

**Code of Student Behaviour**

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**Section 1: Introduction and application**

- 1.1 This Ordinance, which shall be known as the Code of Student Behaviour (“the Code”), applies to students as defined in Statute F.IV.1.

Provided that a complaint of misconduct against a student who also has another relationship with the College, such as employee or supervisor, may be referred for consideration in accordance with such other College procedure as may be relevant if the Dean considers it more appropriate for the complaint to be so considered, although it may later be dealt with under this Code.

- 1.2 The Code’s purpose is to promote appropriate behaviour by students of the College; to provide for action based on due process and fairness where it is alleged that misconduct has taken place and for the imposition of penalties where misconduct has been established; and in related respects to empower the College to secure good order and discipline within the College, the safety and welfare of all members and staff of the College and the proper functioning of the College and the work of its members and staff.

- 1.3 The Council shall publish and keep up to date a Manual ("Manual") which describes the content of this Code and related provisions in the Statutes, including the normal order of proceedings before the Student Behaviour Panel ("SBP"), in straightforward, non-technical language for the information of students, complainants and others; and regard shall be had to the Manual in interpreting and applying this Code.
- 1.4 A student, on being admitted a member of the College, assumes the obligation to behave at all times in ways that are consistent with the College as a place of education, religion, learning and research and to do nothing to impede or disrupt the work or life of the College, its members and staff.
- 1.5 A student is, in particular, expected to uphold the principles of academic freedom and freedom of speech within the law, to observe the Statutes, Ordinances, Regulations and rules of the College and University, to study diligently, to behave with civility and integrity and in ways that maintain the good name and reputation of the College and conduce to the work and life of the College as a community of scholars.
- 1.6 Every student shall co-operate fully in investigations and proceedings under this Code.
- 1.7 The College owes a duty of care to all its students and this Code seeks to strike an appropriate balance where one student alleges misconduct by another student.
- 1.8 Nothing in this Code shall be taken as abridging the powers or duty of the College to take appropriate steps of a non-disciplinary or non-punitive kind in the exercise of its pastoral responsibilities and duty of care to protect the welfare of a student where that student's relationship with another student has broken down or a conflict has arisen, whether or not a complaint of misconduct has been made and whether or not it has been reported to the police, but any action must take into account the rights and interests of any other student affected.

## **Section 2: Definition of misconduct**

- 2.1 The following constitute misconduct under this Code:
  - (a) disruption of, or improper interference with, the academic, administrative, sporting, social, religious or other activities of the College, whether on College premises or elsewhere, including interference with anyone's right to freedom of speech within the law;
  - (b) obstruction of, or improper interference with, the functions, duties or activities of any member of the College, employee or authorised visitor,

including the unlawful denial of any such person's right to freedom of speech within the law;

(c) violent, indecent, disorderly, threatening, abusive or offensive behaviour or language, including such language in any poster, sign, notice or publication whether on College property or elsewhere in the City of Cambridge, or on social media, aimed at any person; or when engaged in any College activity or if directed to any member or employee of the College or any visitor;

(d) fraud, deceit, deception or dishonesty in relation to the College, in connection with holding any office in a College club or society or in relation to being a student;

(e) action likely to cause injury or impair safety on College premises;

(f) improper discrimination (defined in section 2.2(c) below) against any person within the College;

(g) harassment of any member of the College, employee or authorised visitor;

(h) damage to, or defacement of, College property or the property of members or staff of the College caused intentionally or recklessly, and misappropriation of such property;

(i) misuse or unauthorised use of College premises or items of property;

(j) misuse or unauthorised use of the College computer system, including accessing prohibited material;

(k) subject to section 18 below, conduct which amounts to a criminal offence in English law (or conviction of such an offence) where the conduct –

(i) took place on College premises or through the College's computer system; or

(ii) affected or concerned other members of the College community; or

(iii) damages the good name of the College; or

(iv) itself constitutes misconduct under this Code; or

(v) is an offence of dishonesty wherever committed and the student holds an office of responsibility within the College; or

