the particular circumstances of the case.

3.12 The chair must ensure that the hearing is conducted in a respectful manner and provide the student with a sufficient opportunity to respond to any adverse allegations and evidence before a finding is made. Further detail on the steps that usually comprise a hearing is set out in Schedule 4.

3.13 The GMP is not bound by the rules of evidence but is bound by the rules of natural justice. Where necessary or appropriate the chair of the GMP has the discretion to:

   i. Adjourn the hearing for a short break or to a different date;
   ii. Cut short irrelevant evidence or submissions and focus on issues that could rationally affect the determination of the allegation(s);
   iii. Stop any disrespectful conduct, or badgering or harassment of any person during the hearing;
   iv. Allow or disallow any witness to give evidence at a hearing; and
   v. Direct any person to leave the room when a witness is giving evidence at hearing.

   Generally the chair has the authority to modify procedures as required depending on the sensitivity of the matter.

3.14 Where a witness attends the hearing to answer questions before the GMP, the witness is only entitled to remain in the hearing room during the questioning. Only one witness should be present at a time.

Student rights at the hearing

3.15 A student may be accompanied and assisted, but not represented, by one other person at the hearing.

3.16 Subject to the direction of the chair, the student has the right to:

   i. Question witnesses;
   ii. Bring witnesses to give evidence on the student’s behalf;
   iii. Present the student’s case, including by giving evidence and making written and/or oral submissions; and
   iv. Produce documents or other evidence.
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3.17 At the hearing, when the allegations are read out to the student, the student may admit to the allegation or deny the allegation. If a student remains silent, the allegation should be noted as denied.

3.18 A student may admit to engaging in conduct that forms the basis of the allegation, but deny that this constitutes the general misconduct alleged. In such instances, the allegation should be noted as not admitted. The GMP may however narrow the range of facts in dispute, and proceed to determine the factual elements still in dispute that are necessary to prove the allegation.

Making a determination and imposing a penalty

3.19 The GMP will make a finding in accordance with the Overarching Principles for Decision Makers set out at the start of these procedures.

3.20 The decision must be made by the majority of the panel and is final. The GMP should only provide a single set of reasons for its decision, being the reasons for the unanimous or majority decision, which is the decision of the panel.

3.21 If the GMP finds misconduct proven through their investigation, they may impose one or more of the penalties prescribed in Part 7 of the Monash University (Council) Regulations (also set out in Table 1, Schedule 1 to these procedures).

3.22 The specific penalty or penalties imposed is at the discretion of the GMP, having regard to the following factors listed at para 1.14.

Notice of decision

3.23 The chair of the GMP must provide the student with written notice setting out the decision and penalty imposed, if any. This will take place expeditiously, and normally within 7 working days of making a decision, although this will depend on the particular circumstances of the case.

3.24 The notice of decision should enable the student to understand clearly how the decision was reached and why the panel came to the decision that they did. The notice should include the decision, the reasons for the decision, including any relevant facts found to be proven, the evidence on which the findings were based, the penalty imposed, the reasons for the penalty, including any mitigating or aggravating factors taken into account in imposing the penalty.

Stage 4: Appeal processes

Grounds for appeal

4.1 A student who has been found to have committed an act of general misconduct by the ROGM or GMP may appeal against either the finding and the penalty, or only the penalty.

4.2 An appeal must be on one or more of the following grounds:

   i. There was a reasonable apprehension of bias on the part of the decision maker. However, if the student did not object to the panel member prior to the hearing, an appeal on this ground may only be based on the conduct of the member during the hearing;

   ii. There was a breach of natural justice;

   iii. The penalty imposed was excessive;

   iv. There is new evidence that was not reasonably available to the student during the investigation or hearing that has the potential to affect the outcome of the investigation or hearing; and/or

   v. The decision was not reasonably open to be made based on the evidence that was, at the time of the original decision, available and relevant.
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Process for appeal

4.3 For an appeal to be valid, it must be:
   i. Made in writing and submitted to the email address listed in the notice of decision;
   ii. Lodged no more than 20 working days from the notice provided of the decision being appealed;
   iii. Made on a ground of appeal, as defined above; and

4.4 Delivered to the COO or nominee specified in the notice of decision. Appeals will be heard by a General Misconduct Appeals Panel (GMAP).

4.5 A decision by the ROGM or GMP to impose a penalty should not be enforced against a student until the appeal has been heard and determined, unless extenuating circumstances relating to the welfare of the student apply.

Constitution of the GMAP

4.6 Following receipt of an appeal, the COO will first appoint the chair of the GMAP.

4.7 The chair may review the notice of appeal and dismiss it if they are satisfied that the appeal is frivolous, vexatious, misconceived or lacking in substance. If a decision is made to dismiss the appeal, the chair of the GMAP must provide the student with a written notice of the decision. This decision is a final decision of the University.

