Council Regulations 3 of 2006

REGULATIONS FOR THE STUDENT DISCIPLINARY PANEL

Made by Council on 1 June 2006
Amended on 1 May 2008, 15 January 2009, 11 June 2009 (date of effect 1 October 2009),
22 October 2013 (Gazette, Vol. 144, p. 94, 24 October 2013),
147, p. 127, 10 November 2016) and 17 January 2017 (Gazette, Vol. 147, p. 180-183, 8 December 2016).

PART 1

GENERAL

1.1. In these regulations, unless otherwise stated:

(1) references to sections are to sections of Statute XI;

(2) references to colleges shall include colleges, societies, Permanent Private Halls, and other institutions designated by Council by regulation as being permitted to present student members for matriculation;

(3) ‘the Panel’ means the Student Disciplinary Panel;

(4) references to breaches or alleged breaches are to breaches or alleged breaches of the Disciplinary Code under sections 2 and 3;

(5) ‘student’ means the student member or members of the University alleged to be in breach of the Disciplinary Code or making an appeal against a decision concerning such a breach.

1.2. The Registrar shall appoint a person to act as Secretary to the Panel (‘the Secretary’).

PART 2

SITTINGS

2.1. Panel shall sit on such days as the Chair or a Vice-Chair in consultation with the Secretary deems to be necessary.

2.2. The Secretary shall be responsible for making such arrangements as are necessary for each sitting.

2.3. The Secretary shall invite three members of the Panel to constitute a sitting for the purpose of these regulations, which members shall include at least one of the Chair or Vice-Chairs.

2.4. All hearings shall normally be in private. The Panel shall have the power to determine that a hearing be held in public in the light of submissions from both parties.
2.5. All evidence or material submitted as part of the investigation shall be regarded as strictly confidential unless, following consideration of submissions, the Panel decides otherwise.

PART 3

CONSIDERATION OF ALLEGED BREACHES REFERRED BY THE PROCTORS UNDER SECTION 29

Preparation

3.1. On delivery to the Secretary of a notice alleging a breach or breaches by the Proctors under section 29, the Secretary shall notify the student concerned in writing that the matter has been referred to the Panel by the Proctors and shall send to him or her the notice of hearing stating, by reference to the relevant provisions of Statute XI:

(1) the act or acts or omission or omissions alleged to constitute the breach;

(2) the date or dates or approximate date or dates on which or between which each breach is alleged to have been committed;

(3) where relevant, the time and place at which each breach is alleged to have been committed;

(4) where relevant, the person or property alleged to have been affected by each breach.

3.2. The Secretary shall annex to the notice of hearing:

(1) copies of all statements and any other evidence obtained in the course of the investigation on which the Proctors intend to rely;

(2) a copy of Statute XI and any regulations made under it which are relevant to the alleged breach or breaches; and

(3) a copy of these regulations.

3.3. The Secretary shall set the date of the hearing and shall give interested parties at least seven clear days’ notice in writing of the date, time and place appointed for the hearing.

3.4. Notice under regulation 3.1 above shall be addressed to the student and sent to the student’s college or his or her last notified address (if different).

3.5. At least three clear days before the date set for the hearing, the student shall forward to the Secretary copies of the evidence (including, if appropriate, witness statements) on which he or she intends to rely at the hearing. The Secretary shall send a copy of this material to the Proctors.

3.6. The Proctors or the student may at any time apply in writing to the Secretary for an adjournment of the hearing and the Chair or a Vice-Chair may accede to or refuse an adjournment.

3.7. The Chair or a Vice-Chair shall have power, if he or she judges it to be advisable, to cancel a proposed hearing at any time before it has begun and substitute alternative arrangements.
3.8. The Chair or a Vice-Chair shall have power to strike out proceedings on the grounds of non-prosecution.

3.9. Any hearing shall take place within one month of the date of the notice of hearing referred to in regulation 3.1 above unless the Chair or a Vice-Chair is satisfied that there are reasonable grounds for further delay.

