

The disciplinary process relating to students

In order to advance the work of the Review Committee on Student Discipline, the Office of Student Conduct, Complaints and Appeals (OSCCA), on behalf of the Committee and in agreement with the Chair, has undertaken an initial review of the current disciplinary procedures that apply to student members of the University.

Following consideration of the review by the Review Committee, several matters have arisen that require consultation with the wider collegiate University community. Therefore, in addition to considering endorsing the proposals within this paper, particular benefit would be gained by providing comments relating to the matters listed at the end of this paper.

As well as being able to discuss these matters within the collegiate University committee system, representations can also be made in writing to OSCCA@admin.cam.ac.uk, where they will be collated and shared with the Review Committee on Student Discipline.

This paper includes the following sections:

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The proposed rules and an overview of the process and penalties are attached as Appendix A, a detailed comparison of the current and proposed rules are attached as appendix B and some factual information regarding standards of proof is attached as Appendix C.

Background

A chapter of the Office of the Independent Adjudicator's (OIA) good practice framework on student discipline that was to be published for consultation in October 2017 has been postponed without a clear timeframe for future publication. Therefore, the Chair believes that the work of the University's review should now recommence and not wait for the completion of that OIA chapter.

The purpose of a disciplinary framework is to encourage members of a community to behave according to agreed standards of behaviour. In order for such a framework to be effective, community members must be aware of the standards expected of them and the consequences if those standards are breached. It is therefore a requirement that the rules themselves and the accompanying procedures should be clear and accessible.

The Review Committee was established to review and propose revisions to the University's disciplinary process to ensure that it is fit for purpose and in line with the requirements of the

Office of the Independent Adjudicator and other legal guidance. A number of changes have already been made, including revising the language used in the Statutes and Ordinances, the regulations themselves, and the available guidance. This paper seeks to consolidate some of the matters previously discussed by the Committee and put forward new points for consideration, in order to establish a basis on which to develop the proposals further.

The University's current disciplinary rules and framework in the Statutes and Ordinances apply to all members of the University, and therefore the definition covers all who have matriculated, encompassing established staff and retired established staff as well as students and former students. This can be unhelpful for student members who can get confused about what to expect during the disciplinary process by referring to parts of the process that only relate to other members of the University community. Since people within these groups (i.e. students, former students, staff and former staff) have different expectations and legal rights it is not desirable to combine disciplinary processes into a single investigation and consideration process. As a result, it is considered that the clearest way to set out the student disciplinary process is to remove it from the disciplinary processes referring to staff and former staff. The student disciplinary process will include the investigation and consideration of current students. It could also encompass former students, either where the misconduct took place when they were students, or as former students under limited grounds (for example, falsifying academic awards of the University). If the Committee agrees that these changes to the disciplinary framework for students and alumni are appropriate, the HR Division will be alerted to the proposals and there will be a separate discussion about any consequential changes that are necessary with respect to the disciplinary framework for staff and former staff.

What will happen next?

This paper has benefitted from the input of the University Advocate, the Proctors, the Students' Unions' Advice Service, Legal Services Office and the University Draftsman and the Secretary of the Senior Tutors Committee, amongst others. The proposals are endorsed by the Review Committee. However, in a number of areas the Committee wishes to seek further views through consultation, in addition to inviting the General Board's Education Committee, the Senior Tutor's Committee, the University College Joint Committee, the Graduate Union and the Cambridge University Students' Union, the University Advocate and the Proctors to consider and endorse the proposals in principle. If there is broad support from those committees and officers, the next stage of the review would be to draft revisions to the University's Statutes and Ordinances for endorsement by the Review Committee prior to seeking approval of a Report for publication.

Potential revisions to the student disciplinary process

1. Rules

- 1.1 The current disciplinary rules (the [General Regulations for Discipline](#)) have not been holistically reviewed for some time. The proposed rules would apply only to students and, where explicitly defined, former students. The changes would remove some overlap between the existing rules, clarify the responsibilities of former students and include new responsibilities relating to carrying a University student card and reporting criminal convictions that may pose a risk to the University community.
- 1.2 The proposed rules continue to cover the standards of behaviour expected from students towards other students, University and College staff and members of the public. There is no intention to widen the University's jurisdiction in relation to

misconduct currently handled by Colleges. It is proposed that the University will still have the discretion (through the Student Discipline Officer; see paragraph 3.2 below) to choose whether or not to take action regarding an alleged breach of the rules and may do so regardless of whether or not a College or the police have taken action in relation to the matter. However, this power is limited by consideration of whether taking such action would be in the University's interest, taking into account any penalties that have already been imposed (whether by a court or a College).¹ It is noted that evidence of a person having been found to have committed an offence by a court of law is currently admissible for the purposes of proving that the person was guilty of such an offence.² It is proposed that this facility remains.

