

DISCIPLINARY PROCEDURE

A. INTRODUCTION

1. Statute XLVIII (1) provides that “All members of the College in statu pupillari shall show proper respect for the Master and other officers of the College and shall behave themselves quietly and soberly and shall be obedient to all regulations concerning them made from time to time by the Governing Body.”

2. This Ordinance regulates the procedure for dealing with grave cases in which a student or students, hereinafter the Respondent(s), may be in breach of Statute XLVIII.

3. The Master may refer such cases to the Board of Discipline (see Section C). The Board of Discipline may appoint an Investigator (see Section E) and convene a hearing (Section F). In the light of its findings, the Board of Discipline may determine an appropriate sanction (Section G). The possibility of appeal from a decision of the Board of Discipline is provided (Section H).

4. References to the Board of Discipline should be made in a timely manner so that they can be dealt with effectively. However, it is accepted that this is not always possible, for example, where evidence only becomes apparent after a significant period of time, or where there has been a delay in reporting. There is no fixed deadline for a matter to be referred to the Board of Discipline.

B. GENERAL PRINCIPLES

5. Those appointed to act under the terms of this Ordinance (including the Master, Investigator, Board of Discipline and Appeal Committee) shall act reasonably in considering all matters, having regard to the individual circumstances of the case. Every effort will be made to ensure that all parties are treated with fairness and dignity. None of those carrying out the procedure shall be subject to any conflict with the Respondent. A conflict will exist where a person has had previous involvement in dealing with the alleged matter or a material connection with the Respondent.

6. Matters should, as far as possible, be dealt with under this procedure in a timely manner (see [4]),

7. This procedure is an internal process and does not have the same degree of formality as proceedings in a court of law.

a. It is not normally necessary nor appropriate for a Respondent or the College to be legally represented at any meetings that form part of the procedure save in exceptional circumstances. Where a Respondent considers this necessary, a request should be made to the Chair of the Board of Discipline, setting out the reasons for such a request. The Chair’s decision in response to this request is final.

b. The Respondent may bring a supporter of their choosing to meetings with any Investigator (see [27] below) or to a hearing by the Board of Discipline (see [33] below).

Hereafter, references to “the Respondent” shall be understood where appropriate, to include the Respondent’s representative or supporter.

8. Those appointed to act under this procedure (in particular, the Board of Discipline, but also the Investigator and Appeal Committee) will normally correspond directly with the Respondent. However, it is accepted that sometimes this will not be in the best interests of a Respondent, for example, where the Respondent is reluctant to make or receive decisions without support, as a result of an underlying medical condition or disability. Where a Respondent would prefer correspondence to be directed through an authorized representative, a request for this needs to be provided by the Respondent to the Master/Chair of the Board of Discipline in writing.

9. The procedure can be stressful for those involved. Appropriate support may be available from the Respondent’s Tutor or from any appropriate source within the University or the College, or the Students’ Unions’ Advice Service.

10. Reasonable adjustments shall be made to the procedure to allow fair access for those with a disability. Respondents or others involved in the case should make any requests for reasonable adjustments known to the Chair of the Board of Discipline so that these can be put in place. The Chair may seek expert opinion regarding reasonable adjustments to ensure appropriate implementation.

C. BOARD OF DISCIPLINE

11. The Board of Discipline shall comprise a minimum of three members chosen by the Master from the Master and Tutors, excluding any person who has a conflict as defined at 5 above. If members of the Master and Tutors Committee are unavailable or have conflicts as defined at 5 above the Master may appoint alternate Fellows to act in their place. The Master will act as Chair and will appoint a substitute should the Master consider that the Master has a conflict as defined at 5 above.

12. The Board of Discipline shall consider, in accordance with Statute XLVIII, all matters referred to it by the Master.

13. The Board of Discipline shall consider whether a matter can practicably be investigated and whether it is appropriate to do so.

14. The Board of Discipline shall consider whether a matter may be more appropriately considered under another procedure, for example, the College Capability to Study Policy.

15. The Board of Discipline will inform the Respondent(s) of the alleged breach of Statute XLVIII, and the names of the Chair and members of the Board of Discipline.

