

BY-LAW 7

BY-LAW ON DISCIPLINE AND STUDENT MEMBERS

I. Definition of terms

For the purposes of this by-law, the following words and terms have the following meanings:

- a) The term 'Student Member' includes any person who is registered or enrolled at the College for a degree or diploma or otherwise, whether matriculated or not e.g. as a Visiting Student.
- b) 'Expulsion' by the College means the permanent loss of membership of the College and the University.
- c) 'Rustication' by the College means the withdrawal of the right of access to all of the premises or facilities of the College for a fixed period or pending the fulfilment of certain conditions.
- d) 'Banning' by the College means a withdrawal of the right of access to specified premises or facilities for a fixed period or pending the fulfilment of certain conditions.
- e) 'Suspension' by the College means a withdrawal of a right of access to all of the College premises or facilities as an interim measure pending further investigation, or where action is required in a non-disciplinary situation. Suspension may be for a limited period pending the fulfilment of certain conditions or may be indefinite.
- f) 'Harassment' means unwanted and unreasonable behaviour which has the purpose or effect of either violating another person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.
- g) "In a College context" means:
 - i. on College premises;
 - ii. in the course of College activity within or outside Oxford, whether academic, sporting, social, cultural or other.
- h) 'Ill-health' means medical, psychological or emotional problems which have a deleterious impact on the health, safety and/or welfare of a Student Member and/or any other member of College or staff.
- i) 'fitness to study' shall mean:

- i. a student's fitness:
 - (i) to commence a distinct course of academic study; or
 - (ii) to continue with their current course of academic study; or
 - (iii) to return to their current or another course of academic study; and
- ii. their ability to meet:
 - (i) the reasonable academic requirements of the course or programme; and
 - (ii) the reasonable social and behavioural requirements of a student member (whether resident in college or not) without their physical, mental, emotional or psychological health or state having an unacceptably deleterious impact upon the health, safety and/or welfare of the student and/or other students and/or University or college staff (not withstanding adjustments required by law) (see Statute XIII Part B).

II. Complaints of misconduct

1. The Disciplinary Procedure may be initiated by any employee or member of the College or the Common Room who has good reason to believe that a Student Member has breached the College rules. The complainant shall refer the matter to the Dean as soon as reasonably possible after the occurrence of the alleged breach, naming the Student Member concerned and giving details of the alleged breach.
2. No member of the College shall intentionally or recklessly¹:
 - a) Disrupt or attempt to disrupt teaching or study or research or the administrative, sporting, social or other activities of the College;
 - b) Disrupt or attempt to disrupt the lawful exercise of the freedom of speech by members, employees and visiting speakers invited by the College. Student Members are expected to comply with the College's Code of Practice on Freedom of Speech:
http://www.linacre.ox.ac.uk/sites/default/files/freedom_of_speech.pdf;
 - c) Obstruct or attempt to obstruct any officer, employee or agent of the College in the performance of their duties;

¹ Taking the Oxford English Dictionary definition of 'reckless' as being 'heedless of or indifferent to the consequences of one's actions'.

- d) Damage or deface any property of the College or of any member, officer or employee of the College, or knowingly misappropriate such property;
- e) Occupy or use or attempt to occupy or use any property or facilities of the College except as may be authorised by College authorities concerned;
- f) Forge or falsify expressly or by implication any University or College certificate or document or knowingly make false statements concerning standing or results obtained in examination;
- g) Engage in any activity likely to cause injury or to impair safety;
- h) Engage in violent, indecent, disorderly, threatening or offensive behaviour or language;
- i) Engage in the harassment of any member, visitor, employee or agent of the College;
- j) Engage in any fraudulent or dishonest behaviour in relation to the College or the holding of any College office;
- k) Refuse to disclose their name and other relevant details to an officer or an employee or agent of the College in circumstances where it is reasonable to require such information to be given;
- l) Possess, use, offer, sell, or give to any person drugs or psychoactive substances, the possession, supply or production of which is illegal. Student Members are expected to comply with the College's Policy and Guidance on the Possession, Supply and Production of Drugs and Psychoactive Substances: http://www.linacre.ox.ac.uk/sites/default/files/policy_and_guidance_on_the_possession_supply_and_production_of_drugs_and_psychoactive_substances_oct171.pdf;
- m) Engage in conduct in breach of the Statutes and Regulations of the University: <https://www.admin.ox.ac.uk/statutes/>;
- n) Engage in conduct in breach of College Regulations;
- o) Fail to comply with a previously-imposed penalty under this by-law.