3.10. A party who intends to be represented by another person shall as soon as possible inform the Secretary of the name and contact details of the representative appointed. The Secretary shall then pass the information to all other interested parties.

3.11. (1) It shall be open to any party to apply in writing to the Chair for directions on matters of procedure including:

   (a) the provision by the Proctors of further information concerning the alleged breach;

   (b) disclosure by the student of the evidence (including, if appropriate, witness statements) on which he or she intends to rely at the hearing; and

   (c) amendment of the notice of hearing to add, omit, or vary an alleged breach on such terms as are fair and reasonable in the circumstances.

(2) Any application shall be made in the first instance to the Secretary, and the party applying shall at the same time give notice of it to the other parties.

(3) If there is no objection from the other parties, the Chair or a Vice-Chair may make the required order without an oral hearing.

(4) If the application is contested, or if the Chair or a Vice-Chair believes that the circumstances justify a hearing, he or she may refer the application to a hearing by the Panel.

3.12. The Panel may direct that allegations against more than one person shall be heard together, due regard being given to the principles of justice and fairness. The students shall be invited to make observations which the Panel shall take into account before proceeding.

3.13. The case against the student or students shall be presented by one of the Proctors or another person as provided in section 30.

3.14. (1) If the Proctors are of the opinion that the case should be presented by a solicitor or barrister who is not a member of Congregation, they shall consult with the Legal Services Office.

(2) In making their decision, they shall take into account all relevant factors including:

   (a) the nature and complexity of the case; and

   (b) whether the student is represented and if so by whom.

3.15. References in these regulations to the Proctors shall include, where the context so requires, any other person appointed to present the case.
3.16. The student shall be entitled to be represented by another person, who need not be legally qualified, and in that case references to the student shall include, where the context so permits, the student’s representative.

**Hearing**

3.17. (1) The onus of proof shall be on the Proctors.

    (2) The standard of proof shall be the civil standard, namely the balance of probabilities.

3.18. The alleged breach or breaches of the Disciplinary Code shall be read by the Secretary, and the student shall be asked to state whether he or she accepts that he or she has committed the breach or breaches.

3.19. The written statements of the student and of any witness called shall stand as that individual’s evidence in chief. The Panel may allow supplementary questions to be put at its discretion.

3.20. The Secretary shall keep a sufficient record of the proceedings.

**Procedure if a student accepts that they have committed a breach**

3.21. If the student accepts that he or she has committed the breach of the Discipline Code, then

    (1) the Proctors shall provide a brief summary of the case including their submission as to the appropriate level of penalty;

    (2) the student shall be entitled to call witnesses whose evidence is relevant to penalty and the Proctors may call evidence in reply;

    (3) the student shall be entitled to make a statement in mitigation of penalty and the Proctors shall be entitled to reply, following which the student shall have an opportunity to reply; and

    (4) the Panel shall adjourn to determine the appropriate penalty by reference to its powers under section 10 and announce the penalty at the hearing.

**Procedure if a student does not accept that they have committed a breach**

3.22. If the student does not accept that he or she has committed the breach the procedure adopted shall be as follows.

3.23. (1) The parties to the proceedings shall be entitled to give evidence at the hearing, to make an opening speech, to call witnesses, and to question any person (including a party) who gives evidence.

    (2) The case for the Proctors shall be presented first.

    (3) Unless the Panel otherwise permits:
(a) the Proctors shall not be entitled to call any witness whose evidence has not been previously disclosed to the student; and

(b) if the Panel has made an order under regulation 3.11 (1) (b) above, the student may not present evidence beyond the scope of the evidence disclosed as a result of that order.

(4) Closing statements may be made, with the student being given the opportunity to speak last.

(5) The Panel may proceed with a hearing in the absence of the Proctors or the student except where, in the case of the student, it considers that his or her absence is due to circumstances beyond his or her control.

