

Student Discipline Procedure consultation

Summary

This consultation requests stakeholders to give views on a number of potential changes to the Student Discipline Procedure. Comments received during the consultation period (by 20 December 2022) will inform revisions to the Procedure, which will be put forward in Lent Term for consideration and approval through the University governance processes, ready for implementation from October 2023.

Introduction

The Student Discipline Procedure was implemented in October 2019 following significant revisions. Three years later, sector guidance and familiarity with the new process has led to a number of potential improvements that will aim to further enhance the Procedure.

It is proposed that the Student Disciplinary Framework; the Rules of Behaviour and broad principles enshrined within the University's Ordinances will remain unchanged. The suggested amendments listed in this document would affect the Student Discipline Procedure, which has oversight from General Board, in order to improve transparency and confidence in the process, as well as the quality of outcomes and timings.

Responding to the consultation

All Collegiate University members, staff and students, are welcome to give comments on any aspects of the Student Discipline Procedure, particularly those areas highlighted within this consultation. The consultation will remain open until 20 December 2022. All comments previously received by OSCCA pertaining to the Student Discipline Procedure will also be considered as part of the consultation.

Comments should be given in writing and emailed to OSCCA@admin.cam.ac.uk clearly marked for consideration as part of the consultation. Comments will not be responded to on an individual basis. However, the revised draft of the Student Discipline Procedure published in Lent Term will be accompanied by a detailed explanation of the reasons for the changes, which will aim to address the comments that have been received.

Summary of the consultation topics

1. Separate procedures for academic misconduct and non-academic (personal) misconduct.
2. Clearer expected timeframes for each aspect of the Procedure.
3. More detailed sanctions guidance, including a review of the available sanctions and the impact of mitigation.
4. Enhanced reporting of sanctions.

Academic misconduct

5. Investigation for academic misconduct undertaken by Senior Examiners/Chairs of Examiners with subject expertise, following support and resources from central University.

6. Increased sanctions options for Senior Examiners/Chairs of Examiners

Non-academic (personal) misconduct

7. Additional rights for Reporting Persons affected by personal misconduct:

- a. to receive and have an opportunity to respond to the Investigation Report prior to the Student Discipline Officer determining the outcome of an investigation;
 - b. to observe any 'in-person' fact-finding part of a Discipline Committee, where the Committee are hearing information to determine whether the reported breaches of the Rules of Behaviour have taken place; and
 - c. to use a set of measures to limit their interaction with a Respondent Student during a Discipline Committee.
8. Decisions on breaches of Rules of Behaviour and decisions on sanctions being taken at different times, following an opportunity for the Respondent Student and Reporting Person to provide further information.
9. A fast-track process to automatically remove students following particular forms of misconduct (for example, fraudulent admissions information, undeclared relevant criminal convictions, non-payment of fees and not complying with the terms and conditions).

Information on the consultation questions

The following information provides a background for the reasons for consulting on the particular areas:

1. *Separate procedures for academic and non-academic (personal) misconduct*

Within the higher education sector it is common for student discipline to be split into two separate procedures; an academic misconduct procedure and a non-academic (personal) misconduct procedure. Implementing this change would have three particular benefits:

- more specific investigative processes for each type of misconduct;
- clearer separation of sanctions for each type of misconduct; and
- clearer separation of the roles of a Reporting Person within the different forms of misconduct.

2. *Clearer expected timeframes*

There are already a number of timeframes specified within the Procedure. However, adding in more timeframes would add to transparency and enable enhanced monitoring of each stage of the procedure to understand where any delays are occurring. While it is accepted that complex investigations take time, the current procedure does not provide an explanation as to what a complex investigation may entail and this can lead to confusion or frustration.

3. *Detailed sanctions guidance*

The sanctions guidance will be split between academic misconduct and non-academic (personal) misconduct. To ensure consistency across Departments and Faculties, and to aid students' understanding of the seriousness of academic

misconduct, clearer academic misconduct sanctions guidance would be beneficial. This guidance would set out a number of typical sanctions and provide clear expectations about the impact mitigation should have on sanctions. The guidance would also act as clear evidence of the University maintaining the academic integrity of its awards.