III. Jurisdiction

1. Where an alleged breach of the rules constitutes, in the opinion of the Dean, a violation of the law, the Dean shall immediately refer the matter to the Police and inform the Proctors.

Where a Student Member is subject to criminal proceedings arising out of the alleged breach of the rules, the Dean shall not normally proceed with the case other than, if appropriate, temporarily to suspend him from residence or from use of College facilities.

2. If the alleged breach of the rules is not proceeded with as a criminal matter by the prosecuting authorities, the Dean shall then deal with the matter as though it had not been referred to the Police.
3. If a Student Member is convicted of a criminal offence of such seriousness that an immediate term of imprisonment might have been imposed (whether or not such a sentence was in fact imposed) the Governing Body shall have power, after hearing any representation that the Student Member may wish to make, to expel the Student Member or impose such lesser penalty as it shall see fit.
4. Where an alleged breach of the University Statutes or regulations has not, in the opinion of the Dean, occurred within a College context, the Dean shall immediately refer the matter to the Proctors. Where a Student Member is subject to an investigation by the Proctors arising out of the alleged breach of the rules, the Dean shall not normally proceed with the case other than, if appropriate, temporarily to suspend the Student Member from residence, or from use of College facilities.
5. If the complaint relates to activity which falls within the College's Code of Practice on Harassment (http://www.linacre.ox.ac.uk/sites/default/files/linacre_college_code_of_practice_and_policy_on_harassment_august_2018.pdf), whether or not it constitutes 'harassment' for the purpose of this by-law, the Dean shall consider whether the complaint should more appropriately be dealt with under the informal procedures set out in the Code. If the Dean takes the view that the complaint should not be so dealt with the Dean shall deal with the matter under the Disciplinary Procedure.
6. In the event that a Student Member is expelled by the University, such expulsion shall apply to the College also, subject to a right of appeal to the Governing Body.
7. In the event that a Student Member is disciplined by the University for conduct in breach of College and/or University statutes or regulations, a penalty of suspension or rustication imposed by the University shall apply also to College premises and facilities, subject to a right of appeal to the Governing Body.

IV. Disciplinary Procedure

1. When an alleged breach of the College rules involves a Student Member resident in College or in College premises, the Dean shall have the authority, where the seriousness of the alleged breach justifies it, to suspend the Student Member from residence or from use of College facilities, with immediate effect, for as long as the Disciplinary Procedure is in operation.
2. Provided that, in the opinion of the Dean, the complaint is not frivolous or vexatious, the Dean shall, if possible within 24 hours of receiving the report of the alleged breach, require in writing that the Student Member concerned comes for an interview with them. The Dean will stipulate the time and place for the interview and shall normally provide the Student Member with 24 hours' notice of the interview. The notification of the interview shall give particulars of the alleged breach of the College rules and information on the support that is available to the Student Member. The Student Member shall be told that they may bring a member of the College or an Oxford University Student Union adviser to the interview to assist them.
3. At the interview, the Dean shall explain to the Student Member that they can:
 - i. admit the alleged breach and continue with the interview so that the Dean may gather information relevant to the penalty;
 - ii. deny the alleged breach and continue with the interview as an investigative process, which may be adjourned if either the Dean or the Student Member reasonably require evidence in relation to the alleged breach to be provided by other persons.
4. At the close of the interview the Dean may, dependent on its nature and outcome, either:
 - i. take no further action;
 - ii. accept an admission that a breach has been committed. After hearing any mitigation the Dean may:
 1. EITHER impose an admonition or one or more of the penalties (a) to (c) listed in Paragraph 5 below.
 2. OR refer the case to the Disciplinary Committee if the breach is of such seriousness that it warrants a penalty outside the Dean's own powers.
 - iii. if the breach is not admitted, refer and present the case to the Disciplinary Committee;
 - iv. or, if in the Dean's opinion the nature and seriousness of the alleged offence would not warrant a penalty outside the Dean's own powers they may offer the Student Member the choice of accepting the Dean's jurisdiction or having the matter referred to the

Disciplinary Committee. The Student Member must be reminded that the scope of the penalties available to the Disciplinary Committee is wider than those available to the Dean.