(6) The Panel may at any stage during the hearing, if it is just to do so, permit the Proctors to amend the notice of hearing by adding, omitting, or varying the terms of an alleged breach as it considers to be fair and reasonable.

3.24. At the conclusion of the hearing the Panel or the parties shall withdraw while the Panel considers its findings.

3.25. Where the case is found proved, the Panel shall announce its decision, and then

(1) invite the Proctors to make a submission as to the appropriate level of penalty;

(2) the student shall be entitled to call witnesses whose evidence is relevant to penalty and make a statement in mitigation of penalty;

(3) if the student calls witnesses, the Proctors may call evidence in reply; and

(4) the Panel shall adjourn to determine the appropriate penalty by reference to its powers under section 10 and announce the penalty at the hearing.

Adjournments

3.26. The Panel may adjourn any proceedings from time to time, if it is just to do so, on such terms as it thinks fit.

Payment of fines and compensation

3.27. Where a fine or compensation is ordered to be paid, it shall be paid to the Clerk to the Proctors within seven calendar days of the date of the Panel’s decision in writing unless the Panel permits payment by instalments at times and in amounts fixed by the Panel.

Costs

3.28. (1) Where the Panel finds that the student has not committed the alleged breach or breaches of which he or she has been accused, the Panel shall have a discretionary power to order the University to pay the student’s costs or part of them.

(2) In the absence of such an order, the student shall be responsible for any costs incurred in preparing and presenting his or her case.
Decision

3.29. (1) The Panel shall supply a reasoned decision in writing, normally within two weeks of the conclusion of the hearing.

(2) The Secretary shall provide copies of the decision to the Proctors and to the student.

3.30. The Chair may, by an appropriate certificate in writing, correct any accidental errors in documents recording decisions of the Panel.

PART 4

DETERMINATION OF APPEALS TO THE PANEL UNDER SECTION 33

4.1. Unless the Chair or a Vice-Chair otherwise permits, an appeal against a decision of the Proctors under section 33 shall be made in writing to the Secretary within seven clear days after the announcement of the decision.

4.2 (1) When, under Statute XI, Part C, section 29 (3), the appeal relates to the imposition of an “immediate fine”, permission to appeal must first be sought, in writing and through the Secretary, from the Chair or a Vice-Chair of the Student Disciplinary Panel within seven days of the imposition of the fine.

(2) The Secretary shall then refer the Application for Permission to Appeal to the Proctors within three working days.

(3) The Proctors must then make any response to the Application to the Secretary within seven days.

(4) The Secretary shall then refer both the Application and the Proctors’ response to it to the Student Disciplinary Panel Chair or a Vice-Chair within three working days.

(5) The Student Disciplinary Panel Chair or a Vice-Chair may request the applicant and/or the Proctors to provide any further information relevant to the proposed appeal which he or she may require in determining whether permission to appeal should be granted.

(6) The application shall be determined without a hearing on the basis of the documents submitted unless the Student Disciplinary Panel Chair or a Vice-Chair considers that, in the interests of justice, a hearing should take place.

(7) (i) The relevant Student Disciplinary Panel Chair or Vice-Chair shall, following receipt of all relevant papers, make a decision as to whether the application will be allowed or not allowed, unless he or she decides in accordance with (6) above that a hearing should take place.

(ii) If the Student Disciplinary Panel Chair or Vice-Chair decides that a hearing should take place he or she will communicate that decision to the Secretary who will inform the applicant and the Proctors of the date and time when and the place in Oxford at which the application will be heard.
(iii) The application will be heard by the Student Disciplinary Panel Chair or Vice-Chair sitting alone.

(8) In deciding whether to give permission to appeal the Student Disciplinary Panel Chair or Vice-Chair shall have regard to all the circumstances of the case including:

(i) the importance of the case to the appellant; and

(ii) whether the proposed appeal has reasonable prospects of success.

(9) The Student Disciplinary Panel Chair or Vice-Chair shall within seven days of receipt of all papers or of any hearing, if later, send his or her decision with reasons in writing to the applicant and the Proctors via the Secretary of the Student Disciplinary Panel.