2. Scope of the student disciplinary process

- 2.1 The Discipline Committee currently considers potential breaches of University regulations, and the Discipline Board considers appeals of motor vehicle fines, library fines and examination board fines. In the revised process it is proposed that the Discipline Committee should consider alleged breaches of the University's rules and the potential risk to the University community arising from any criminal convictions a student may receive whilst studying at the University.
- 2.2 It is suggested that the Discipline Board be disbanded. Its original purpose was to consider minor breaches of the rules usually resulting in a penalty of a fine or compensation order.³ However, in practice these types of penalty are rarely requested; in addition, it is suggested that the resource in convening the Discipline Board is not proportionate to the types of breaches it is meant to consider. The Discipline Board's secondary purpose is to act as an appeal board where fines have been imposed on students by the Senior Proctor in relation to motor vehicles and University bodies other than the Discipline Committee.⁴ However, where University bodies are imposing fines on students, a review of the fine imposed could be undertaken using the [Procedure for the Review of Decisions of University Bodies](#), which currently considers other decisions imposed on students by University bodies including the Applications Committee, the Board of Graduate Studies and the General Board's Education Committee. This proposal would ensure a consistent approach to the review of decisions made by University bodies.

3. Minor breaches

- 3.1 Currently, every alleged rule breach is considered by a Discipline Committee. In the last five years, the Committee has only considered allegations in relation to academic misconduct or harassment. It is therefore suggested that the current process may be providing barriers to the formal reporting of minor alleged breaches due to the disproportionate resource required; for example, the possession of a mobile telephone in an examination, where there is no suspicion of inappropriate use. Some of these matters are being dealt with informally by Colleges or Departments,⁵ the disadvantage to this is the potential for repeat offences, where the initial offence was dealt with informally, limiting the Discipline Committee's potential options in relation to sanctions. It is therefore proposed that it is not in the students' or the community's interest to allow minor offences to continue without consequence.

¹ [Special Ordinance D \(iv\) 7\(d\)](#), Regulations 4, 5 and 6 of the [regulations for the Initiation of proceedings before the University Tribunal, the Discipline Committee, or the Discipline Board](#).

² [Special Ordinance D \(iv\) 1](#).

³ [Special Ordinance D \(ii\) 9](#).

⁴ Regulations 17 and 18 of the [regulations for the Discipline Board](#).

⁵ [University Council Review Committee on Student Discipline](#), 2015.

3.2 It is proposed that new limited powers be assigned to a 'Student Discipline Officer' to impose some limited penalties without the need for a hearing, for example a written warning or attendance at an educative workshop; this would be a proportionate option to deal with minor breaches. This might happen where rules have been breached but where no actual harm has been caused, for example not following University health and safety regulations, or where a student attempted to gain an unfair advantage in an examination but was prevented from doing so before the examination began, for example because an invigilator had confiscated the notes or mobile telephone in the student's possession. Where students disagree with the decision and/or penalty given for a minor breach they would have the right for the case to be considered in full by the Discipline Committee.

4. Legalistic processes

4.1 Legal guidance and the guidance of the Office of the Independent Adjudicator confirms that whilst disciplinary matters can be serious and the principles of natural justice must be applied, the nature and scope of an internal disciplinary process is different from that of a criminal process. It is therefore relevant to consider the University's current standard of proof applied to disciplinary proceedings. Some factual information regarding the standard of proof is included within Appendix C. There have already been some amendments to reduce the legalistic nature of the disciplinary process, including changing the 'Court of Discipline' to the 'Discipline Committee'; hearings taking place without the use of academic gowns; and hearings no longer taking place in the Council Room. Likewise, it is proposed that using terms such as an 'allegation' rather than a 'charge' and an allegation being 'found' or 'upheld' rather than finding a student 'guilty' would further help to distinguish the disciplinary process from the criminal justice system.

5. The role of the University Advocate

5.1 The current role of the University Advocate has three elements, firstly to conduct an investigation if it appears that there may be a breach of the University regulations, secondly, following investigation to consider whether the alleged breach of the University's rules should be considered by the Discipline Committee, and thirdly as someone to put forward the evidence to prove a breach of the University regulations to the Discipline Committee. However, by requiring the University Advocate to investigate each case, the workload of the role has become unmanageable and is reducing the number of staff willing to serve as Advocate. To address this, one option would be to propose that the role of the University Advocate is retained but narrowed to the second and third elements. It is suggested that the role would still be a University Officer and would involve a stipend. However, the title and the role should become less adversarial and legalistic, for example, the role holder's title could be 'Student Discipline Officer' (see para 5.6 for further information).