(vi) is such as to render the student a danger to other members of the College community or unfit to remain a member of the College or to

enter and practise a profession to which the student's course is designed to lead;

(l) misconduct under section 9 of the Ordinance made under Statute F.V.1 (Regulation of Clubs and Societies) (relating to initiation ceremonies and other prohibited practices; failure to comply with penalties imposed under the Ordinance; and commission of acts of discrimination);

(m) breach of any Regulation made by Council;

(n) failure to comply with any penalty, measure, duty or requirement arising under this Code (sections 1.6, 5.5, 5.6, 9.7, 11.1, 11.2, 15.1, 15.2 and 17.7);

(o) obstructing the Dean in carrying out duties under this Code, giving false evidence at any hearing under this Code or in any other way seeking to pervert the course of justice in relation to action under this Code;

(p) disorderly or unruly behaviour within the College, whether or not induced by drink or drugs, including any anti-social conduct resulting from the consumption of drink or drugs.

## 2.2 In section 2.1 above –

(a) references to the College include the University and other colleges of the University, and references to members and employees and to property or premises shall be construed accordingly;

(b) references to words, language or behaviour shall include written, printed and electronic expressions, publications and communications and images;

(c) “discrimination” in paragraph (f) refers to the protected characteristics listed in section 4 of the Equality Act 2010 (namely, age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation), as defined in sections 5 to 12 of that Act (and as may be amended from time to time); and

(d) other terms shall be given their ordinary or dictionary meaning and not any technical meaning found in statute or case law.

## 2.3 The effects of self-administered alcohol or non-prescribed drugs shall not constitute a defence to a charge of misconduct or afford a basis for mitigation of penalty.

### **Section 3: Complaints of misconduct**

- 3.1 A report or complaint (hereinafter “complaint”) alleging misconduct by a student or students of the College, whether named or not, may be made by any person, and must include the name and contact details of the person making it.
- 3.2 A report by a member of the College staff of an incident that if proved would constitute misconduct under this Code shall be treated as a complaint.
- 3.3 A complaint shall be made, or immediately forwarded, to the Dean, who shall acknowledge its receipt as soon as possible and describe the processes that will follow.

### **Section 4: Investigation**

- 4.1 On receiving a complaint, the Dean shall undertake, or cause to be undertaken, such inquiries and investigations as the Dean shall see fit (which may include consultation with the relevant Tutors), unless of the opinion that the complaint is frivolous, manifestly ill-founded or vexatious (in which case it shall be immediately dismissed without investigation and the complainant informed), or that the misconduct complained of constitutes an excluded offence as defined in section 18.2 below.
- 4.2 The Dean may initiate enquiries or undertake an investigation in the absence of a complaint.
- 4.3 An investigation will normally be deferred if there is a police or University investigation into the matter, but the Dean shall resume consideration of the complaint if it is decided that there will be no prosecution or University disciplinary proceedings and shall take into account the reasons for the decision not to prosecute or take disciplinary action if such reasons are available.
- 4.4 An investigation shall be terminated if at any time the Dean comes to the view that the complaint is frivolous, manifestly ill-founded or vexatious or is an excluded offence within the terms of section 18.2 below.
- 4.5 The Dean shall contact and, where appropriate, interview the complainant unless the complaint has been rejected under section 4.1 above; and at an interview with a student suspected of a non-summary offence as defined in section 6.7 below shall normally allow the student to be assisted by any member of the College or University or by a barrister, solicitor or advocate qualified in the United Kingdom.
- 4.6 The Dean shall keep a record of every interview and statement.
- 4.7 At any time, the Dean may seek to reach or promote a settlement between the complainant and the student or students alleged to have committed misconduct,

with a view to resolving the matter either without recourse to formal disciplinary proceedings or otherwise and in minor matters may dispose of the matter informally with such warning or advice as the Dean judges appropriate or, with the student's consent, such arrangements as are thought appropriate.

