

# Guidance on group panels and evidence sharing in cases of student collusion

## Guidance

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## 1 Group panels in cases of student collusion

1. If the allegation is that a group of students acted together, UCL can hold group disciplinary investigations for collusion. UCL can also hold group disciplinary investigations for other instances of misconduct where the alleged misconduct is founded on the same facts. This is subject to ensuring UCL conducts these investigations in accordance with the rules of fairness/natural justice i.e. the right of each accused student:
  - to know the case against them; and
  - to be afforded a reasonable opportunity to defend themselves
2. In order to manage these group disciplinary investigations compliantly, UCL needs to ensure that such investigations comply with the following steps in practice:
  - a) **Student specific decision** – While investigations can be carried out with multiple students, each student's guilt must be determined solely on the basis of the allegation and evidence against them as an individual (not as part of a collective).
    - Panels in joint hearings must take care to consider evidence in relation to each particular allegation and the particular student to which it relates.
  - b) **Investigation Interviews** – The most effective way of conducting investigations into collusion is by having individual, rather than group, investigative interviews. This approach means that UCL needs to ensure that each student's account is

put to the other students and their responses are incorporated into the final witness statements and investigation report.

- c) **Why this approach?** Interviews conducted collectively allow each student to modify their initial account in accordance with what the other students have already said in the same interview. It may therefore be more difficult to establish the facts on which the case may be based. Individual interviews, on the other hand, afford the investigator a greater opportunity to identify inconsistencies in the accounts and ultimately to form a view on whether there is sufficient evidence to proceed to a hearing.
- Disciplinary proceedings are usually confidential and one student's case is not normally disclosed to another except where that other student is a witness. Disclosure in those circumstances is limited to what is necessary in order to obtain the relevant evidence from that witness, who has no further involvement in the disciplinary process. In collusion cases on the other hand, each suspected party to the collusion is both accused and witness, and the confidentiality that obtains in ordinary disciplinary processes cannot be maintained in its totality in collusion proceedings, if the duty of fairness is to be discharged. Students suspected of collusion cannot therefore reasonably expect the same level of confidentiality that would obtain in disciplinary proceedings not involving group misconduct.
  - All of the students suspected of collusion should be given an equal opportunity to respond to the allegations in the course of the investigation.
  - Individual students' accounts should be put to the other students for comment, particularly where they are contradictory, and those comments or any consequent amendments to the student's account should be incorporated into the investigation report provided to the students and to the panel before the hearing. This may require second investigatory interviews to be conducted with each student.
- d) **Evidence** – As set out further in Section 2 - Evidence sharing in cases of student collusion, it is appropriate for each accused student to see the work of the other alleged parties to the collusion, in order to understand the extent and nature of the case against them and be able to rebut the charges.
- Each student will also need to know the other students' version of events, which will be relevant to each student's defence.
  - make it clear that the other students' work is confidential and may be used only by the students in relation to the current disciplinary proceedings and in relation to any appeal/complaint/legal proceedings and for no other purposes. Consider warning of further disciplinary action for improper use; and
  - redact any material in the investigation report that is relevant to one party but is clearly not relevant to the other parties when circulating that report to the other parties (this is unlikely to occur frequently, given the close connection between the parties in cases of suspected collusion).