5.2 In relation to the investigation of alleged misconduct, a preferable alternative may be for this role to be undertaken by the Office of Student Conduct, Complaints and Appeals (OSCCA). This would ensure that the role of the Student Discipline Officer is manageable. Staff within OSCCA have the relevant experience and already support the disciplinary investigation process by organising and briefing note takers, overseeing the investigation of harassment and sexual misconduct investigations, and investigating student complaints and fitness to study matters. Although to be able to take on this role, OSCCA would require additional resource.

- 5.3 The revised reporting process would enable anyone (student, staff, visitor or member of the public who had been directly harmed by the student's behaviour) to report an alleged breach of the rules to OSCCA. OSCCA would apply a limited screening test to ensure that if the allegation could be proved it would potentially constitute a breach of the regulations. Providing this criterion was met, OSCCA would investigate the allegation. After investigating an alleged breach of the University rules, OSCCA would produce a report of the investigation to be considered by the Student Discipline Officer in deciding whether any action should take place.
- 5.4 Subject to a review of capacity, it is proposed that OSCCA's investigation role may include supporting Examiners in the investigation of plagiarism and undertaking the investigation of examination misconduct. In the case of the latter, this would include the current practice of undertaking an initial investigative meeting with the student directly after an examination had taken place, but could not include the practice of 'exam walking'. This would remove the investigative role currently held by the Proctors in relation to examinations, but would leave the Proctors responsible for maintaining the good order of the University, including in relation to freedom of speech.⁶ It is considered necessary and valuable that the Proctors continue to have a role in ensuring that public gatherings, meetings and examinations are conducted appropriately, providing independent scrutiny in relation to matters that are sensitive and which have the capacity to bring the wider collegiate University into disrepute, for example freedom of speech. Additionally, it is noted that 'exam walking' is the only practical opportunity for the University to ensure College and invigilator compliance with guidance on students sitting examinations. Where the Proctors identify an potential breach of the rules relating to good order it would then be for the allegation (and any evidence obtained by the Proctors in establishing the allegation) to be submitted to OSCCA for full investigation in accordance with the disciplinary process.
- 5.5 It is proposed that the rules currently operated by the Board of Examinations in ensuring the good conduct of students during examinations would be reviewed and incorporated into the University's rules as part of the Student Disciplinary Procedure.
- 5.6 As the Student Discipline Officer's role would no longer include investigation, it is proposed that it would be unnecessary to continue the current practice for the role-holder to be a member of the Law Faculty.⁷ However, it would be important for the Officer to be elected to the role as a member of the Regent House. The role-holder would be responsible for deciding what action, following an investigation, should take place: no action; minor action; or consideration by the Discipline Committee. If a case were referred to the Discipline Committee, it would then be for the Student Discipline Officer to present the facts of the investigation to the Committee. This presentation would move away from a 'prosecution' of the case and instead set out the findings of the investigation and any other relevant information. For example, the Officer might refer to any relevant guidance available regarding the penalty, but would refrain from giving a view on an appropriate penalty. The Student Discipline Officer would work closely and be given procedural and administrative support by OSCCA and legal advice, as appropriate, by the University's Legal Services Office.

⁶ In addition to maintaining the right to free speech, serving on a number of University bodies, committees, and board; attending Discussions of University business at meeting of the Regent House; administering the registration of University societies; administering the registration of motor vehicles; and undertaking duties during Congregations of the Regent House.

⁷ [Statute C X 1](#) only requires that the person appointed be a member of the Regent House, for appointment by Grace on the recommendation of the Council, but it is current practice for the nominee to be a member of the Law Faculty.