- 4.8 At the conclusion of the investigation, the Dean may dismiss the complaint on the grounds that there is insufficient evidence to support a charge or justify further action; that it falls within any of the grounds for dismissal in sections 4.1 and 4.4 above; or that further action under the Code is in the circumstances unnecessary or inappropriate.
- 4.9 Where the Dean is satisfied that there is satisfactory medical evidence that relates to the student's behaviour, the Dean may, instead of proceeding under this Code, refer the matter to be dealt with pursuant to the Ordinance made under Statute F.IV.7.
- 4.10 Where the complaint is dismissed under section 4.1 or 4.8 above, or has been disposed of informally, the Dean shall communicate that decision, with reasons, to the complainant and the Master, and the complainant shall be informed of the right to ask the Master to review the dismissal or disposal.
- 4.11 The complainant may, within 14 days of receiving the decision and being informed under section 4.10 above, request the Master to review the Dean's dismissal or disposal of the complaint on the ground that it was not reasonable.
- 4.12 The Master may conduct that review personally or refer it to a Panel constituted under section 13.2 below.
- 4.13 If the Master or Panel sets aside the dismissal or disposal, the complaint shall proceed as if it had not been dismissed or disposed of.
- 4.14 Where a complaint has not been dismissed or disposed of informally, no charge shall be preferred against a student without that student being informed of the results of the investigation and given an opportunity to make representations.
- 4.15 Where the Dean concludes (whether following an investigation or otherwise) that there is insufficient evidence to prefer a charge but the evidence does support a finding that on the balance of probabilities misconduct by a student or students of the College who cannot be identified has taken place, a report to that effect, with reasons, shall be submitted to the Master who may issue a formal announcement of the Dean's finding.
- 4.16 The Dean may at any point decide that, either instead of or in addition to further action under this Code, action should be taken under the Ordinance on the regulation of clubs and societies made pursuant to Statute F.V.1.

## **Section 5: Interim precautionary measures**

- 5.1 A student who is the subject of a complaint or investigation or criminal or disciplinary proceedings (including proceedings by the University) or is under investigation by the police may have one or more of the measures described below applied by the Dean pending the resolution of the matter, and in considering the matter the Dean shall have regard to any representations made by the complainant or person said to be the victim.
- 5.2 Such measures may not be applied for punitive purposes and every effort shall be made to minimise the prejudice caused to the student.
- 5.3 Any measure applied must be reasonable and proportionate in all the circumstances and applied only to the extent necessary for the purposes of good order and discipline or to protect the health, safety or welfare of members and staff of the College; and shall be promptly reviewed following any developments; and where the student is subject to bail conditions imposed by the police or a court, those conditions shall be taken into account and shall not be duplicated.
- 5.4 The measures available are set out in sections 5.5 and 5.6 below and shall not be imposed, except in cases of urgency, unless the student has been given the opportunity to make representations either orally or in writing as the student prefers; and in an urgent case where the measure has been imposed, the opportunity to make representations must be provided as soon as possible thereafter.
- 5.5 Exclusion: The student may be excluded from such College property, premises, facilities or activities and on such terms and conditions as shall be prescribed.
- 5.6: Restrictions and conditions: Restrictions and conditions may be imposed on the student's actions and activities and these shall be clearly specified.
- 5.7 A student subject to exclusion may apply within seven days and thereafter every three months for the measure to be reviewed by a Panel convened under section 13.2 below and shall be entitled to submit written representations.
- 5.8 Any measures applied under this section shall lapse automatically 14 days after the conclusion of the proceedings or investigation referred to in section 5.1 above unless already cancelled.

## **Section 6: Charge**

- 6.1 Charging is the formal act where the Dean states in writing that the student has a case to answer for an offence of misconduct and is to face disciplinary proceedings in accordance with this Code; and references to "the charge" are to that written statement setting out the offence and related matters.

