
General Misconduct Procedure

1. Purpose

The purpose of this Procedure is to give effect to the Student Conduct Statute (the Statute) in relation to General Misconduct.

2. Application of Procedure

This Procedure applies to Students.

Procedure Content

3. Responding to emergencies

3.1 If any member of the University community is concerned for their immediate safety or the immediate safety of someone else, they should contact the Police on 111.

3.2 Campus Security also maintains a 24-hour presence on campus and can be contacted on 0800 842 8888 from an external phone or 888 from an internal phone to report an emergency.

4. Advice and Support

4.1 There is a range of support options and specialised advice available for staff considering an allegation of General Misconduct or Serious Misconduct.

(a) Any staff member can seek advice from the Student Interest and Conflict Resolution Team about managing General Misconduct issues, including the best way to support a student who is facing allegations under this Procedure by emailing studentinterest@vuw.ac.nz.

(b) Any staff member can seek confidential legal advice from Legal Services by emailing Legal-Services@vuw.ac.nz.

(c) Any staff member can seek emotional support while managing a complaint under this Procedure. Support options for staff can be accessed from <https://intranet.wgtn.ac.nz/human-resources/health-wellbeing/emotional-and-social-wellbeing>.

4.2 There is a range of support options and specialised advice available for students facing an allegation of General Misconduct or Serious Misconduct.

(a) Any student can seek independent advice and representation from the Victoria University of Wellington Students' Association (VUWSA) Advocacy Service by emailing advocate@vuwsa.org.nz; and

(b) Any student can seek advice from the Student Interest and Conflict Resolution Team about support pathways.

5. Urgent Removal

- 5.1 If a member of the University community who is in charge of a class, activity, facility or Hall of Residence believes on reasonable grounds that urgent removal of a student from the class, activity, facility or Hall of Residence is necessary because the student presents an unacceptable risk to the safety or well-being of others, they can require the student to leave that area temporarily.
- 5.2 Campus Security maintains a 24-hour presence on campus and can be contacted on 0800 842 8888 from an external phone or 888 from an internal phone to report an emergency.
- 5.3 When a student has been removed from an area in accordance with paragraph 5.1, the person in charge must notify either:
- (a) a Senior Manager in the area where the General Misconduct or Serious Misconduct occurred; or
 - (b) if the matter occurs in a Hall of Residence, the Head of Hall;
- as soon as possible and provide details of the incident.
- 5.4 Once the Senior Manager or Head of Hall has received a notification, in accordance with paragraph 5.3, they must consider in accordance with this Procedure whether any further action is necessary.

6. Making a complaint about suspected General Misconduct or Serious Misconduct

- 6.1 Any member of the University community can make a complaint alleging that a student has committed General Misconduct or Serious Misconduct by contacting the Student Interest and Conflict Resolution Team at studentinterest@vuw.ac.nz or calling 04 463 5032.
- 6.2 Any member of the University community can make a complaint alleging that a resident in a Hall of Residence has committed General Misconduct or Serious Misconduct by contacting the relevant Head of Hall.
- 6.3 Any complaint alleging sexual harassment will be treated as a complaint under the Sexual Harassment Response Policy and managed according to the Sexual Harassment Response Procedure.
- 6.4 Any person who makes a complaint may withdraw it at any time. However, if the University has already commenced a process under this Procedure or has taken Interim Action in accordance with paragraph 8 below, that process may need to be completed.

7. Assessing the Need for Interim Action

- 7.1 Any person who receives a complaint that may require Interim Action must refer the complaint to a Senior Manager in the area where the alleged General Misconduct or Serious Misconduct occurred. For complaints that relate to behaviour in a Hall of Residence, the Associate Director-Student Living-Halls is the appropriate Senior Manager. The Senior Manager will consider Interim Action in accordance with paragraph 8 below.

- 7.2 If a complaint raises significant concerns about the safety of a student, the Student Interest and Conflict Resolution Team must be informed about all the relevant details.

8. Interim Action

- 8.1 The Senior Manager who receives notice of the complaint may take Interim Action if satisfied that the student suspected of General Misconduct or Serious Misconduct
- (a) poses an unacceptable risk to the safety or well-being of students, staff, or property; or
 - (b) is likely to jeopardise the work of members of the University community.
- 8.2 In considering Interim Action, the Senior Manager must
- (a) consult the Student Interest and Conflict Resolution Team or the Legal Services Team
 - (b) take into account any effects that interim action may have on the student's course of study and emotional or mental well-being; and
 - (c) prior to making any decision, provide the student with an opportunity to comment on the proposed interim action and consider the student's response.