4.8 If the chair does not dismiss the appeal on any of these grounds, then the chair will request the COO to constitute the GMAP. The COO will constitute the GMAP in accordance with the process outlined in Schedule 5.

4.9 A student may object to a panel member according to the process set out in paragraph 3.3.

4.10 A student may elect to substitute a student panel member according to the process set out in paragraph 3.4.

4.11 The responsibilities of the COO in this section may be undertaken by a nominee.

Nature of the appeal hearing

4.12 For all appeals, except for appeals against the penalty only, the GMAP conducts a de novo hearing. This means that the GMAP considers all the issues under appeal afresh based on the evidence available to it at the time of the appeal hearing. New evidence may be presented to the GMAP by the student that was not before the original decision maker. It is at the discretion of the GMAP whether witnesses should be recalled to give evidence afresh.

4.13 Where the appeal is against the penalty only, the GMAP conducts the appeal in the strict sense. This means that the GMAP will consider only the evidence before the original decision maker together with submissions presented by the student about why a different penalty should be imposed and make its own finding as to the appropriate penalty to be imposed in those circumstances.

Conduct of the hearing by the GMAP

4.14 The GMAP must first determine whether one of the grounds of appeal under paragraph 4.1 is made out. If not, the appeal is dismissed. If substantiated, then the appeal panel must go on to make the decision under appeal afresh.

4.15 The GMAP will adopt the same procedures outlined in Process for conducting a hearing in paragraphs 3.3-3.23 and Schedule 4, modified to reflect the conduct of the appeal by the GMAP instead of the GMP.
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4.16 The student has the right to be legally represented and must include the details of their legal representative in their response to the hearing notice, which must be submitted at least 4 days prior to the hearing.

GMAP determination

4.17 After hearing the appeal, the GMAP may find that the finding of misconduct should stand, that the finding of misconduct should be amended, or that the penalty is affirmed, rejected or amended.

4.18 The decision must be made by the majority of the panel and is final. The panel should only provide a single set of reasons for its decision, being the reasons for the unanimous or majority decision, which is the decision of the panel.

Notification of student

4.19 The chair of the GMAP must provide the student with written notice setting out the decision and penalty imposed, if any. Normally this will take place within 7 working days of making a decision, though this will depend on the particular circumstances of the case.

4.20 The notice of decision should enable the student to understand clearly how the decision was reached and why the panel came to the decision that they did. The notice should include the decision, the reasons for the decision, including any relevant facts found to be proven, the evidence on which the findings were based, the penalty imposed, the reasons for the penalty, including any mitigating or aggravating factors taken into account in imposing the penalty.

Other provisions

Emergency provisions

5.1 At any point during the process for handling reports of general misconduct, any decision maker may refer the matter to the conduct review officer appointed by the Vice-Chancellor for assessment under the Exclusion for Safety reason regulations (Part 13 of the Monash University (Council) Regulations). This allows the conduct review officer to consider whether a student should be suspended from a course or from the University or excluded in order to protect the health and safety of any person (including the person concerned) or the property of the University.

5.2 At any point during the process for handling reports of general misconduct, any decision maker may refer a matter to a University security officer under Regulation 49 of the Monash University (Council) Regulations. This allows the security officer to direct the student to leave a university precinct, or impose restrictions on their entrance or access or presence at a specified University precinct where a student poses a risk to the health or safety or any person (including the person concerned) or has failed to show that he or she has a lawful right to be on or in the university precinct.

Concurrent investigations

5.3 The University may at its sole discretion, suspend or proceed with its investigation into a report of general misconduct if the matter is subject to a police or external regulatory investigation or enquiry.

5.4 The University may suspend its investigation into a report of general misconduct if the matter is subject to an internal University investigation or enquiry, e.g. if the matter is being dealt with under staff disciplinary procedures pursuant to a University enterprise agreement.

5.5 The University may take into account any penalties imposed or administrative action taken by another area of the University, e.g. Monash Residential Services, as mitigating factors in determining the appropriate penalty to be applied for a proven misconduct.
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<th>Responsibility for implementation</th>
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<tr>
<td><strong>Approval Body</strong></td>
<td>(Academic Quality and Standards procedure)</td>
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<td>Name:</td>
<td>Operational procedure</td>
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<td>Meeting:</td>
<td>Name:</td>
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<td>Date:</td>
<td>Date:</td>
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<tr>
<td>Agenda item:</td>
<td>Author:</td>
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<tr>
<td><strong>Definitions</strong></td>
<td>General misconduct: Conduct that is contrary to accepted standards of behaviour. It includes a wide range of behaviours which are outlined in Part 7 of the Monash University (Council) Regulations.</td>
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<tr>
<td><strong>Legislation Mandating Compliance</strong></td>
<td>National Code of Practice for Providers of Education and Training to Overseas Students 2018 (Cth)</td>
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<tr>
<td><strong>Related Policies</strong></td>
<td>- Conduct and Compliance Policy (staff only)</td>
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<td>- Student Complaints and Grievance Policy</td>
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<td>- Information Technology Acceptable Use Policy</td>
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<td><strong>Related Documents</strong></td>
<td>- Student Discipline Guidelines</td>
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<td>- Monash University (Council) Regulations</td>
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<td></td>
<td>- Resolution of Unacceptable Behaviour Procedure</td>
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Schedule 1: Decision makers and their penalty powers

