University Residences Misconduct Procedure

Section 1 - Introduction

(1) The University established residential facilities and services in 1985 to accommodate the expanding student population and growth at the University. In recent years, this has expanded to include accommodation facilities at Alice Springs campus and Katherine campus. Each residential complex houses a diverse mix of students from various socio-cultural backgrounds and encourages living in harmony and being academically and socially successful.

(2) The University aims to provide a safe and secure residential community environment, which is conducive to academic achievement, intellectual enquiry and the social, cultural and intellectual development of all residents and promotes high standards of personal conduct and behaviour of its students. These procedures, in conjunction with the Charles Darwin University (Student Residences) By-Laws, are to manage the conduct of residents and guests within a University residence and/or facilities or in an organised residential activity.

Section 2 - Compliance

(3) This is a compliance requirement under the Charles Darwin University (Student Residences) By-Laws.

Section 3 - Intent

(4) This document provides a consistent and transparent set of procedures for resolving allegations of incidents of resident misconduct.

Section 4 - Relevant Definitions

(5) In the context of this document:

a. Authorised Officer means any member of University staff, who may, acting within the authority of their position, give a reasonable direction to a student with regard to the student's conduct;
b. Counselling means a process to discuss concerns and obligations and to devise strategies to meet them;
c. Exclusion means a student is denied participation in an activity, event or the access to or use of the University's residential services or facilities for a specified period of time;
d. Expulsion means an immediate and permanent termination of a person's entitlement to reside at or visit or use the University's residential services or facilities on disciplinary grounds where, because of the serious or repeated nature of the offence, a penalty greater than suspension or exclusion is called for. Expulsion is the strongest penalty that can be applied by the Residence Manager and may be applied in the case of a breach of disciplinary probation;
e. Misconduct means behaviour and conduct contrary to those, which are acceptable by the University, defined in the University Residences Code of Conduct;
f. Procedural Fairness (also called "natural justice") means the basic principles considered central to fair decision making and which can be summarised as follows:

g. The opportunity for all parties to be heard;
h. The respondent having full knowledge of the nature and substance of the grievance;
i. The right to an independent, unbiased decision maker;
j. A decision based solely on the evidence provided;
k. Request for Review means a request to the Vice-Chancellor for a review of a decision by the Residence Manager;
l. Residence Manager means the Residence Manager as defined in the Charles Darwin University (Student Residences) By-laws;
m. Resident means a student of the University or other person who is residing in a University residence from time to time as defined in the Charles Darwin University (Student Residences) By-laws;
n. Senior Executive means a staff member of the University holding the position of Vice-Chancellor, Provost, Deputy Vice-Chancellor, Pro Vice-Chancellor or Chief Financial Officer or equivalent;
o. Senior Manager means a staff member of the University holding the position of Director, College Dean or Head of School or equivalent;
p. Special Circumstance means a situation, which is an exception to the general rule, is beyond the student's control, is not reasonably foreseeable and which prevents the student from engaging in a University activity such as accepting an international offer of a place, withdrawing from a unit prior to census date or cut-off date, completing the requirements for an unit of study or attending a scheduled examination. Examples may include sudden illness or disability; loss of employment; an inability to obtain a student visa; death of the student or a close family member (parent, sibling, spouse or child); natural catastrophe; or a political or civil uprising;
q. Student Conduct means the expected standards of student behaviour and conduct, as contained in the University Residences Code of Conduct;
r. Student representative means a currently enrolled student of the University who is a representative of peers on student related matters of the University;
s. Support person means someone who provides practical or emotional assistance to another person. A support person does not provide evidence or advocate on the persons behalf;
t. Suspension means preclusion from taking further part in all University residence activities for a specific period as a result of disciplinary action taken under the University's governing legislation;
u. University activity means resident involvement, engagement or representation of the University residence in any physical or virtual activity, game, competition, event, including a club or entity affiliated or associated with the University or residence;
v. University facilities means any premises, physical or virtual, for the time being used for the purposes, or under the auspices, of the University;
w. University residence means any hall or residence or accommodation facility established or provided by the University from time to time; and
x. Vexatious means an allegation that is instituted maliciously or based on improper motives intended to harass or annoy; and
y. University community means officials and individuals carrying out University business. This includes, but is not limited to, all staff members, researchers, peer reviewers, students, volunteers, consultants, agents and contractors.

Section 5 - Procedures

(6) Residents have an obligation to conduct themselves in a manner that is civil and compatible with the University's purpose as an educational institution. In a multicultural living and learning community, wilful disruption of the quiet enjoyment of others, destruction of property, and interference with the orderly process of the University, or with the rights of other members of the University, cannot be tolerated.