- e) **Mitigating Circumstances** – Mitigating circumstances from an individual should be considered confidentially and not shared with the other students involved.
- Students should have the opportunity to make individual representations on mitigation in private to the panel without the other students being present, following a finding of guilt/misconduct.
  - Mitigating circumstances will usually be specific to the individual student and in those circumstances, it would be disproportionate to permit the other students to hear, or have access to, that information.
- f) **Outcome/Decision Issued – Individual Specific – Personalise decision letters** - Decision letters should be sent separately to each accused student setting out the reasons why there is a finding of guilt/misconduct specifically in relation to that particular person.
- There will very likely be duplication and cross referencing to the other parties and to the findings in relation to them, without which it would not be possible to provide a properly reasoned decision. It is important however for the decision letter to demonstrate that the panel applied its collective mind to each individual’s circumstances and to their representations in their own defence.
  - Details of any mitigating circumstances taken into account in deciding the level of penalty should only be referred to in the letter to the student to whom they applied.
- g) **Disclosing penalties to other accused persons in the same collusion investigation?** – The standard position is that penalties are confidential to the particular individual, but, in the interests of transparency, UCL could chose to provide the range of penalties imposed on the other accused persons in the same collusion investigation that was a single hearing. letters should be sent separately to each accused student setting out the reasons why there is a finding of guilt/misconduct specifically in relation to that particular person.
- Where there are multiple, guilty parties, with different penalties, the panel could fulfil the interests of transparency by indicating the range of penalties imposed, when mitigating circumstances were taken into consideration but without revealing what those circumstances are.
  - Where there are only two students, the penalties could still be disclosed, but not the specific mitigating circumstances, (even though this would reveal the actual penalties imposed on the other individual).

## 2 Evidence sharing in cases of student collusion

1. The basic principle that guides UCL when dealing with any misconduct is fairness/natural justice i.e. the right of each accused student:
  - to know the case against them; and

- to be afforded a reasonable opportunity to defend themselves
2. Any disciplinary panel is required to consider the evidence against all accused students in a misconduct investigation into collusion. UCL would be unable to discharge the duties set out above in any disciplinary case without providing all of the accused students with the evidence on which UCL intends to rely to make its case against each one. In allegations of collusion, that evidence will inevitably be the specific work which has given rise to the allegation of collusion and hence the work of all the students for whom there is a case to answer. One accused student will need to see the work of the other suspected party to the collusion in order to understand the extent and nature of the case against them and to be able to rebut the charges.
  3. Usually, students' academic work is confidential and is not disclosed by UCL to other students. However, confidentiality is not an absolute duty on the university and is subject to the public interest. In this case, collusion is a form of dishonesty and UCL is justified in breaching confidentiality in so far as it is necessary to do so to detect and penalise dishonesty by means of a fair disciplinary process, and to protect the integrity of UCL's awards. For the reasons outlined above, breaching confidentiality is usually justifiable in allegations of collusion.
  4. Academic work is likely to amount to personal data relating to the student who authored it and therefore disclosure to the other accused students must have a lawful basis in accordance with GDPR (Art 6) justifying the disclosure. In the circumstances, that justification would be likely to be public interest (Art 6 (1)(e)), for the reasons already outlined in relation to confidentiality. In cases of suspected collusion, one student's work will be inextricably linked to the work of the other party/parties to the collusion and, as already indicated above, in order fairly to consider the charges, each student must have access to all of the evidence which is relevant to their case for a fair disposal of that case.
  5. Disclosure of personal data must also be proportionate (i.e. relevant and not excessive). If there is material that is obviously not relevant to the proceedings and UCL has no intention to rely on it in making its case, then it should not be included in the evidence bundle.
  6. The practical steps that could be taken are as follows:
    - make clear to each student the confidential nature of the proceedings (except of course for the purpose of seeking advice and support in relation to the proceedings);
    - make clear that the other students' work is confidential and may be used by the students in relation to the current disciplinary proceedings and in relation to any appeal/complaint/legal proceedings and for no other purposes. You could warn them that improper use may lead to further disciplinary action
    - ensure all of the information to be disclosed to accused students is required in order to ensure each student understands the evidence on which UCL will consider and decide on the case (to give students a

reasonable opportunity to defend themselves pursuant to natural justice considerations)

- ensure that any irrelevant material is either removed or redacted. For example, removing a document that will not be examined by the panel or a scenario might be that students are accused of different types of misconduct and so where the information might be irrelevant to that particular student's alleged misconduct, it should be removed.

### 3 Sensitive Information

1. The above is on the assumption that no misconduct panel on collusion would be handling more sensitive types of personal data, special categories of personal data (information concerning health data, racial/ethnic origins, religious/philosophical beliefs, political opinions, trade union membership, sexual orientation or sex life) or criminal offence data. If this type of data is involved, seek further assistance from [academicregulations@ucl.ac.uk](mailto:academicregulations@ucl.ac.uk).