(10) If the Permission to Appeal is granted, then the Secretary shall convene a hearing of the Student Disciplinary Panel in accordance with Part 3 of these regulations.

(11) If the Permission to Appeal is refused, then the applicant shall have the right to make an Application for Permission to Appeal to the Student Appeal Panel, in accordance with Part 9 of these regulations.

4.3. The appeal shall state whether it is made against the finding of proof of the breach or breaches or against the penalty or against both proof and penalty and shall set out the grounds of the appeal.

4.4. Within three days of receiving the appeal the Secretary shall deliver a copy of it to the Proctors.

4.5. Within seven days of receiving notice of the appeal the Proctors shall deliver to the Secretary:

(1) all documents previously served on the student by the Proctors; and

(2) a written statement of their reasons for their decision.

4.6. The procedure for the conduct and hearing of the appeal shall be as set out in Part 3 of these regulations so far as applicable.

4.7. Pending the determination of an appeal under this Part, the Panel may on the application of the appellant suspend or defer the payment of a fine and/or compensation.

PART 5

APPEALS MADE UNDER SECTION 41 (2), 43 (2) OR SECTION 48 (3) (C)

5.1. Any appeal made to the Panel under section 41 (2), 43 (2) or section 48 (3) (c) shall be made in writing to the Secretary setting out the reasons for the appeal.

5.2. (1) Within three days of receiving the appeal the Secretary shall deliver a copy of it to the Proctors.
(2) If the appeal is made under section 41 (2), the Secretary shall also deliver a copy of it to the head of the student member’s college and shall invite the college to make a written submission within five days of receiving notice of the appeal.

5.3. Within seven days of receiving notice of the appeal or ten days if the appeal is made under section 41 (2) the Proctors shall deliver to the Secretary their response to the appeal which shall include:

   (1) all documents previously served on the student by the Proctors;

   (2) where applicable, a written statement of the reasons for their action; and

   (3) any other evidence on which the Proctors intend to rely in support of their response.

5.4. The Secretary shall set a date and time for the hearing as expeditiously as possible, but giving not less than seven clear days’ notice of the date and time to the student concerned and to the Proctors.

5.5. The Secretary shall send to the student member not less than seven days before the hearing a copy of the Proctors’ response to the appeal under regulation 5.3 and the submission made by the college under regulation 5.2 (2) as may be applicable.

5.6. The procedure for the conduct and hearing of any appeal under this Part shall be as set out below.

5.7. (1) The parties to the proceedings shall be entitled to give evidence at the hearing, to make an opening speech, to call witnesses, and to question any witness.

   (2) The case for the Proctors shall be presented first.

   (3) Closing statements may be made, the student concerned being given the opportunity to speak last.

5.8. The Secretary shall keep a sufficient record of the proceedings.

5.9. At the conclusion of the hearing the Panel or the parties shall withdraw while the Panel considers its decision.

5.10. The Panel may adjourn any proceedings from time to time, if it is just to do so, on such terms as it thinks fit.

5.11. (1) The Panel shall announce its decision at the hearing and shall supply reasons for its decision in writing, normally within two weeks of the conclusion of the hearing.

   (2) The Secretary shall provide copies of the decision to the Proctors and to the student concerned.

5.12. The Chair or Vice-Chair may, by an appropriate certificate in writing, correct any accidental errors in the documents recording decisions of the Panel.
PART 6

REFERRALS BY THE ACADEMIC CONDUCT PANEL

6.1. If the Academic Conduct Panel is of the view that a breach of such seriousness has been committed that its powers under section 19 are insufficient to meet the gravity of the circumstances, it may refer alleged breaches of sections 3, 4 or 5 of the Proctors' Disciplinary Regulations for Candidates in Examinations which it has considered to the Student Disciplinary Panel.

6.2. The procedure for the conduct and hearing of cases referred by the Academic Conduct Panel shall be as set out in Part 3 of these regulations so far as is applicable.