6. Discipline Committee

- 6.1 The Discipline Committee is currently made up of five members: a Chair, and, following the decision of the student who has been charged, either four members of Regent House, or two members of Regent House and two student members. It is proposed that a three-person Discipline Committee – a Chair, who is a member of the Regent House; a member of the Regent House; and a student member⁸ – would provide different perspectives and a robust decision-making process without overwhelming or intimidating the student.
- 6.2 The current option of having two student members serving on the Committee is rarely chosen as there is a widespread concern that student members give harsher penalties. This means that there is rarely, if ever, any student representation on the Discipline Committee. It is considered that the revised membership of the Committee including a student member would be an appropriate change. Having a student member as an established member of the Committee would also enable the University more readily to brief and support student members of the Discipline Committee, who will be called upon if there is a hearing.⁹
- 6.3 The Chair of the Discipline Committee is currently required to be a practising lawyer or someone with judicial experience. The current regulations give wide discretion to the Chair to vary the disciplinary process as that Chair sees fit, and as such it is necessary to have someone with legal experience. It is proposed that the revised process is more explicit and transparent with scope and reason for any variation spelt out, and legal advice taken in formulating that more comprehensive process. If this change is agreed, it is suggested that it would no longer be a necessary requirement of the role for Chairs to have legal qualifications or experience, although the role description could include a range of desirable experience that the Chair may hold. It is noted that OSCCA will continue to provide procedural and administrative support to the Discipline Committee.
- 6.4 The Discipline Committee is currently given wide discretion in the penalties it may apply, including, under Special Ordinance D (ii) 3(g), ‘any sentence considered by the Discipline Committee to be lighter’ than deprivation of membership of the University. This ‘lighter’ penalty is often chosen and whilst it enables the Discipline Committee to react to any circumstances that may arise, it is not advisable that the University’s most common penalties are not explicitly stated within the disciplinary process. It is proposed that the penalty under Special Ordinance D (ii) 3(g) is retained but a fuller list of the penalties applied in practice is included within the process so that the likely penalties are clearer for students. There should also be clarification within the regulations that academic sanctions should not be issued for non-academic misconduct.¹⁰

7. Review

⁸ It is suggested that, as now, panels of members of the Regent House and student members will be maintained by the Council, and those who will constitute the Committee for a hearing will be chosen by lot from among those available to attend that hearing.

⁹ Under the current system, each College puts forward a student representative for appointment by the Council to form the pool of potential student members of the Discipline Committee in panel (c), but they are rarely called upon to serve and therefore training is not routinely offered. The revised system would see a smaller pool of both undergraduate and graduate student members who would be trained annually.

¹⁰ This is in accordance with guidance issued by the Competition and Markets Authority in 2015, which specified that academic sanctions for non-academic debts would be considered an unfair term. Using this reasoning, it is proposed that academic sanctions for any non-academic misconduct would be considered unfair. It is expected that this detail may be included within the OIA’s good practice framework chapter on discipline.

- 7.1 Under the current discipline process, if a student is unhappy with the decision of the Discipline Committee, the Chair of the Discipline Committee (or the Chair of the Septemviri) can suspend the imposition of a penalty to enable an appeal to the Septemviri, a seven-person appeal committee with a quorum of five. The grounds for appeal can be 'in respect of the whole or in respect of any specified part of any finding of fact, decision, or sentence'.¹¹ This has resulted in students being permitted to appeal the decision of the Discipline Committee to the Septemviri without appropriate limitation. The Office of the Independent Adjudicator advises that students should always have access to a right of appeal on the grounds of procedural irregularities; new evidence not submitted for good reason; or that the decision made was unreasonable.
- 7.2 To bring the appeal process in line with the appeal process of other University student conduct procedures, it is proposed that the right of appeal is limited to the grounds outlined above (as advised by the OIA). In addition, it is suggested that the appeal is considered by a three person review panel, two members of Regent House and one Proctor or Pro-Proctor, to provide a further level of independent scrutiny to the process. It is proposed that the review is paper-based, but with the option of a hearing if the panel consider it necessary, as a result of the limited scope of appeal.

8. Student support

- 8.1 The current procedure allows for a student to choose someone to advise and represent them during the disciplinary process. In addition to College Tutors and the Students' Unions' Advice Service, a panel of Law Faculty volunteers offers students free advice. Supporting and representing students can take considerable time and the Law Faculty volunteers have been generous in providing this support. However, there are also some challenges – this support is not guaranteed, as the volunteers' ability to act is dependent on their availability. This means that there is a risk that some students before the Discipline Committee will have access to University-employed support and others will not.¹²
- 8.2 Under the current process that uses legalistic terminology and gives wide powers to the Chair to vary the process, it may be appropriate to offer students representation from the Law Faculty. However, under the revised procedures which are intended to be more accessible, it is proposed that there is no longer a need for students to have access to volunteers from the Law Faculty. As with all other student procedures, students will be able to seek advice from College Tutors, Graduate and Senior Tutors and the Students' Unions' Advice Service. Students and the University will retain the right to employ their own legal advisors if they so wish.