16. Where a matter has been referred to the Board of Discipline which involves more than one Respondent, the Board of Discipline may decide, as it sees appropriate, whether there shall be a single hearing, multiple hearings (of some but not all Respondents) or a separate hearing for each Respondent.

17. The Chair of the Board of Discipline may issue instructions to a Respondent, which will be effective while this procedure, including any appeal, is taking place, in order to protect the safety or welfare of any member of the collegiate community or to aid the fair and effective enactment of this procedure.

18. The Board of Discipline may, if it considers it appropriate,

- a.** refer a matter to another procedure at any time during this procedure;
- b.** suspend or terminate this procedure.

The Chair of the Board of Discipline will inform the Respondent of such decisions.

19. The Board of Discipline must consider matters referred to it in a timely manner, providing reasonable deadlines at each stage of the process. The Board of Discipline normally aims to reach a decision within 60 days of a matter being referred to it. However, delays may occur where the case is complex, or where the procedure has been suspended for good reason, for example, where concurrent proceedings have started, or are being considered by, the University or the Police.

20. The Board of Discipline, where it determines it appropriate, shall have the authority to impose any sanction (in accordance with Section G).

21. Following the hearing, the Chair of the Board of Discipline shall provide the Board of Discipline's decision and the reasons for the decision in writing to the Respondent (or the Respondent's representative) within 7 calendar days of the decision being reached. Notes of the hearing of the Board of Discipline will be shared with the Respondent within 14 calendar days of the hearing. The Chair will inform the Respondent of the right to, and procedure for, an appeal.

D. CONCURRENT PROCEEDINGS

22. The Board of Discipline will pause its consideration of any matter where criminal proceedings are ongoing and will be alert to the possible consequences of undertaking disciplinary investigations which

may affect current or possible future criminal investigations. After the conclusion of an investigation undertaken by the police and any subsequent criminal proceedings, or where it appears unlikely that criminal proceedings will take place, the Board of Discipline may take its own action under this procedure.

23. The Board of Discipline will treat relevant criminal convictions received by a student as conclusive evidence that the behaviour, on which the offence was based, took place. A 'not guilty' or 'no further action' outcome from the police or criminal proceedings will not prevent the Board of Discipline from undertaking its own consideration of a matter.

24. The Board of Discipline will not normally consider a matter where University disciplinary proceedings have been commenced, but after the conclusion of any such proceedings the Board of Discipline may take its own action under this procedure. The Board of Discipline shall take into consideration any action taken by the University, however, even where the University concludes its action or chooses to take no action, it may still be appropriate for the Board of Discipline to take its own action.

E. INVESTIGATOR

25. The Board of Discipline may appoint a person to investigate any matter referred to it and to produce a written report for the Board of Discipline to consider. The person investigating any matter (the Investigator) shall, as appropriate, take written statements, conduct meetings and collect evidence from any person relevant to the investigation, keeping written records.

26. Where an Investigator has been appointed, the Respondent(s) will be informed of this by the Chair of the Board of Discipline.

27. Any person required to meet with the Investigator (including the Respondent: see [7](b) above) will be able to bring a supporter of their choosing to the meeting and will be directed to appropriate sources of support and shall have the opportunity to comment on the written notes of any meeting that they attended.

28. The Investigator may also gather information on, and report on, the seriousness of the matter, and any mitigation which might be considered by the Board of Discipline (see [43(a)] below). It may also be necessary for the Investigator to request further information and responses from those who have already provided oral or written accounts.

29. The Investigator may also require an expert assessment of any aspect of the matter. Where a Respondent does not engage with an expert assessment the Board of Discipline may take this into consideration in its determination of the matter.

30. Where an Investigator has been appointed, the Respondent will be provided with a copy of the report of the Investigator and shall have an opportunity to provide written comments on that report. Such comments must be submitted to the Chair of the Board of Discipline at least 2 calendar days before any scheduled hearing.

F. HEARING OF THE BOARD OF DISCIPLINE

31. The Chair of the Board of Discipline shall organise a hearing of the Board of Discipline and communicate the date, time, and location for the hearing to the members of the Board of Discipline, the Investigator (if any) and the Respondent. The Respondent will be provided with at least 7 calendar days' notice of the scheduled date of the hearing of the Board of Discipline.