PART 7

ANCILLARY POWERS

Non-payment of fines and compensation

7.1. If a student who is ordered to pay a fine or compensation by the Proctors, the Disciplinary Panel, or the Appeal Panel under the provisions of Statute XI or any regulations made under it fails to do so within the time for making payment, the Proctors shall (subject to the provisions of regulation 7.2 below) prepare and deliver to the Secretary a notice of hearing stating:

(1) the date on which the order for payment was made;
(2) the amount of the payment;
(3) the date or dates by which payment should have been made;
(4) the amounts (if any) which have been paid and the date of payment; and
(5) the amount due.

7.2. If a student who is ordered to pay a fine by the Proctors (including an “immediate fine”) under the provisions of Statute XI, or any regulation made under it, fails to do so within the time limit for making the payment, then the fine may increase in accordance with Council Regulations 6 of 2006. In such cases the Proctors shall not refer the matter to the Student Disciplinary Panel unless the fine remains unpaid at the end of the maximum escalation period.

7.3. The Secretary shall send to the student the notice of hearing, and the procedure for considering the matter shall be the procedure set out in Part 3 of these regulations so far as applicable.

7.4. If the Panel is satisfied that any amount due has not been paid within time, it may, if it is just and reasonable in the circumstances to do so, rusticate the student who is in default.

7.5. A penalty of rustication shall take immediate effect or may be postponed or suspended on such terms as the Panel thinks fit.
Students convicted of serious criminal offences

7.6. If the Proctors receive information that a student member has been convicted in a court of law in any jurisdiction of a serious criminal offence, they may prepare and deliver to the Secretary a notice stating:

(1) the date of the conviction;
(2) the offence for which the student was convicted;
(3) the court by which the student was convicted; and
(4) the sentence imposed.

7.7. The notice shall have annexed to it a certificate of conviction or other official document confirming the accuracy of the particulars referred to in regulation 7.6 above.

7.8. The Secretary shall send to the student the notice and the document annexed to it under regulation 7.7 above, and the procedure for considering the matter shall be the procedure set out in Part 3 of these regulations so far as applicable.

7.9. The Panel shall be entitled to take into account any credible written or oral evidence in determining whether the facts alleged in the notice are true.

7.10. If the Panel is satisfied that the student has been convicted of an offence as alleged, it may, if it is just and reasonable to do so, expel the student from membership of the University or impose such lesser penalty or other conditions as it thinks fit.

7.11. A penalty of expulsion shall take immediate effect unless there are special circumstances justifying the postponement of the expulsion.

PART 8

DISRUPTION OF PANEL PROCEEDINGS

8.1. If during the course of proceedings before the Panel the conduct of any member of the University, whether as a party, as a witness, or otherwise, is disorderly or is otherwise in breach of section 2 or section 3, the Panel shall direct the Secretary forthwith to record the conduct complained of, with full particulars.

8.2. If the member whose conduct is complained of is a student member, the Secretary shall send the record to the Proctors who shall prepare a notice giving details of the alleged breach or breaches to be sent by the Secretary to the student.

8.3. The procedure for considering the matter shall be the procedure set out in Part 3 of these regulations so far as applicable and, if the Panel finds the complaint proved, it shall have the powers referred to in section 46 (2).

8.4. If the member whose conduct is complained of is not a student member, the Secretary shall refer the complaint to the Registrar who shall investigate it under Statute XII or otherwise as he or she thinks fit.
PART 9

APPEALS TO THE STUDENT APPEAL PANEL

9.1. Written notice of any application for permission to appeal to the Student Appeal Panel against any decision of the Student Disciplinary Panel under the provisions of Statute XI shall clearly set out the grounds for appeal and (unless the Student Appeal Panel otherwise permits) be lodged with the secretary of the Student Appeal Panel not later than fourteen days from the date of the Student Disciplinary Panel’s written decision or reasons for its decision.