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STUDENT MISCONDUCT PROCEDURES (SMP)

1. Purpose

1. Students are expected to conduct themselves in a manner consistent with Cromwell College’s values, the general standards of behaviour recorded in the Cromwell College’s Code of Conduct and this procedural document.
2. The standards of behaviour and stance taken by the college on misconduct are intended to promote and foster a safe environment for members of the college community.
3. This procedure governs how allegations of misconduct against students at the college are reported, investigated, heard and determined, and the outcomes that may be imposed.

2. Scope

This procedural document applies to any student enrolled as a resident of the college.


3. Investigation and Decision Principles

When investigating all complaints, the college will ensure that:

- a. Natural justice is provided. All parties involved in the complaint will have an opportunity to be heard and the decision maker(s) will be independent of the parties;

In assisting the complainant, the College will work to ensure that the principles of natural justice are maintained for the complainant and the accused. It will work to ensure a safe and well-supported environment in which the complainant may seek redress. It will assist the complainant to engage, as appropriate, with the University, the Police, medical and external counselling services;

The College will not make a decision that could adversely affect either party unless it has given that party an opportunity to present their case;

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The decision-maker will not be biased towards a party or have a conflict of interest in the complaint;

The College aims to maintain the confidentiality of complainants and respondents;


In order to enable effective resolution of the complaint and to prevent gossip, rumour and interference by persons not involved in the complaint, the College will inform all complainants and respondents of the need for them also to maintain confidentiality.

- b. All allegations are proven on the balance of probabilities;
- c. Multiple misconduct matters will be dealt with simultaneously rather than separately
- d. Compassionate grounds or mitigating factors may be taken into account when making decisions or determining sanctions. This may include whether a student voluntarily owns up to their involvement in a misdemeanour; expresses genuine remorse; their behaviour was out of character; they were involved in a first time offence; or they engaged in misconduct in response to sustained bullying or other forms of intimidation, humiliation, or offensive conduct by another. However, it should be noted that:
 - Compassionate grounds and mitigating factors do not apply to sexual violence or other sexual misconduct cases;
 - Ignorance of the SMP, the law, or your enrolling universities policies are never an excuse.
 - Being under the influence of alcohol and / or illicit drugs is not an excuse
 - Participating in unsanctioned college traditions is not an excuse

4. Types of Misconduct

A breach of the College's Student Misconduct Policy (SMP) may be at a High, Mid or Low level:

1. Low Level – examples include:

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Any contravention of the SMP or College's Code of Conduct which is deemed to be not a Major or Mid-level breach and may include:


- Smoking or vaping on College property
- Removing crockery and cutlery from the dining room without a valid reason
- Repeatedly leaving an external door open
- Being disrespectful to a Resident Assistant (RA) or Students' Association Executive Member
- Removing late meals from the late meals fridge that haven't been ordered by the student
- Alcohol consumption that compromises the health and well-being of self and others
- Not notifying the Deputy Principal of reduced course loads
- Regularly failing to attend meetings scheduled with Senior Management.

Outcomes

- i. Low-level misconduct will be investigated and reviewed by the Deputy Principal and / or Dean of Students and may result in one or more outcomes listed in Section 7 and 8.
- ii. The outcomes of all misconduct investigations will be confirmed in writing, with a copy placed on the student's file and a copy, at the discretion of the college, sent to the student's parent/ guardian.

2. Mid-Level – examples include:

- a. Repeated and wilful contraventions of any behaviour(s) not categorised as a High Level breach;
- b. Refusing to comply with a lawful and reasonable direction by the Principal, a College staff member who is not also a student at the college, a College contractor in the course of their provision of service to the college, or an officer of the emergency services;
- c. Withholding relevant information or providing false or misleading information in a complaint or disciplinary investigation