It will be necessary for Senior Examiners and Chairs of Examiners to consider any mitigation put forward by students in accordance with the guidance, in order to ensure an appropriate penalty is provided. It is envisaged that this will be a paper-based opportunity for students, which will allow Senior Examiners/Chairs of Examiners to seek clarity on the mitigation where they are uncertain of the impact.

In relation to personal misconduct, detailed sanctions guidance including the impact of mitigation would give clarity to Reporting Persons and ensure consistent decisions between Student Discipline Officers and Discipline Committees.

4. *Enhanced reporting of sanctions*

Currently, annual reports include figures on the types of breach that occur and the sanctions that have been imposed. To improve transparency and confidence in the procedures, it is envisaged that sanctions will be provided alongside anonymised descriptions of breaches. These outcomes will still be reported on an annual basis to aid with anonymising each case.

Academic misconduct

5. *Academic misconduct investigation undertaken by the Senior Examiner/Chair of Examiners*

Currently, the Senior Examiner/Chair of Examiners ordinarily undertakes an initial exploratory investigation into an allegation of academic misconduct. Where 'serious' academic misconduct is found, and where the Senior Examiner/Chair of Examiners determines that the academic misconduct may require a punitive sanction, the investigation is referred to OSCCA. Following the Student Discipline Officer commissioning an investigation using the Student Discipline Procedure, an OSCCA investigator essentially duplicates the initial investigation, without a subject specialism and without being able to provide any academic opinion on the alleged circumstances. It would seem more appropriate for OSCCA to avoid duplicating the investigation process and instead better support the Senior Examiner/Chair of Examiners (or delegate) to undertake a full investigation (and appropriate sanctioning in all but the most serious cases).

Despite resources and support from OSCCA, this change is likely to increase the workload of the Senior Examiner/Chairs of Examiners (or delegate). However, the benefits would include:

- the investigation being undertaken by a subject specialist;
- the time taken to issue a penalty in the majority of academic misconduct cases would be greatly reduced;
- students and those involved in the investigation would only need to engage with a single investigation
- where a case is referred to the Discipline Committee, the Senior Examiner/Chair of Examiners (or delegate) is able to present the case,

explaining to the Committee directly their reason for referring the matter (currently they attend as a 'witness' to provide this information).

6. *Widening sanction options for Senior Examiners/Chairs of Examiners*

If a full investigation is being carried out, it would seem appropriate and proportionate to provide a wider range of sanctions, with an option of referring the case to a Discipline Committee where these sanctions are insufficient due to the seriousness of the academic misconduct.

Currently, Senior Examiners/Chairs of Examiners are only able to confirm a mark for the paper that does not credit any plagiarised material, or, where the course of study permits, require a re-sit with a mark capped at the pass mark. Proposed additional sanctions would include:

- reducing the mark of a paper impacted by academic misconduct to 0;
- reducing the mark of a paper impacted by academic misconduct to a pass mark (where marking the work unaffected by academic misconduct would produce a higher mark);
- reducing the mark of a paper impacted by academic misconduct to a class below the mark that would have been received by marking the work unaffected by academic misconduct;
- a subject-specific education around academic integrity.

These wider sanctions would enable the vast majority of academic misconduct to be sanctioned without referral to a Discipline Committee and provide a wide enough range of options to take into account any relevant mitigation.

Students would be able to appeal the outcomes to a central University appeal committee, ensuring fairness within the decision-making process.

Non-academic (personal) misconduct

7. *Additional rights for reporting persons affected by personal misconduct*

- a. To receive and have an opportunity to respond to the Investigation Report prior to the Student Discipline Officer determining the outcome of an investigation*

GDPR considerations affect a Reporting Person's right to view data linked a Respondent student's mitigation. However, where matters relate to fact-finding, the Reporting Person has a right to view information relating to events that reportedly affected them. Offering a Reporting Person the option of viewing the Investigation Report at this stage enables them to spot any inaccuracies or provide additional information that they did not realise would be relevant.