32. The hearing is designed to enable the Board of Discipline to determine whether there has been a breach of, Statute XLVIII and if so, the appropriate sanction. Where a Respondent has admitted to a breach the Board need only consider what sanction, if any, is appropriate.

33. The Respondent will have an opportunity to attend the hearing of the Board of Discipline with

a supporter and/or representative of their choice (see [7] above).

34. If the Respondent is unable to attend the hearing of the Board of Discipline and wishes to do so, it shall be at the Chair of the Board of Discipline's discretion as to whether the Respondent has provided a sufficient reason for absence, in which case the hearing date should be re-arranged. The Board of Discipline may, however, proceed in the Respondent's absence.

35. Any written comments as set out at 30 above, must be provided at least 2 calendar days before the date of the hearing of the Board of Discipline. Where a Respondent has admitted to a breach or where an investigator has not been appointed, and in agreement with the Respondent, a meeting of the Board of Discipline may be called with less than 7 calendar days' notice.

36. Evidence from any witness(es) will be included in full within the written report from the Investigator, and therefore it will not usually be necessary for them to attend the hearing. Where the Respondent wishes to challenge the evidence of a witness, a request must be provided to the Chair of the Board at least 5 calendar days before the date of the hearing of the Board of Discipline. The Chair of the Board of Discipline will determine the most appropriate format for this.

37. Hearings of the Board of Discipline will normally be held in private with only the members of the Board of Discipline, the Investigator, the Respondent, the Respondent's representative or supporter and a note-taker permitted to attend. Witness(es), if required, will only attend the hearing to provide evidence.

38. During the hearing of the Board of Discipline, there shall be the opportunity for the members to ask questions of the Investigator and, if in attendance, the Respondent (and witness(es), if any). The Respondent (or the Respondent's representative) and the Investigator will also have the opportunity to ask questions.

39. In exceptional circumstances, the Board of Discipline may pause the meeting to request further information.

40. The Respondent shall have the opportunity to make a final statement.

41. Once the Board of Discipline is satisfied that it has received all of the information, all persons except for the members and any note taker appointed by the Board of Discipline shall withdraw.

42. The Board of Discipline shall consider all the information that has been provided and reach one of the following decisions:

- a. To dismiss the case;
- b. To find that there has been a breach of Statute XLVIII.

43. Where the Board of Discipline has found that the Statute XLVIII has been breached, or the Respondent has admitted such breach,

- a. the Investigator will be invited to provide further information relating to the matter, its seriousness or impact;
- b. the Respondent (and any supporter or representative) will have an opportunity to make a statement in relation to mitigation regarding the breach of Statute XLVIII and any previous breaches.

The Respondent (or the Respondent's representative) shall have the opportunity to make a final statement.

G. SANCTIONS

44. In determining any sanction the Board of Discipline will consider:

- a. The seriousness of the matter;
- b. The harm or damage caused;
- c. Any advantage gained or any advantage that could have been gained by the Respondent;

- d. The intent and planning involved;
 - e. The impact on the Collegiate University;
 - f. Whether the Respondent has admitted the breach of Statute XLVIII and when such an admission took place;
 - g. Whether the Respondent has expressed remorse and/or shown insight into the impact of the matter;
 - h. The evidenced personal circumstances of the Respondent.
- 45.** Any breach of Statute XLVIII (1) may be considered more serious if:
- a. it was motivated by the protected characteristics or perceived protected characteristics of another;
 - b. the Respondent has previously been found to have acted in a similar manner;
 - c. the Respondent has breached temporary instructions whilst this procedure has been ongoing;
 - d. the Respondent has not provided the College with reasonable information upon request;
 - e. the Respondent has attempted to conceal or destroy evidence relating to any investigation;
 - f. the Respondent has abused a position of power or trust; or
 - g. the Respondent has not complied with a previous sanction or instruction relating to similar behaviour.
- 46.** The Board of Discipline may impose the following sanctions, either singularly or in combination:
- a. the removal altogether of a person in statu pupillari from the College;
 - b. exclusion from residence in the College or in College owned or managed properties;
 - c. an order to pay compensation or a financial penalty;
 - d. deprivation or suspension of the right to use College premises or facilities;
 - e. an order to apologise;
 - f. an order to undertake training or to be mentored;
 - g. a form of community service;
 - h. any sanction considered by the Board of Discipline to be lighter than those listed at (i) to (vii) above.
- 47.** When making a decision to impose a sanction under Statute XLVIII, the Board of Discipline shall take into consideration any disciplinary action which may have been concluded by the University to ensure that no one is punished twice for the same misconduct.