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- d. Underage Drinking, or being in possession of alcohol as a minor
- e. Repeated incidents of alcohol consumption that compromises the health and well-being of self and others
- f. Accessing the roof of any Cromwell building
- g. Accessing another student's locked room with a fob for an inappropriate purpose or without their permission
- h. Urinating in public
- i. Engaging in inappropriate external employment or activities
- j. Public nudity whether within or outside the College grounds
- k. Wilfully setting off an alarm
- l. Excessive and/or repeated disruption to the learning of others during educational activities conducted by the College.
- m. The circulation of inappropriate videos/ texts
- n. Use of cameras, including mobile phone cameras, in ways that violate the privacy of others
- o. Bullying and verbal abuse
- p. Publication, whether in print or electronically, of documents or statements that are disparaging, disrespectful misleading or untrue
- q. Spreading innuendo, gossip, or rumour
- r. Blocking or tampering with CCTV cameras or fire alarms
- s. Activities that involve coercion, hazing or are deemed non-consensual (by word or behaviour) e.g., initiation activities
- t. Wilful damage to personal and / or College property and / or resources
- u. Greater than three Low Level sanctions within a calendar year

Outcomes

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- i. Mid-level misconduct will be investigated and reviewed by the Deputy Principal and / or Dean of Students and may result in one or more outcomes listed in Section 7 and 8.
- ii. The outcomes of an investigation will be confirmed in writing, with a copy placed on the student's file and a copy, at the discretion of the college, sent to the student's parent/ guardian.

3. High Level – examples include:

- a) Any behaviour that would constitute a crime under state or Federal law e.g. crimes and sex offences
- b) Any misconduct that is deemed to be a risk to the College, bring the College's name into disrepute and / or compromise the safety and well-being of self, and others.
- c) Any breach of the College's code of conduct, policies or procedures where:
 - The misconduct causes serious and imminent risk to the health and safety of another person; or
 - Seriously damages the property or reputation of the college;

Examples of behaviour that might amount to serious misconduct or criminal behaviour include, but are not limited to:

- Assault or physical violence;
- Extortion;
- Serious or repeated bullying, sexual harassment, discrimination, vilification or victimisation;
- Use or sale of illicit drugs;
- Threats to kill or inflict serious injury;
- Sexual offences;
- Sexual Assault;
- Sexting;

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- Stalking a person;
 - Using technology to menace, harass or cause offence to a person;
 - Abuse of a position of power or responsibility within the College; or
 - Theft, dishonesty or fraud.
- d) Any misconduct resulting in expulsion/ exclusion from the university you are enrolled in; or
- e) Failing to report to the college any sanctions or suspensions from the university you are enrolled associated with academic misconduct

Outcomes

In all instances of high level misconduct, the impact of the misconduct on Cromwell College’s reputation, the safety and well-being of the student/s involved and student body as a whole, as well as natural justice, will underpin the process of the investigation and outcome.

- i. The investigation of high-level misconduct may involve investigations being undertaken by agencies outside the college such as the university or police.
- ii. In all cases involving high-level misconduct a review of the students’ college enrolment and/or disciplinary outcomes will be undertaken by all members of Senior Management.
- iii. Any suspension or enrolment termination will be reported to the Chairperson of the Board.
- iv. The outcomes of an investigation will be confirmed in writing, with a copy placed on the student’s file and a copy, at the discretion of the college, sent to the student’s parent/ guardian.

5. Complaints

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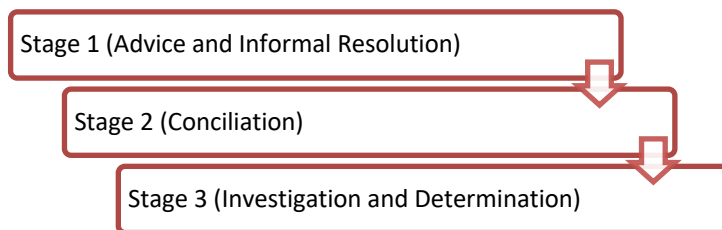
Complaints or behavioural conduct concerns may be received from a variety of sources:

- Staff observation
- Student observation
- Formal staff or student complaints
- Reports from a third party e.g. university or member of the general public

Where a resident is aggrieved by the actions of another person at the college, or perceives that unlawful discrimination, vilification, sexual harassment, bullying, victimisation or serious misconduct or criminal behaviour has occurred they should seek assistance from an RA or staff member. Where practicable, complainants should maintain and have available accurate records of the alleged conduct, including the time and place of the alleged incident(s) and the names of any witness(es).

6. Steps Investigations and Decisions

There are three stages to the Complaints Procedure:




The stages will generally, although not always, be undertaken in progression. However, in certain circumstances, it may be appropriate to skip one or more of the stages.