Note: this may be orally, on very short notice commensurate with the seriousness of the situation.

- 8.3 If the Senior Manager decides that interim action is required, such action takes effect as soon as the student has been advised orally or in writing.
- 8.4 The period of exclusion, suspension or transfer may last until any relevant misconduct process under the Student Conduct Statute is concluded.
- 8.5 When the period of exclusion, suspension or transfer ends, consideration will be given by the Student Interest and Conflict Resolution Team or Associate-Director Student Living- Halls about how to ensure that the student's reintegration into the University community is managed positively.

9. Determining what type of process will be followed

- 9.1 The Student Interest and Conflict Resolution Team or a Head of Hall who receives a complaint in accordance with paragraph 6 above will explain the available processes to the person making the complaint.
- 9.2 The available processes for resolving complaints about General Misconduct or Serious Misconduct are an alternative resolution process or a formal process.
- 9.3 The Student Interest and Conflict Resolution Team or Head of Hall will determine the appropriate process to resolve the complaint by:
- (a) considering the views of the person making the complaint; and
 - (b) weighing the seriousness of the complaint; and
 - (c) assessing whether an alternative resolution process is appropriate.

- 9.4 An alternative resolution process in accordance with Appendix 1 will be appropriate when the person making the complaint and the student facing the allegation agree to participate in such a process, and the person with oversight of the alternative resolution process is satisfied that such a process is appropriate to address the harm, promote accountability and repair, and meet the needs of all parties so that both individual and community well-being are enhanced.
- 9.5 A formal process will be appropriate where the Student Interest and Conflict Resolution Team or the Head of Hall:
- (a) form the view that an alternative resolution process is not appropriate; and
 - (b) consider that there is sufficient information to indicate that General Misconduct or Serious Misconduct may have occurred.
- 9.6 The Student Interest and Conflict Resolution Team or Head of Hall will consult the Legal Services Team if an alternative resolution process is proposed in relation to an allegation of suspected Serious Misconduct.
- 9.7 The Student Interest and Conflict Resolution Team may consult with Legal Services prior to making a referral to a decision-maker and discuss whether the complaint should be treated as an allegation of suspected Serious Misconduct.
- 9.8 In the case of suspected General Misconduct or Serious Misconduct in a Hall of Residence, the Head of Hall will consult with the Associate Director, Student Living -Halls prior to the matter being referred to a decision-maker.
- 9.9 If Serious Misconduct is suspected, the Student Interest and Conflict Resolution Team or Associate Director Student Living-Halls must consult with Legal Services before the matter is referred to the Disciplinary Committee.
- 9.10 The decision-maker, in consultation with the Student Interest and Conflict Resolution Team or Legal Services, has a discretion not to follow a formal process for any complaint of General Misconduct or Serious Misconduct that, in their view, is frivolous or unsubstantiated or for any other reason ought not to proceed as a formal process including that the needs of the community and the safety needs of all the parties can be better addressed by managing the matter in another way.

10. Determining the Category for a Formal Process

- 10.1 The formal process for General Misconduct should be used if the Student Interest and Conflict Resolution Team or the Associate Director Student Living-Halls consider that it is not appropriate to deal with the complaint by using an alternative resolution process and the allegation relates to conduct that fits within the definitions set out in section 4.4 of the Student Conduct Statute.
- 10.2 The formal process for Serious Misconduct is reserved for the most serious allegations and will be used only when the allegation relates to conduct that fits within the definition set out in section 4.5 of the Student Conduct Statute.
- 10.3 If Serious Misconduct is suspected, the Student Interest and Conflict Resolution Team or Associate Director, Student Living Halls must consult with Legal Services by emailing Legal-Services@vuw.ac.nz.