(7) In order to fulfil its functions of imparting and gaining knowledge, the University has the authority and responsibility to maintain order within the University and to penalise or exclude those who are disruptive. Events that constitute misconduct by residents are defined in the Charles Darwin University (Student Conduct) By-Laws and the University Residences Code of Conduct.

(8) All members of the University community share the responsibility for appropriate conduct and reputation of the University.

(9) Every resident has a duty to understand and abide by University's governing documents. Ignorance will not be an acceptable reason to find a resident not responsible.

(10) Staff members are empowered to maintain the proper order and good conduct of residents who may be using University residences, facilities and services or participating in teaching or University related activities.

Handling Unacceptable Behaviour

(11) The existence of the Student Residences Misconduct Procedures does not mean that staff members must use these Procedures to deal with all cases of unacceptable behaviour on the part of the resident.

(12) Staff members are empowered to request a resident involved in disorderly or undesirable conduct that impedes the normal functioning of the University's residential services, facilities or activities to stop and/or leave the activity or the facility.

(13) Staff members are permitted to:

a. direct a resident to stop the behaviour and/or leave the location of the activity or facility where the unacceptable behaviour is occurring;
b. refuse to deal with the resident (for example, leave the counter, terminate the phone call, terminate the meeting) until the resident has changed his or her behaviour;
c. warn the resident that they may be charged with misconduct if they do not change their behaviour; and
d. call a supervisor, another staff member or security for assistance in managing the situation.

(14) Where residents refuse to comply with a request to leave a residence, activity, facility and service or other University related activity, staff members are advised to contact Security for further assistance.

(15) Where a resident's behaviour does not exhibit positive change following the request by the staff member, or alternatively, in the opinion of the staff member, the alleged incident of misconduct requires a higher level of response, the matter should be referred to the Residence Manager. The referral may be in person, by telephone, in writing or by e-mail.

(16) Matters of a serious nature must be responded to immediately by calling Security and/or the Police depending on the resident's location. In volatile, dangerous or unstable situations, it may be necessary to seek an interim suspension of a resident to avert:

a. threat of/or injury to the resident and/or others;
b. threat or risk of self-harm;
c. damage to property; and
d. serious disruption of a University activity.

Managing Misconduct

(17) All staff members involved in a residence misconduct situation must abide by the rules of procedural fairness and

confidentiality at all times.

(18) The Residence Manager or nominee is responsible for managing incidents and allegations of resident misconduct and imposing financial penalties in accordance with the University Residences Code of Conduct. All penalties are implemented through the authority of the Residence Manager.

(19) Based on the information provided, the Residence Manager should immediately conduct preliminary investigations in order to decide whether to proceed with a misconduct allegation. The Residence Manager may seek information from other persons who may have been involved in the situation or witnessed the incident and meet with the resident to give him or her, an opportunity to respond.

(20) Where there is not sufficient evidence that misconduct occurred, the allegation will be dismissed and no further action will be taken.

(21) Where the Residence Manager is satisfied that it is appropriate, or required in the circumstances, to counsel the student and not to proceed with an allegation of misconduct, the Residence Manager will warn the resident that the conduct was unacceptable and that a recurrence may result in a financial penalty or possibly eviction. This advice should be formally conveyed to the resident in writing or by e-mail.

(22) Where the Residence Manager is satisfied that it is appropriate, or required in the circumstances, the Residence Manager may impose a monetary penalty up to four (4) penalty units.

(23) Where the Residence Manager is satisfied that it is appropriate, or required in the circumstances to proceed with an allegation of misconduct, the Residence Manager will instruct the Coordinator Resident Services to conduct a review of the incident and prepare a report including any evidence pertinent to the matter.

Review by the Coordinator Resident Services

(24) The resident who is the subject of the allegation of misconduct, will be notified in writing or by e-mail (in the case of short term residents this may be via phone) of the allegation of misconduct determined under the Charles Darwin University (Student Residences) By-Laws by the Coordinator Resident Services specifying the place, date and time of the review meeting.

(25) The resident is required to complete and submit a written incident report prior to this meeting and must be present at the review meeting, either in person or via electronic means, and may be assisted by a support person. The support person cannot be a practicing solicitor. If the resident or support person becomes unavailable to attend at the agreed date and time, the Coordinator Resident Services may decide to reschedule, or if the resident cannot be present, proceed in their absence. A review meeting can only be rescheduled once. If the student or support person is unavailable for a second agreed date and time, the review meeting will proceed, in their absence.

(26) The staff member who referred the allegation of misconduct will be present at the meeting to outline the reasons for the allegation of misconduct and to provide any further information that may be required.