The processes to be applied in any particular matter are reserved to the absolute discretion of the College.

If the Police become involved in a particular complaint, the College may adapt these procedures or wait for the outcome of the criminal investigation as appropriate in the circumstances.

Stage 1 (Advice and Informal Resolution)

The aim of Stage 1 is to clarify the concern as perceived by the complainant or respondent and to facilitate informal resolution. Individuals who have a concern should consult their RA or another senior member of staff.

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Stage 2 (Conciliation)

Stage 2 is about conciliation, a process in which a neutral third party (the conciliator) attempts to assist the parties to resolve the complaint through a mutually accepted agreement. The conciliator may be a senior staff member of the College or an independent external party.


Stage 3 (Investigation and Determination)

Stage 3 is about investigating a complaint and making determinations based on the investigation. A complainant, respondent, or the College, may refer a complaint for an investigation.

7. Potential outcomes from an investigation

Potential outcomes from an investigation will depend on the Level of the behavioural concern but could include the following:

- A finding that the complaint was not substantiated;
- A finding that the complaint was substantiated or substantiated in part;
- Referral to other support services;
- Counselling;
- Further monitoring of the situation;
- Requiring a statement of regret or apology, where appropriate;
- Requirement to change processes or procedures;
- Disciplinary action. This may include (amongst other things):
 - suspension or termination of a student’s enrolment at the College;
 - a student’s enrolment for the following year not being renewed
 - monetary sanctions;
 - rejection of applications for employment or engagement with the College;
 - non-admission or conditional admission of new residents to the College;
 - the imposition of conditions on continued residence of the College;
 - termination of employment or engagement with the College.

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8. Types of Sanctions

The type of sanction imposed will depend upon the Level of the breach and the nature of the misdemeanour and recent behavioural history.

a. Low Level (one or more of the following may apply)

- A letter of warning is issued
- A request is made to issue a written or oral apology to a student, staff member, contractor or member of the public
- A fine needs to be paid
- Compensation is required to be paid to the College or another resident for the cost of cleaning, repairing or replacing property that a person has damaged, lost or stolen
- Where applicable, a requirement to attend a course, counselling or training session
- Undertaking community service for a period of time
- A suspension from the college for a period of time as determined by the Principal
- Any other course of action that is deemed reasonable
- Regular meetings with one or more members of Senior Management


b. High and Mid-Level

- Any of the above sanctions for Low Level misconduct
- A suspension from the college for a period of time
- Possible termination of a student's enrolment at college

9. Monetary Sanctions

The maximum fines, which may be applied together with other sanctions, are:

- \$50 for a student car park infringement
- \$100 for smoking or vaping on college grounds,
- \$250 for interfering with security or fire protection equipment and devices; propping open a fire door or inappropriate use of a fire hose.
- \$1500 for sounding a fire alarm other than by accident or where there is a perceived emergency;
- \$100 for the cleaning up, and sanitising, of vomit spills during business hours (8:00 am – 4:00pm, Monday to Friday)
- \$200 for the cleaning up, and sanitising, of vomit spills outside of business hours (4:00pm – 8:00am, Monday to Friday and the weekend) or Public Holidays.

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10. Enforcement of Sanctions

- Students who have their enrolment terminated must leave College by the specified date and not return to the College, or attend any events associated with the College for a period determined by the Principal.
- Students who are suspended must leave College by the specified date and not return to the College, or attend any events associated with the College during the period of suspension.
- If students refuse to pay a fine or compensation, or if it is unlikely they will pay the fine or compensation before departing the College, the Students' Association will be responsible for the payment of the fine.
- If students refuse to comply with a request to apologise, attend a course, counselling or take other reasonable action, they will be deemed to not comply with a reasonable direction. This would qualify as Mid-Level misconduct, and provides for escalated sanctions including suspension from college, for a period of time, or the termination of a student's enrolment.

11. Documentation

Some information in this procedural statement is drawn from, or referenced in, the following documents:

- Colleges – Policies and Guidelines (2019)
- Cromwell College Code of Conduct
- POL-S12-PO1 Sexual Assault and Misconduct Policy
- POL-S12 -PO2 Sexual Assault and Harassment – Procedures for Students
- POL-S14 Student Conduct Policy
- Investigation and Decision Steps - 2023