11. Action after the Category of Misconduct is Decided

- 11.1 When a decision is made that the suspected General Misconduct requires a formal process, the Student Interest and Conflict Resolution Team or the Associate Director Student Living-Halls will refer the complaint to a decision-maker appointed from the list of decision-makers set out in Appendix 1 of the Student Conduct Statute. This does not preclude the Head of Hall in the area where the General Misconduct occurred from assuming the role of decision-maker in a formal process, if they are unbiased and have no pre-determined view of the matter.
- 11.2 When a decision is made that a complaint should be treated as suspected Serious Misconduct, the complaint must be referred to the Student Interest and Conflict Resolution Team. This is to ensure that a Disciplinary Committee is set up in accordance with Appendix 2 of the Student Conduct Statute, and that consideration is given to the best way to support all parties through the process.
- 11.3 All available information relevant to the complaint will be provided to the appointed decision-maker who will commence the relevant process in accordance with paragraph 12 below.

Note: The decision-maker in the Serious Misconduct category is the Disciplinary Committee.

12. Procedural requirements for a Formal Process once a decision-maker is appointed

- 12.1 To commence a formal process, the decision-maker must:
- (a) notify the student suspected of General Misconduct or Serious Misconduct in writing; and
 - (b) inform the student that the formal process will be used;
 - (c) set out a clear explanation of the allegations and the possible penalties;
 - (d) provide the student with all relevant information relating to the complaint; held by the decision-maker.

Note: where the release of any material could lead to adverse consequences for any person, the decision-maker should contact Legal Services for advice.

- (e) advise the student of the next steps and invite them to a meeting to discuss the matter;
 - (f) advise the student of their entitlement to representation and the advisory and support services offered by the VUWSA student advocacy service and of its contact details at advocate@vuwsa.org.nz;
 - (g) advise the student if anyone other than the decision-maker will be present at the meeting and in the case of a Serious Misconduct case, inform the student about the composition of the Disciplinary Committee.
- 12.2 To follow a fair process, a decision-maker must:
- (a) try to convene a meeting with the student as soon as practicable;

- (b) provide reasonable opportunity for the student to respond to the complaints either in person, in writing or by other appropriate means of communication such as audio-visual conference or teleconference; and
- (c) consider the student's response.

12.3 The decision-maker may:

- (a) seek additional information from the complainant, the student or from other parties and must put any information provided from other parties to the student for comment; and
- (b) seek advice from Student Interest and Conflict Resolution or Legal Services at any time throughout the process.

12.4 A decision-maker must determine:

- (a) whether General Misconduct or Serious Misconduct has been established on the balance of probabilities;
- (b) the appropriate outcome.

Note: If a process for the Serious Misconduct category is being followed, the decision-maker is entitled to make a finding of General Misconduct.

13. Imposing Outcomes

13.1 The possible outcomes for General Misconduct and Serious Misconduct are set out in section 8 of the Statute.

13.2 When General Misconduct or Serious Misconduct is established on the balance of probabilities, the decision-maker must consider how to

- (a) address harms; and
- (b) promote accountability and repair; and
- (c) address the needs of all parties (while ensuring that the well-being of the student facing outcomes under this Statute is considered).

13.3 If a finding of General Misconduct or Serious Misconduct is made, the decision-maker may seek further information from the Student Interest and Conflict Resolution Team before deciding the outcome to understand the impact of the behaviour and any barriers that need to be addressed to support the reintegration of the student to the University community.

13.4 If a finding of Serious Misconduct is made that is connected to behaviour within a Hall of Residence, the Disciplinary Committee, when considering potential outcomes, will take into account any report filed by the Associate Director Student Living-Halls regarding the suitability of the student to return to a Hall of Residence. Reintegration into a Hall of Residence will only take place when it is clear that any serious risk to the Hall community can be safely managed.

14. Notify Decision

- 14.1 Where the decision-maker determines that General Misconduct or Serious Misconduct has been established on the balance of probabilities, the decision-maker must, as soon as practicable, notify the student of that decision. Such notice must:
- (a) inform the student of the decision in writing, including reasons for the finding, and any outcome (if applicable); and
 - (b) advise the student that the finding of General Misconduct or Serious Misconduct will not appear on the student's academic record but that a record will be kept by the University; and
 - (c) advise the student that they have the right to appeal the decision in accordance with paragraph 15 below and/or consult the VUWSA student advocacy service; and
 - (d) include details about available University support services. (The timing of the decision being sent or advised should take into account the opening hours of student support services.)
- 14.2 The decision-maker, or a person appointed by the decision-maker, will advise the person who made the complaint whether or not the complaint was upheld.
- 14.3 The decision-maker may seek advice and guidance from the Student Interest and Conflict Resolution Team to ensure that the emotional well-being of the student and the person who made the complaint is considered at the time that the decision is communicated.
- 14.4 The decision-maker must ensure the General Misconduct or Serious Misconduct finding is recorded on the appropriate University record system.
- 14.5 If a decision-maker determines that General Misconduct or Serious Misconduct has not been established on the balance of probabilities, the decision-maker must
- (a) dismiss the matter; and
 - (b) advise the student in writing.
- 14.6 Notwithstanding the dismissal of the General Misconduct or Serious Misconduct allegations, nothing prevents a decision-maker from recommending in an advisory note that a student should undertake further education to strengthen the student's understanding of related issues.