5. The Dean may impose one or more of the following penalties:
 - a) a fine up to a maximum value of £200;
 - b) payments in compensation for damage to College property or the property of an employee or College member or fines imposed on the College as a consequence of the breach of rules;
 - c) banning from specified premises or facilities for a fixed period of time not exceeding ten weeks;
6. The details of any breach established and any admonition and/or penalty imposed shall be entered on an appropriate record and signed by the Dean and the Student Member. One copy of the record shall be given to the Student Member and one retained by the Dean. The Dean will file their record in a sealed envelope that may only be opened by them or the Principal. This will be held in the student's file for one year or as long as the student is enrolled on their current University course, whichever is the longer. It will then be destroyed.
7. A Student Member may appeal to the Disciplinary Committee against a determination or penalty imposed by the Dean. The Student Member shall inform the Dean of their intention to exercise the right of appeal within seven days of the receipt of the Dean's determination.
8. The appeal shall include:
 - a) A copy of the decision being challenged;
 - b) A brief statement of the facts;
 - c) A statement of the arguments on which the application is based;
 - d) The appellant's request for a remedy.
9. The Student Member may not introduce new evidence at this appeal stage unless they can show that they could not reasonably have obtained the evidence in time to put it before the Dean.

10. The Dean shall report to the Governing Body at the end of each academic year on the number and kinds of complaints of misconduct (if any) considered during the year, and the number and kinds of penalty imposed.
11. In certain cases the Dean may refer an alleged breach directly to the Disciplinary Committee without requiring a prior interview with the Student Member. Such cases include those where the Police have already confirmed the alleged breach and concluded their investigations, and cases where the gravity of the alleged breach is such that it would clearly require consideration by the Disciplinary Committee.

V. Disciplinary Committee

1. There shall be a Disciplinary Committee to consider charges of misconduct which may be brought against Student Members by the Dean and appeals by a Student Member against a finding of a breach or imposition of any of the penalties (a) to (c) imposed by the Dean under Section IV, Paragraph 5 above.
2. The Committee shall consist of:
 - i. a non-voting Chairperson, who shall be either a Fellow of the College who is not a member of the Governing Body, or a member or former member of the College, being a member of the Congregation of the University but not a member of the Governing Body, appointed by the Governing Body;
 - ii. three Fellows, appointed by the Principal, from the Governing Body, not being officers of the College;
 - iii. the Dean for Equality and Diversity,
 - iv. one Common Room Welfare and Equality Officer.

The Chairperson will be appointed for a period of five years. All other members of the Disciplinary Committee shall be appointed as and when a hearing is required.

A sitting of the Committee shall be sufficiently constituted by four members.

3. No person who has an actual or apparent interest in the outcome of the case before the Disciplinary Committee (because for example, they were the complainant or they have participated in any decision against which an appeal is being brought), and no person who may reasonably be considered to possess prior knowledge of the circumstances of the case (such as to give rise to a perception of bias), may be a member of the Disciplinary Committee considering the case.