9. Reporting of cases

- 9.1 It is current practice to publish a summary of all discipline cases in the Reporter with an option not to name the student.¹³ This process began when the Discipline Committee's main business was the consideration of academic misconduct and therefore the details of a case could be fully anonymised whilst still providing a meaningful summary of the details of the allegation, findings and sanctions (where relevant). However, the University now handles cases where student members may appear as witnesses or where the details of a case are published in the national media. It is not possible to

¹¹ [Regulation 6 of the Rules of Procedure for the Discipline Committee](#) and [Regulation 3 of the regulations for the Septemviri](#).

¹² In a recent appeal by a student to the Septemviri, the Law Faculty's panel has offered advice but not representation to the student.

¹³ See the most recently published version of the [Discipline Committee's Practice Statement](#).

publish a summary of a discipline case in the Reporter and guarantee anonymity for the student who has been charged in these circumstances. It is also noted that to report a case where the respondent was identifiable would not meet our responsibilities under GDPR.

- 9.2 It is suggested that the summaries are partly intended to provide information to the members of the University on the cases being heard by the Discipline Committee, in part as a means of providing some oversight of its decisions. It is proposed that the publishing of cases in the Reporter ceases, and an annual report containing statistical information on numbers of cases in categories of offences is instead presented to the General Board and the Council and published in the Reporter.
- 9.3 In the past, notices in the Reporter have also served as precedents for future Discipline Committee decisions. However, this is a source of information that is not easily accessible to students. In addition, the brevity of the reports (necessary for the sake of the anonymity of the students) result in a lack of detail and reasoning regarding the case, leading to a perfunctory set of precedents. Instead, the revised disciplinary process guidance could include some examples of breaches and the penalties that might be imposed for them, bearing in mind that there may be aggravating or mitigating features that could lead to lesser or more serious penalties. It is also proposed that where further guidance is provided in the course of a disciplinary case, this information could be published in the disciplinary guidance document, thereby supporting consistency of decision-making.

Consultation questions

Following consideration, the Review Committee for the discipline process, wish to consult on the following matters:

- a) Who should undertake the role of 'Student Discipline Officer' (see para 3.2 and section 5)?
Should these duties remain the role of a University Officer elected from among Regent House members with an accompanying stipend; or should the role be included within the remit of another elected University Officer, for example, a Proctor; or should it be a role held by University administration?
- b) What penalties should be permissible within the disciplinary process (para 6.4)?
The disciplinary process encompasses academic and non-academic misconduct. The process could include different lists of potential sanctions for these two types of misconduct. Furthermore, in requiring lesser sanctions to be listed, different views have been raised regarding the benefit of fines, considering the variation in students' financial means; the appropriateness of restorative justice; and the benefit of requiring students to undertake 'community service', particularly where the 'community service' is someone else's paid profession.
- c) Should an allegation of misconduct be able to be considered by both the University and the student's College (para 1.2)?
This is currently permissible, with the caveat in the University procedure that, where a matter has already been considered by the College, it must be in the University's interest to also consider the matter. The University may wish to reserve the right to consider a matter, for example, where the University may wish to suspend the student's use of certain University facilities or buildings; this type of sanction cannot be actioned through a College disciplinary process.

- d) Should alumni be included within the student disciplinary process (para 1.1 & Appendix A)?

Currently alumni are bound by the same disciplinary regulations as students, staff and former staff. Alumni would be considered in accordance with the student disciplinary process if the alleged misconduct took place whilst they were a registered student. However, are there circumstances where misconduct that takes place when alumni have completed their course of study that should be considered using the student disciplinary process, either:

1. where it is in the University's interest to do so; with alumni remaining bound by all student rules, with the general University disciplinary process no longer applicable to them;
2. in relation to a limited number of offences (for example, in relation to academic misconduct or forging or falsifying academic records), with the general University disciplinary process no longer applicable;

Alternatively, alleged misconduct that took place after alumni completed their course of study could remain within the jurisdiction of the University's general disciplinary regulations.

- e) Should the University's standard of proof for the consideration of student misconduct be changed (para 4.1)?

Information regarding the standard of proof is included within Appendix C. It is noted that there has been an open letter to the Vice-Chancellor from the Cambridge University Students' Union's Women's Officer requesting, amongst other things, a change in the standard of proof for student disciplinary cases. The Review Committee on Student Discipline are of the view that if the student body wants the University to use the balance of probability as the standard of proof when considering allegations of student misconduct then this should be accepted by the University community. However, the Committee noted that it is unclear whether this is the view of the student body.