The penalties that the ROGM, GMP and GMAP may impose are shown in Table 1 below and are also included in the Responsible officer penalty powers under Part 7 of the Monash University (Council) Regulations. The GMP and GMAP may impose one or more of the penalties available to the ROGM, as well as the additional penalties that only they can impose.

<table>
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<tr>
<th>Responsible Officer General Misconduct (ROGM)</th>
<th>General Misconduct Panel (GMP) and General Misconduct Appeals Panel (GMAP)</th>
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<td>Recording of misconduct on student record</td>
<td>Suspension from a course of study or unit of study</td>
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<tr>
<td>Reprimand</td>
<td>Exclusion from the university</td>
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<tr>
<td>A consent penalty, imposed with the student’s agreement. These may include:</td>
<td>Any other penalty that may be imposed by the ROGM</td>
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<td>Apology.</td>
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<td>Reflective Piece.</td>
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<td>Counselling and/or</td>
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<td>Assist with a university event or activity.</td>
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<tr>
<td>Place a restriction on student contacting certain staff/students</td>
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<tr>
<td>Fine not exceeding 5 penalty units</td>
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<tr>
<td>Requirement to make good any damage caused by way of restitution</td>
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<tr>
<td>Prohibition from entering a specified university precinct for a specified period</td>
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Schedule 2: Process for constituting a General Misconduct Panel (GMP)

Appointing members to the pool for GMP
The Deputy Vice-Chancellor (Education) will be responsible for appointing the pool of people from which a GMP is to be constituted.
The president of each recognised University student association may from time to time nominate student members to be included in the pool.
In appointing persons as members of the pool, the Deputy Vice-Chancellor (Education) will seek, to the extent practicably possible, to have an equal gender balance in the pool and will appoint members based on their experience and qualifications. Members of the GMP pool will be provided with appropriate training.

Appointing a GMP
The Director – Student Education and Business Services or their nominee will appoint a GMP from the pool of members, comprising a chair who shall be a staff member, another staff member of the University, and a student.
A person must not be appointed to the panel if the person is:

- The ROGM or another responsible officer who conducted an investigation of the report or assisted in the investigation in any way;
- The person who reported the alleged misconduct;
- The person who witnessed the alleged misconduct;
- Any person who is otherwise involved or assisted in the investigation of alleged misconduct; or
- A person who is, in the opinion of the Director – Student Education and Business Services affected by a reasonable apprehension of bias.

If at any time a panel member becomes unavailable, unable or unwilling to continue as a panel member, the Director – Student Education and Business Services may substitute another panel member. A substitute member must have the same qualification to be a panel member as the member they replace (i.e. a member of staff or a student).

Objecting to a GMP member
A student objection to a panel member must be made in writing and delivered within 4 working days after service of the hearing notice to the person who appointed the panel.
The objection must set out full details of the alleged reasonable apprehension of bias, and may include any evidence the student wishes to provide in support of the allegations. The objection must be dealt with prior to the day of the hearing. In the event that it is unable to be dealt with in this time, the hearing date should be postponed.
The person who appointed the panel or nominee may either:

- Without determining the objection, arrange for the appointment of a substitute panel member from the same category of qualification; or
- Require the COO or nominee to appoint an adjudicator, who is a legally qualified person, to consider and determine the objection.

In determining the objection, the adjudicator may make enquiries in any manner thought fit. The adjudicator is bound by the rules of natural justice but not by the rules of evidence.
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After considering the objection and any relevant evidence, the adjudicator may:

- Dismiss the objection if it is not substantiated, in which case the panel will be convened as originally appointed; or
- Uphold the objection if satisfied that there is a reasonable apprehension of bias, and direct that a substitute panel member be appointed.

If the objection is upheld, the person who appointed the panel will arrange for the appointment of a substitute panel member. Notice of the decision should be provided to the student in writing and include the name of the substitute panel member. A decision on panel membership is not subject to internal appeal.