15. Appeal Process

- 15.1 When a finding of General Misconduct or Serious Misconduct is made in a formal process the person against whom the finding is made can lodge an appeal.
- 15.2 The appeal against any finding made in a formal process must be submitted in accordance with the requirements below. The relevant Disciplinary Appeal Committees are set out in Appendix 2 of the Student Conduct Statute.
- 15.3 A student must:
- (a) submit an appeal related to a finding of General Misconduct or Serious Misconduct, or the imposition of outcomes by writing to the Convenor of the relevant Disciplinary Appeal Committee within 20 working days after receiving the letter notifying the outcome; and
 - (b) set out the reasons for their appeal in accordance with the grounds set out in paragraph 17.1 below; and

- (c) indicate in their submission whether they wish to appear in person in support of the appeal.
- 15.4 The Convenor of the relevant Disciplinary Appeal Committee may extend the timeframe if satisfied that there is a good reason why the appeal was not submitted within the specified timeframe.
- 15.5 Within 10 working days of receipt of an appeal, the Convenor of the appropriate Disciplinary Appeal Committee must respond in writing to the student and:
- (a) acknowledge receipt of the appeal; and
 - (b) outline the anticipated timeframe for the appeal; and
 - (c) advise the names of the committee members who will be determining the appeal.

16. Consideration of the appeal

- 16.1 Any Disciplinary Appeal Committee responsible for determining an appeal must review:
- (a) the evidence submitted to the decision-maker; and
 - (b) the decision.
- 16.2 The Disciplinary Appeal Committee may request:
- (a) any further evidence that is deemed relevant; and
 - (b) to meet the student appealing or other relevant parties; and
 - (c) to meet the decision-maker (or, where the decision-maker was the Disciplinary Committee, the Convenor of the Disciplinary Committee).
- 16.3 Where a meeting is arranged in accordance with paragraph 16.2(b) above:
- (a) any meetings with the parties must be held separately; and
 - (b) the parties may bring support persons who may speak on their behalf.

17. Decision on the appeal

- 17.1 The Disciplinary Appeal Committee must not allow an appeal unless satisfied that:
- (a) the decision was unfair because of some material defect in the procedure followed; or
 - (b) the decision was incorrect on the basis of:
 - (i) the information considered by the decision-maker; or
 - (ii) additional information not available to the decision-maker; or
 - (iii) additional information available to the decision-maker but not considered; or
 - (c) the penalty imposed by the decision-maker was manifestly excessive.
- 17.2 If the Disciplinary Appeal Committee decide that the appeal should be allowed because
- (a) the decision was unfair because of some material defect in the procedure, the Disciplinary Appeal Committee will set aside the decision and refer it back to the decision-maker;
 - (b) the decision was incorrect, the Disciplinary Appeal Committee will set aside the decision and substitute another decision;

- (c) the penalty was manifestly excessive, the Disciplinary Appeal Committee will set aside the penalty and substitute another penalty.
- 17.3 The Disciplinary Appeal Committee must provide written reasons for its decision to allow or not allow an appeal to:
- (a) the student appealing; and
- (b) the decision-maker.
- 17.4 The decision of the Disciplinary Appeal Committee is final.

18. External Complaints

- 18.1 A person who is not a member of the University community can provide information regarding suspected misconduct by a student to any staff member. The staff member will refer the information to Legal Services for consideration as to whether a complaint alleging misconduct should be made in accordance with the Student Conduct Statute and this Procedure.