(27) The Coordinator Resident Services will make a thorough inquiry into the allegation of misconduct based on hearings, signed incident reports and other documentary evidence from the resident and any other persons who may have been involved in the situation or witnessed the incident about the allegation, and make a finding:

a. where the Coordinator Resident Services concludes that there are insufficient grounds to support the allegation of misconduct, the allegation will be dismissed; and
b. where the Coordinator Resident Services upholds the allegation of misconduct, the Coordinator Resident Services will present/forward a report to the Residence Manager with a recommendation of a penalty proportionate to the misconduct, having regard for what is just in the circumstances, in accordance with the Charles Darwin University (Student Residences) By-Laws, and the University Residences Code of Conduct.

(28) The Residence Manager's decision is final and must be formally conveyed to the resident, in writing or by e-mail within ten (10) working days, outlining:

a. the allegation;
b. how the matter has been determined under the Charles Darwin University (Student Residences) By-Laws;
c. an assessment of the seriousness of the misconduct in the circumstances;
d. a summary of the resident's response to the allegation;
e. a clear description of the facts and any oral or documentary evidence on which those findings were based (including any mitigating or exacerbating factors or reasons for evidence that was disregarded or not acknowledged);
f. the reasons for the decision, and the penalty imposed (if applicable); and
g. information to contact the Vice-Chancellor within seven (7) days of notification to request a review.

(29) In order to provide the resident with an opportunity to request a review, some or all disciplinary penalties imposed by the Residence Manager may not be immediately implemented until an outcome is determined.

Lodging an Appeal

(30) A resident may only appeal against the Residence Manager's decision, if the reason for the appeal is:

a. based on he decision not being made in accordance to the principles of procedural fairness and natural justice; or
b. that relevant information relating to the conduct of the person was not available to the Residence Manager at the time the decision was made.

(31) A request for appeal by a resident against a decision of the Residence Manager must:

a. be lodged with the Vice-Chancellor within seven (7) days of the notification of the determination;
b. state fully the reasons for the appeal; and
c. include any relevant documentary evidence to support the appeal.

(32) The resident may withdraw the request for appeal at any time, by writing to the Vice-Chancellor.

(33) The Vice-Chancellor or delegate will make a thorough review of the allegation and the determination of the Residence Manager consistent with the University Residences Code of Conduct. The Vice-Chancellor or delegate may review documentation, seek clarification or request further information in support of its deliberations.

(34) Where the Vice-Chancellor determines that there are not sufficient grounds for an appeal, the original decision of the Residence Manager will stand.

(35) Where the Vice-Chancellor determines that there are sufficient grounds for an appeal, the Vice Chancellor or delegate will meet with the Residence Manager to consider the evidence and make a determination as soon as practicable and normally within seven (7) working days of the lodgement of the appeal:

a. if the Vice-Chancellor finds that misconduct has not occurred, the allegation will be dismissed; or
b. if the Vice-Chancellor finds that misconduct has occurred but that the penalty was not appropriate, the allegation will be upheld and the Vice-Chancellor will impose a new penalty.

(36) NOTE: Residents must be informed before they proceed with an appeal, that the outcome of the appeal may replace the original penalty, and that the penalty imposed by the Vice-Chancellor may be more lenient or harsher than the original penalty.

(37) Where a decision cannot be reached within twenty (20) working days, the Residence Manager will provide the resident with written notification of the steps being taken to resolve the appeal and an estimate of the time required until a decision can be provided.

(38) All decisions of the Vice-Chancellor are final.

(39) The Vice-Chancellor's decision must be formally conveyed to the resident, via written notification within seven (7) working days of having received the appeal, outlining the outcome of the review, a rationale for the decision. A copy of the decision and any associated recommendations will be sent to the relevant Senior Manager.

(40) A copy of the written notification and any supporting documentation will be kept on file and may be referred to in assessing future applications for residency.

Retention of Documentation

(41) All Records relating to investigations of misconduct and/or requests for review will be kept separately from Academic Records. Files will be disposed of according to the relevant University Records Disposal Schedule.

External Avenues

(42) If a student is dissatisfied with the outcome of the appeal to the Vice-Chancellor, the student may refer the matter to an external organisation, which depending upon the nature of the complaint could include:

a. the Northern Territory Ombudsman; or
b. a lawyer.

Status and Details

Status	Historic
Effective Date	15th January 2022
Review Date	15th January 2022
Approval Authority	Vice-Chancellor
Approval Date	18th December 2021
Expiry Date	1st July 2022
Responsible Executive	Louise King Provost
Implementation Officer	Nurul Kamaruzaman Manager Student Accommodation
Enquiries Contact	Nurul Kamaruzaman Manager Student Accommodation

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