H. APPEAL

- 48.** The Respondent has the right to appeal against a decision of the Board of Discipline in accordance with this part.
- 49.** The Appeal Committee shall comprise three Fellows selected by the Vice-Master (or a substitute should the Vice-Master consider that she/he has a conflict as defined at 2 above) from the Governing Body. The three Fellows shall have no conflict as defined at 2 above. The Vice-Master shall declare one of the three selected Fellows to be the Chair of the Appeal Committee.
- 50.** A request for an appeal should be made within 14 days of receiving the written decision. The Chair of the Appeal Committee has the authority to extend the appeal deadline, where there is a compelling reason to do so. Once the period for an Appeal has lapsed, the decision of the Board of Discipline shall be considered final and the sanction(s) ordered by the Board of Discipline shall take effect. Where the Respondent has appealed, the sanction agreed by the Board of Discipline will not normally be implemented while the Appeal is being considered.

51. An Appeal can be submitted on the following grounds, that:

- a.** The procedures were not followed properly;
- b.** The decision of the Board of Discipline is one which no reasonable tribunal/body could have reached;
- c.** The Respondent has new material evidence that the Respondent was unable, for valid reasons, to provide earlier in the process;
- d.** There was bias during the procedure, or the procedure might reasonably be perceived as having been biased;
- e.** The penalty imposed was disproportionate.

52. An Appeal must be submitted in writing to the Chair of the Board of Discipline and must include all the evidence the Respondent wishes to be considered as part of the Appeal. The Appeal Committee will normally aim to make a decision regarding an Appeal within 30 days of the Respondent submitting the Appeal.

53. The Chair of the Appeal Committee shall organise a meeting of the Appeal Committee and communicate the date, time and location for the meeting to the members of the Committee and the Respondent. Where reasonable, a physical meeting of the Appeal Committee can be replaced by a virtual meeting, where a person may attend a meeting by video or telephone call, at the discretion of the Chair of the Appeal Committee. The Respondent will be informed of the membership of the Appeal Committee.

54. The Appeal Committee shall receive the Respondent's written appeal and evidence, the Board of Discipline outcome, the notes of the meeting of the Board of Discipline and the material considered by the Board of Discipline.

55. The Appeal Committee shall normally consider an appeal in private based on the written materials, but has the discretion to request further information; where this happens the Respondent shall be sent a copy of any further information and be given an opportunity to provide written observations.

56. The Appeal Committee shall consider all the information that has been provided and reach one of the following decisions:

- a.** To dismiss the appeal;
- b.** To uphold the appeal.

57. Where the Appeal Committee has upheld an appeal, it can choose to send the matter back for re-consideration by the Board of Discipline, or alternatively it has the power to impose its own decision, including sanctions. Where the Appeal Committee considers a breach of Statute XLVIII has taken place, it can impose any appropriate sanction, including more or less significant sanctions than were imposed by the Board of Discipline.

58. The Chair of the Appeal Committee, within 7 days of the Appeal Committee reaching a decision, shall provide to the Respondent a written copy of the Appeal Committee's decision, reasons for the decision, and any substituted sanction. This is the final stage of the internal process and therefore the Respondent will be issued with a Completion of Procedures letter.

59. Following the Appeal Committee's decision, any sanctions shall be implemented, even if the Respondent intends to raise a complaint with an external body.

60. Where a Respondent subsequently fails to comply with any sanctions imposed by the Appeal Committee, or the Board of Discipline where there has been no Appeal, the Respondent may be subject to any action specified by the Appeal Committee to be imposed in this circumstance, or to a further referral to the Board of Discipline.