19. Definitions

In this Procedure, unless the context otherwise requires:

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| Alternative Resolution Process | means informal process and in the context of General Misconduct means an adaptable resolution process in accordance with restorative principles or a Tikanga Māori process |
| Bullying | means repeated and unreasonable behaviour directed towards another person that is likely to lead to physical or mental harm |
| Complaint | means any report of possible General Misconduct |
| Decision-maker | means a decision-maker identified in Appendix 1 of the Student Conduct Statute |
| Delegated Authority Level | refer to Appendix 1 of the Delegations Statute |
| Disciplinary Appeal Committee | means a Disciplinary Appeals Committee convened in accordance with Appendix 2 of the Student Conduct Statute |
| Disciplinary Committee | means a Disciplinary Committee convened in accordance with Appendix 2 of the Student Conduct Statute |
| Facilitator | means any person responsible for managing an adaptable resolution process |
| Formal process | means a formal disciplinary process to determine if General Misconduct or Serious Misconduct has occurred |
| General Misconduct | has the meaning given in section 4.4 of the Student Conduct Statute |

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| Hall of Residence | means a hall of residence that is managed by or on behalf of the University or that has agreed for its residents to be covered by the Student Conduct Statute |
| Harassment | means intimidating, threatening, or degrading behaviour directed towards another member of the community that is likely to have a harmful effect on the recipient and includes repeated behaviour, but may be a single incident |
| Interim Action | means an interim process available where the criteria set out in paragraph 8 of this Procedure is met |
| Member of the University Community | means all staff members and students of the University, and any other person providing services to the University |
| Misconduct | has the meaning given in section 4 of the Student Conduct Statute |
| Senior Manager | means a Manager holding a Delegated Authority Level of 4 or higher |
| Serious Misconduct | has the meaning given in section 4.5 of the Student Conduct Statute |
| Sexual Harassment | has the meaning given in the Sexual Harassment Response Policy |
| Staff Member | means an employee of the University |
| Student | means any person enrolled in a personal course of study at the University, or a person who is studying at the University under an exchange agreement with another institution, and includes a resident in a Hall of Residence |
| University | Te Herenga Waka -Victoria University of Wellington |
| University Precincts | includes all premises, grounds and buildings owned by, in the possession of, or administered by the University (including Halls of Residence) |
| Urgent Removal | If a member of the community who is in charge of a class, activity, facility or hall of residence believes on reasonable grounds, that urgent removal of a student from the class, class, activity, facility or hall of residence is necessary because the student presents an unacceptable risk to the safety or well-being of the community, the person in charge can require the student to leave that area on a temporary basis |

Note: Any other term that is used in this Procedure that is also used and defined in the Student Conduct Statute will have the meaning given in that Statute.

Related Documents and Information

20. Related Documents

[Delegations Statute](#)
[Sexual Harassment Response Policy](#)
[Sexual Harassment Response Procedures](#)
[Student Conduct Statute](#)

21. Document Management and Control

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|----------------|------------------------------------|
| Approver | Provost |
| Approval Date | 25 July 2022 |
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| Policy Contact | Principal Adviser, Student Conduct |

Appendix 1: Alternative Resolution Process

1. Adaptable Resolution Process

- 1.1 The University recognises that each situation is unique and that there is no single way to try and repair harm and as such options for adaptable resolution of a complaint can include a range of pathways.
- 1.2 Any member of the University community can contact the Student Interest and Conflict Resolution Team for advice and support about using an adaptable resolution process.
- 1.3 The Student Interest and Conflict Resolution Team can assist with the appointment of an appropriate person to manage the adaptable resolution process on request. This may be a staff member trained in restorative practice or an external facilitator.
- 1.4 Options for adaptable resolution of a report or complaint can include:
 - (a) The person making the complaint addressing an issue themselves (with or without support of the Student Interest and Conflict Resolution Team including options for coaching or debriefing).
 - (b) Non-contact restorative conference- If bringing the parties together is not appropriate the trained staff member will meet separately with both the person who made the report, and the student who is the subject of the report. The purpose of this option is to enable a student to understand the perspective of the person who made the report. This could involve sharing information with the student outlining who was affected, how they were they affected, and what harm was caused. The parties will not need to meet directly. Agreement will be sought from the respective parties about what information the trained staff member facilitator can share with any other person.
 - (c) Restorative facilitated dialogue – The student who is the subject of the report agrees to participate in a discussion facilitated by a trained staff member together with any persons harmed, to understand what happened, how people were impacted with the aim of developing a shared agreement of how to repair the harm and prevent future harm . The participants work together to develop an agreement that meets the needs of all the people impacted.
 - (d) Sharing Impact Statements – The person reporting the Misconduct may choose to compose an impact statement describing their experience and resultant impact that the alleged harm has had on them. The person making the report can decide in what manner they feel comfortable sharing the statement with the student suspected of Misconduct, such as in-person, in writing, or via recording. The statement would be shared with the student who must be given an opportunity to debrief about the contents of the statement. The student will have an opportunity at the end of the meeting to provide any response to the report and potentially provide a response impact statement of their own. The Student Interest and Conflict Resolution Team will work alongside the person who made the report and the student who is the subject of the report to arrange the communication of the impact statements.
 - (e) Inter-personal skill-building – The trained staff member will meet with the student who is the subject of the report. Agreement is reached for individual one on one sessions with the person who is suspected of Misconduct and a trained staff member. The sessions are designed to create a space for those who have engaged in harmful behaviour to examine their behaviour and receive contextual information surrounding it with the goal of effecting behaviour change, skill-building, and self-reflection. This