4. Members of the Disciplinary Committee shall confirm, through the Chairperson, that they have no conflict of interest in the matter to be considered by way of a close personal relationship with the student concerned, or involvement in the alleged breach. If the Student Member against whom an allegation of misconduct has been made objects to an appointment they should advise the Chairperson without delay.
5. In the event that requirements 3 or 4 disqualifies any ex officio member of the Disciplinary Committee, the Principal shall have discretion to appoint a substitute.
6. In the event that for any reason the Common Room Welfare and Equality Officer is so disqualified, the Principal shall appoint a suitably qualified and recent former student as a substitute.
7. In the event that the Chairperson is unable to attend a Committee hearing, the Committee will be chaired by one of the three Fellows appointed by the Principal from the Governing Body, not being officers of the College.
8. If, after a hearing has begun, a member of the Disciplinary Committee cannot continue to attend, and there are fewer than four remaining members, the hearing shall be abandoned, and a fresh one convened.
9. A Student Member appearing before the Disciplinary Committee to answer an allegation of misconduct, or to make an appeal against a finding of a breach or a penalty imposed by the Dean, shall be informed of the support that is available to them both within the University and elsewhere. The Student Member shall be told that they may bring a member of the College or an Oxford University Student Union adviser to the hearing to assist them.
10. At the hearing the Chairperson shall explain the procedure to be followed and shall read out the allegation of the breach of the rules against the Student Member. The Chairperson will explain that the Student Member can:
 - i. admit the alleged breach and continue with the hearing so that the Dean may make a recommendation to the Disciplinary Committee as to the penalty;
 - ii. deny the alleged breach and continue with the hearing so that both the Dean and the Student Member may present their case.
11. The case against the Student Member shall be presented by the Dean. The Dean and the Student Member shall be required to disclose to the Chairperson of the Disciplinary Committee, at least 48 hours before the hearing, the evidence (including, if appropriate,

witness statements) on which they intend to rely at the hearing. The Dean and the Student Member shall have the right to call, to examine, and to cross-examine witnesses.

12. If any person required to attend such a hearing before the Disciplinary Committee fails to make an appearance, the Committee may, at its discretion, adjourn the proceedings and in particular, if the Student Member refuses, or fails without good reason to appear before the Disciplinary Committee, it may deal with their case in their absence, if satisfied that proper notice has been given.
13. The Student Member may write a letter to the Chairman of the Disciplinary Committee at least 48 hours before the hearing, outlining any mitigating factors that they think are applicable in their case. Where these mitigating factors include medical evidence, they must submit a report from a qualified medical practitioner.
14. The Chairperson shall arrange for the hearing to be recorded and arrange for transcription, if required, at a later stage. The transcription shall be made available to the Student Member upon request.
15. The standard of proof shall be the civil standard, namely the balance of probabilities.
16. At the conclusion of the hearing, the Disciplinary Committee shall determine by the vote of a majority of the voting members present, whether any breach of the rules has been established. If the vote is tied then the Chairperson shall have a casting vote.
17. Subject to a right of appeal, any decision of the Disciplinary Committee shall be final and binding on the Student Member.
18. If the Disciplinary Committee finds the breach of rules established it may impose one or more of the following penalties. The Student Member may be:
 - a. expelled;
 - b. rusticated for a fixed period of time or pending the fulfilment of certain conditions;
 - c. banned from specified premises or facilities for a fixed period of time or pending the fulfilment of certain conditions;
 - d. fined up to a maximum of £500;
 - e. required to make payments in compensation for damage to College property or the property of an employee or College member or fines imposed on the College as a consequence of the breach of rules;

- f. deprived of any scholarship or other financial assistance of which they may be in receipt from the College or of any part thereof;
 - g. suspended from such scholarship or assistance or from any part thereof.
- 19. The Committee shall inform the Student Member in writing, as soon as is possible, of its determination. If the Disciplinary Committee imposes a penalty, the Student Member shall be given a reasoned decision in writing.
- 20. If the Disciplinary Committee is of the opinion that none of the penalties specified in Paragraph 17 would be adequate, having regard to the circumstances of the offence and of the offender, it may make a recommendation for a different penalty in writing to the Governing Body, giving its reasons. A written copy of the recommendations shall be given to the Student Member charged.
- 21. The details of any breach established and any admonition and/or penalty imposed shall be entered on an appropriate record and signed by the Chairperson of the Disciplinary Committee and the Student Member. One copy of the record shall be given to the Student Member and one filed in a sealed envelope that may only be opened by the Dean or the Principal. This will be held in the student's file for one year or as long as the student is enrolled on their current University course, whichever is the longer. It will then be destroyed.
- 22. A Student Member may appeal to the Governing Body against any determination or penalty imposed by the Disciplinary Committee under Paragraph 18 above or recommendation for a penalty made under Paragraph 19 above. They should give notice to the chairperson of the Disciplinary Committee within seven days of receiving the written decision of their intention to appeal.
- 23. The appeal shall include:
 - a) A copy of the decision being challenged;
 - b) A brief statement of the facts;
 - c) A statement of the arguments on which the application is based;
 - d) The appellant's request for a remedy.
- 24. The Student Member may not introduce new evidence at this appeal stage unless they can show that they could not reasonably have obtained the evidence in time to put it before the Disciplinary Committee.