The Respondent Student would also have an opportunity to access the Investigation Report at this stage and provide additional comments.

It is likely to be the case that an Investigation Report will include accounts that a Reporting Person does not agree with and it is acknowledged that where a Reporting Person chooses to view the Investigation Report that this will have an emotional impact on them. However, providing a Reporting Person with

this choice has the potential to increase transparency and confidence in the process. It is also possible for this option to improve the investigation outcome.

This suggested amendment to the procedure is in line with the process suggested in the recently published Universities UK legal guidance, drafted by Eversheds regarding Staff to Student sexual misconduct:
<https://www.universitiesuk.ac.uk/sites/default/files/field/downloads/2022-09/uuk-eversheds-sutherland-staff-to-student-sexual-misconduct-legal-briefing.pdf>.

- b. *To observe any 'in-person' fact-finding part of a Discipline Committee, where the Committee are hearing information to determine whether the reported breaches of the Rules of Behaviour have taken place.*

Similarly to being able to comment on the Investigation Report, this option would allow Reporting Persons to access all information about the reported events and provide any further relevant information. Within the Discipline Committee it is not unusual for Respondent Students to provide additional detail about the circumstances of an event. Currently, Reporting Persons may attend the Discipline Committee as a witness to answer any questions that the Discipline Committee (or Respondent Student) may have. However, as the Reporting Person is unaware of any gathered information (such as witness statements and other evidence) or the account of the Respondent Student, it may be difficult for the Reporting Person to know what detailed areas of their account will be most relevant prior to being questioned at the Discipline Committee.

The same considerations in relation to data, emotional impact and choice relate to both of these elements within 6.

- c. *To use a set of measures to limit their interaction with a Respondent Student during a Discipline Committee*

In practice, each time a Reporting Person attends a Discipline Committee a number of measures are requested and granted by the Chair including not being directly questioned by the Reporting Person themselves and being able to attend via video link. However, it is a source of anxiety for Reporting Persons to engage with the Student Discipline Procedure without knowing whether these measures will be granted. Providing these measures in advance will provide reassurance to Reporting Persons and remove a potential barrier to reporting.

- 8. *Decisions on breaches of Rules of Behaviour and decisions on sanctions being taken at different times, following an opportunity for the Respondent Student and Reporting Person to provide further information*

Currently, the Student Discipline Officer or Discipline Committee will consider whether or not there has been a breach of the Rules of Behaviour and where a breach is found, there is an immediate consideration about sanction. To enable the sanction process to take place immediately following the decision about whether a breach has been found, the investigation will consider details around mitigation, even

where the Respondent Student is denying any breach of the Rules of Behaviour. In addition, a Reporting Person is invited to write an Impact Statement, which is shared with the Respondent Student, in advance of a decision on whether any breach has occurred but the statement will only be shared with the decision-maker where a breach is found.

The current process can result in a Respondent Student providing new information during a Discipline Committee, leading to Discipline Committees making decisions on the impact of mitigation without documentary evidence and Reporting Persons declaring personal information to Respondent Students for no purpose, where breaches are not subsequently found. Decisions on sanctions can be life changing for all involved and it is important that decisions are considered and based on factual information. Nevertheless, the separation of this element of the process would lengthen the Student Discipline Procedure.

It is proposed that there would be options for the Discipline Committee (as well as the Student Discipline Officer) to make a decision on sanction without a further hearing, on the basis of paper-based representations.

9. *Automatic removal from the University*

It is typical within the sector to have an automatic removal process for students who have not complied with particular aspects of their terms and conditions, most notably:

- fraudulent admissions information, discovered following the commencement of the student's studies;
- undeclared relevant criminal convictions;
- non-payment of fees.

In these rare circumstances, following investigation to establish whether the circumstances are proven, it is appropriate that students are immediately removed from the University, through a paper-based process.

A 'fast-track' process that allows for removal in these specific circumstances where there is clear evidence that students are not meeting their terms and conditions would be an efficient use of the University's resource. Any decision under this process would still require access to a central University appeals mechanism.