option can be stand-alone or an outcome which flows from any of the other adaptable resolution processes

- 1.5 Procedure following a request for adaptable resolution
 - (a) Where a complaint has been received and there is a possibility of using an adaptable resolution process the person who is managing the process must:
 - (i) notify the student in writing (email) that a complaint has been received and invite them to a meeting (in person or virtual) to discuss the matter as soon as practicable; and
 - (ii) the notification must outline the content of the complaint about their conduct; and
 - (iii) advise that the purpose of the meeting is to discuss whether an adaptable resolution process may be appropriate; and
 - (iv) advise the student that the process is voluntary and can be adjusted based on their willingness to participate; and
 - (v) advise the student that they can bring a support person of their choice to the meeting and that they are entitled to access the advisory and support services offered by the VUWSA student advocacy service including the contact details: advocate@vuwsa.org.nz; and
 - (vi) a copy of the Student Conduct Statute and General Misconduct Procedure should be sent with the email or the letter.
 - (b) Before taking any further steps the facilitator must get the agreement both the person who made the complaint, and the student to participate in an adaptable resolution process.
- 1.6 No formal process will be commenced while an adaptable resolution process is being completed.
- 1.7 If the adaptable resolution process concludes with an agreed resolution, no further action will be taken except that the facilitator or nominee will monitor any agreements that are reached. A copy of the agreement will be retained confidentially by the Student Interest and Conflict Resolution Team or the Head of Hall.
- 1.8 If the adaptable resolution process does not reach an agreed resolution, then the matter will be referred by the facilitator back to the Student Interest and Conflict Resolution Team or Head of Hall, who will consider whether a formal process would be appropriate as set out in paragraph 10 below.
- 1.9 Adaptable resolution processes are confidential, and the information shared during the process cannot be used in a formal complaint process.
- 1.10 Outcomes which may be agreed to as part of the adaptable resolution process include:
 - (a) A written or verbal apology
 - (b) Agreement not to engage in certain behaviour
 - (c) Education Sessions – Consisting of an individualised mentoring session focused on specialised needs i.e. alcohol education concerning the impact of consumption levels on a person’s decision-making ability, consent, education, and understanding of respectful relationships
 - (d) Regular check in meetings with an appropriate staff member i.e. the Student Interest and Conflict Resolution Team or a Head of Hall

- (e) Restriction from participation in specific clubs and/or activities
- (f) Restriction from participation in particular events or classes
- (g) Completion of an individualised plan supported by regular meetings with the Student Interest and Conflict Resolution team
- (h) Community Service
- (i) Transfer to different accommodation
- (j) Withdrawal from a hall of residence

This list is not intended to be exhaustive. All outcomes are voluntary and must be related to the harm experienced and be fair and proportionate to the circumstances. Before options (i) or (j) are implemented a student should be reminded of the service of the VUWSA advocate or the right to independent representation.