25. The Disciplinary Committee shall report to the Governing Body at the end of each academic year on the number and kinds of charges and appeals (if any) considered by it during the year, and the number and kinds of penalty imposed.

VI. Appeals to the Governing Body

1. The Governing Body shall consider at an extraordinary meeting, any recommendation made by the Disciplinary Committee under Section V, Paragraph 19 above, and any appeal by a Student Member against a finding of a breach or imposition of any penalty or recommendation to Governing Body for a penalty made by the Disciplinary Committee. The Student Member shall be given at least fourteen days' notice of the meeting in writing.
2. Meetings of the Governing Body held under the provisions of Paragraph 1 shall be attended by the official members only, save that, and notwithstanding the provisions of paragraph 6 of Statute III concerning reserved business, the members of the Governing Body specified in paragraph 2(b), and (c) of Statute III may attend and vote if the Student Member whose case is being considered so wishes.
3. The Student Member shall have the right to attend the meeting and, if making an appeal, to be heard by the Governing Body, and to bring with them a member of the College or an Oxford University Student Union adviser to assist them.
4. The Secretary to the Governing Body shall arrange for the hearing to be recorded and arrange for transcription, if required, at a later stage. The transcription shall be made available to the Student Member upon request.
5. The case against the Student Member or the case for the recommendation of a penalty made under Section V, Paragraph 18 above shall be made by the Chairperson of the Disciplinary Committee.
6. All the members of the Disciplinary Committee shall have the right to attend the meeting of the Governing Body at which a recommendation under Section V, Paragraph 19 above or an appeal by a Student Member is heard, but the Dean and members of the Committee who are also members of the Governing Body shall not vote on the recommendation or appeal thereat.

7. At the conclusion of the meeting, the Governing Body shall determine by the vote of a majority of the voting members present, whether any breach of the rules has been established. If the vote is tied then the Principal shall have a casting vote.
8. The Governing Body shall have power to reverse, confirm or alter the decisions appealed against, and to annul, reduce, confirm or increase the penalties imposed, provided that it shall not impose a penalty of expulsion or rustication that is more severe than the penalty appealed against. Its decision shall be final. The Student Member making the appeal shall be given a reasoned decision in writing.
9. The details of any breach established and any admonition and/or penalty imposed shall be entered on an appropriate record and signed by the Principal and the Student Member. One copy of the record shall be given to the Student Member and one filed in a sealed envelope that may only be opened by the Dean or the Principal. This will be held in the student's file for one year or as long as the student is enrolled on their current University course, whichever is the longer. It will then be destroyed.
10. The Student Member is to be reminded of the right of students, once the College's procedures have been completed, to appeal to the Conference of Colleges Appeal Tribunal, and thereafter to take complaints to the Office of the Independent Adjudicator for Higher Education (OIA), or such other appeal mechanism as the Colleges of Oxford may collectively provide or approve from time to time.

VII. Fitness to Study

If the Dean believes that ill-health may be the cause of serious disciplinary problems for a Student Member, and that the nature or extent of ill-health may not yet have been properly assessed, they shall refer the matter to the Senior Tutor to instigate the College Fitness to Study Procedures. The Chairperson of the Disciplinary Committee shall act similarly in cases where disciplinary proceedings by the Committee have begun. If disciplinary procedures have already been commenced, they shall be adjourned depending a determination under this procedure.