The member who is the subject of the student’s objection may at any time recuse himself or herself from the panel, in which case the person who appointed the panel will arrange for the appointment of a substitute panel member.
Schedule 3: Process for notification of hearing

Hearing notices must be sent at least 10 working days prior to the hearing and set out the following:

- The relevant provisions of the Monash University (Council) Regulations;
- The specific allegation(s) made against the student, which may include:
  - When and where the said conduct is said to have taken place; and
  - The role of the student in the commission of the alleged act;
- The date, time and place of the hearing;
- Members of the GMP and their qualifications, e.g. staff member or student; and
- Where appropriate, a copy of the evidence against the student will be provided as an attachment to the allegations, unless there is a risk that doing so may present a real risk to a person's health and safety.

The hearing notice must be provided in writing to the student's Monash email account. This constitutes service of the hearing notice for the purposes of this Procedure.

The allegations contained in the hearing notice should only be amended prior to the hearing to correct minor error or detail. If a substantial amendment of an allegation is necessary, the hearing may need to be adjourned to allow the student adequate time to prepare based on the new matters contained in the amended allegation.
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Schedule 4: Process for conducting a hearing

The chair of the GMP has a responsibility to manage the orderly and fair conduct of a hearing. The procedure used is at the discretion of the panel, recognising that the process should be sufficiently flexible to respond to the particular circumstances of the case.

The chair must ensure that the hearing is conducted in a respectful manner and provide the student with a sufficient opportunity to respond to any adverse allegations and evidence before a finding is made.

The GMP is not bound by the rules of evidence but is bound by the rules of natural justice. Where necessary or appropriate the chair of the GMP has the discretion to:

- Adjourn the hearing for a short break or to a different date;
- Cut short irrelevant evidence or submissions and focus on issues that could rationally affect the determination of the allegation(s);
- Stop any disrespectful conduct, or badgering or harassment of any person during the hearing;
- Allow or disallow any witness to give evidence at a hearing; and
- Direct any person to leave the room when a witness is giving evidence at hearing.

Where a witness attends the hearing to answer questions before the GMP, the witness is only entitled to remain in the hearing room during the questioning. Only one witness should be present at a time. Generally the chair has the authority to modify procedures as required depending on the sensitivity of the matter.

A hearing of the GMP and GMAP may involve the following steps, subject to any modifications deemed appropriate by the panel.

Preliminary matters

- The Chair will introduce the members of the panel, the secretary, and the attendance of the student, and any support person for the student;
- At the commencement of the hearing, the chair should confirm that student has the relevant papers or a summary of the papers if there is a good cause for the student not to have access to the full documents;
- The Secretary to the panel will take minutes of the hearing, which shall be a summary of the proceeding, but need not be a verbatim record of the hearing; and
- The Chair will read out the allegations of misconduct to the student, who has an opportunity to indicate whether each allegation is admitted.

Questions and submissions

- The panel may question the student or witness on any allegations or facts in issue;
- The student may elect to present an oral or written submission or submit further evidence at the hearing; and
- The panel may make any further inquiries it deems appropriate prior to deliberating and determining the allegations of misconduct.

Deliberations and determination

- The panel will consider the totality of evidence before it in making the decision;
- The panel may adjourn the matter for a short period of time for private deliberations. The student will be directed to leave the room during private deliberations;
- After private deliberations, the panel will call the student back into the room to announce the decision;
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- The student should be provided an opportunity to present any further evidence or a submission regarding the appropriate penalty to be applied;
- The panel may adjourn the matter for a short period of time for private deliberations on the appropriate penalty to be applied;
- After private deliberations, the panel will call the student back into the room to announce the penalty; and
- The panel must issue a written notice of the decision and reasons for the decision after the hearing, usually within 7 days of the decision.
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Schedule 5: Process for constituting a General Misconduct Appeals Panel (GMAP)

Appointing a General Misconduct Appeals Panel (GMAP)

The Chief Operating Officer (COO) or their nominee will appoint a GMAP, which will comprise of a chair, a staff member of the University and a student. The chair should be a legally qualified person who is external to the University and may be a permanent or long-term appointee. The student member may be the president of a recognised University student association or their nominee.

A person must not be appointed to the panel if the person is:

- The ROGM or another responsible officer who conducted an investigation of the report or assisted in the investigation in any way;
- A person who was involved in conducting the initial hearing as a member of a GMP;
- The person who reported the alleged misconduct;
- The person who witnessed the alleged misconduct;
- Any person who is otherwise involved or assisted in the investigation of alleged misconduct; or
- A person who is, in the opinion of the COO, affected by a reasonable apprehension of bias.

If at any time a panel member becomes unavailable, unable or unwilling to continue as a panel member, the COO may substitute another panel member. A substitute member must have the same qualification to be a panel member as the member they replace (i.e. a person external to the University, a member of staff or a student).

Objecting to a GMAP member

For the process to object to a GMAP member, refer to Schedule 2 “Objecting to a GMP member”, with necessary modifications.