2. Tikanga Māori

- 2.1 The University is committed to acknowledging Te Tiriti o Waitangi by working in partnership with Māori. The spirit of tikanga is to seek resolutions to alleged Misconduct, disputes and complaints in a manner that encourages a facilitated open exchange of views with a view to seeking consensus and acceptance from all parties as to the resolution.
- 2.2 The Tikanga Māori Process is an alternative process to the formal process outlined in these Procedures. Parties who agree to and participate in a Tikanga Māori Process cannot then revert to the formal process. Conversely, matters dealt with through a formal process cannot then be formally addressed through a Tikanga Māori Process.
- 2.3 For the purposes of the Student Conduct Statute, tikanga comprises at least the following elements:
 - (a) Resolution of the matter will take place within Te Tumu Herenga Waka (or approved alternative venue if required).
 - (b) Te reo Māori will be used and statements will also be repeated in English or an interpreter will be provided if this is necessary to ensure that all the parties have a clear understanding of what is being communicated.
 - (c) The process will be facilitated by the Tumu Ahurei (or nominee).
 - (d) All parties have the right at their discretion to be supported by whānau.
 - (e) Where possible, decisions in respect of a matter will be negotiated by the parties.
 - (f) Where consensus is unable to be reached, the decision shall be made by the Tumu Ahurei (or nominee). The decision may include, but is not limited to, any of the outcomes provided for in the Student Conduct Statute.
- 2.4 Other remedies or outcomes may include:
 - (a) Undertaking to the respondent's whānau and Te Whānau o Te Herenga Waka that the Misconduct will not recur.
 - (b) Reparation as agreed between the parties.
 - (c) Undertaking to participate in further hui to heal relationships.
 - (d) Undertaking to attend coaching or training sessions.

Note: Parties who are not familiar with tikanga may find that the concept of confidentiality is treated differently from other processes, in that more people are usually involved in working together to reach a resolution. In addition, the discussion is not limited to the matter of the alleged Misconduct, complaint or dispute. Other matters, past and present, may be raised and discussed.

Procedure Following A Request for Tikanga Māori Process

- 2.5 If the person making the complaint has requested the Tikanga Māori Process, a manager in the area where the alleged Misconduct occurred (or nominee) will:
- (a) Meet with the Tumu Ahurei (or nominee) to discuss the appropriateness of applying the Tikanga Māori Process to the matter. If considered appropriate, agree on the process including the participants in that process, speaking rights and the procedure to be followed.
 - (b) Advise the student, in writing, that a complaint has been received, the details of the specific alleged Misconduct, and that the Tikanga Māori Process has been requested by the person who made the complaint as the resolution process. Supporting documentation will include copies of the complaint, any other relevant documentation (e.g. witness statements) and information about the Tikanga Māori Process.
 - (c) Seek the student's agreement to the application of the Tikanga Māori process. If necessary, arrange to meet with the student and their representative or support person to discuss. A member of the Student Interest and Conflict Resolution Team will attend this meeting and the Manager may request that the Tumu Ahurei also attend.
- 2.6 If a student suspected of Misconduct or Serious Misconduct has requested the Tikanga Māori Process, a Manager in the area where the alleged General Misconduct occurred (or nominee) will:
- (a) meet with the Tumu Ahurei to consider the student's request;
 - (b) advise the person who made the complaint of the student's request and seek their agreement. If necessary, arrange to meet with the person who made the complaint and their representative or support person to discuss. A member of the Student Interest and Conflict Resolution Team will attend this meeting, and the Tumu Ahurei may also attend;
 - (c) advise the person who made the complaint, the student and the Tumu Ahurei of the agreement or non-agreement of the relevant parties.
- 2.7 Where there is agreement, the Tumu Ahurei must be satisfied that all parties are sufficiently aware of tikanga before finally agreeing that the process will proceed.
- 2.8 When the process has been agreed the Manager will:
- (a) notify key participants (other than the person who made the complaint and the student) of the process and procedure to be followed; and
 - (b) advise them of their right to have whānau present; and
 - (c) in conjunction with the Tumu Ahurei, arrange a suitable time for the resolution process.

Note: This may be outside normal working hours to accommodate all parties and their whanau. The time commitment will vary.

- 2.9 Where there is no agreement to follow the Tikanga Māori process, another process under the General Misconduct Procedure will be followed. The matter will be referred back to the Student Interest and Conflict Resolution Team or the Head of Hall.

Outcome of Tikanga Māori Process

- 2.10 Once a decision is made, either by consensus or by the Tumu Ahurei, the Manager will confirm this decision, in writing, to the student.