- 6.2 A “hearing” for the purposes of this Code includes any formal consideration of a question arising under the Code by the prescribed decision-maker or adjudicating body whether or not other persons are present.
- 6.3 Subject to sections 4.8, 4.9 and 4.16 above and section 6.4 below, a formal charge shall be preferred where the Dean concludes that there is a case of misconduct to answer.
- 6.4 Subject to section 18.4 below, no charge shall be preferred where the misconduct in question amounts, in the opinion of the Dean, to an excluded offence within the meaning of section 18.2 below.
- 6.5 The charge shall set out the offence or offences of misconduct together with brief particulars of the behaviour that has given rise to the charge.
- 6.6 The charge shall also indicate whether the misconduct constitutes a summary or a non-summary offence and the procedure that will be followed in each case.
- 6.7 A “summary offence” is any alleged misconduct for which, in the Dean’s opinion, the penalties listed in section 11.1 are adequate; “summary jurisdiction” and “summary proceedings” refer to the hearing or disposal of any such offence whether by the Dean or the Student Behaviour Panel (“SBP”); and all other cases shall be termed “non-summary”.
- 6.8 A summary offence will be subject to summary jurisdiction and hearing by either the Dean or the SBP, as prescribed in section 10 below, and all other offences shall be referred to and heard by the SBP under section 14 below.
- 6.9 As soon as possible after the charge has been preferred, the Dean will make available to the student all the evidence that will be considered at the hearing, as well as any relevant material collected during the investigation which it is not intended to adduce or rely upon.
- 6.10 No later than 3 days after receipt of the material specified in section 6.9 above in a summary offence, the student shall inform the Dean whether responsibility for the misconduct is accepted and whether the student accepts jurisdiction by the Dean or requires the case to be heard by the SBP; and in the absence of a response the Dean shall proceed on the basis that the student has accepted responsibility and consented to the Dean’s jurisdiction.
- 6.11 Any written or other material which the student wishes to introduce at the hearing, and the names of any witnesses, shall be provided to the Dean at least five days before the hearing or, if that is not possible, as soon as available.



## **Section 7: Evidence and proof**

- 7.1 The English law of evidence shall not apply to proceedings under this Code.
- 7.2 The written statement of a witness unable or unwilling to attend in person may be admitted in evidence, but shall be treated with caution insofar as it contains material disputed by the other side.
- 7.3 The burden of proving misconduct before the Student Behaviour Panel shall rest on the Dean.
- 7.4 A student's failure to give a timely explanation to the Dean or any Panel shall not in the absence of other incriminating evidence be sufficient to justify a finding of responsibility, but such adverse inferences as are reasonable and appropriate in the circumstances may be drawn.
- 7.5 The Dean or Panel shall find a student responsible only if satisfied on the evidence on the balance of probabilities, the cogency of the evidence relied upon being commensurate with the seriousness of the misconduct charged.
- 7.6 The Dean or Panel may find a student responsible for an offence of misconduct other than the one with which the student was charged, provided that all its elements are contained in the offence charged.
- 7.7 Where a charge or charges are dismissed and the student or students found not responsible, the Panel may, where the evidence, on the balance of probabilities, supports it, issue a declaration that misconduct by an unidentified student or students of the College did take place.

## **Section 8: Further duties of the Dean**

- 8.1 All references in this Code to the Dean shall include such other person as, in the absence of the Dean or in the event of the Dean's inability to act, has been appointed by the Master to exercise the duties and powers of the Dean.
- 8.2 The Dean shall keep the complainant informed of the progress of the complaint and of its outcome with such explanation as is reasonable in the circumstances.
- 8.3 The Dean shall submit an annual report to the Council describing, with relevant statistics, any action taken under the Code, but without identifying individuals by name, and any amendments or improvements to the Code which the Dean recommends.

## **Section 9: Breach of Regulations**

- 9.1 Offences under section 2.1(m) above (breach of Regulation) shall be handled in accordance with the provisions set out this section.
- 9.2 On receiving a report or complaint which is not dismissed in accordance with section 4.1 above and which the Dean believes alleges a breach of Regulation, the Dean shall decide, having made such inquiries as are deemed necessary and normally following consultation with the student's Tutor, whether it should be dealt with under the procedure set out in this section or as a summary or non-summary offence under other provisions of this Code.
- 9.3 An alleged breach of Regulation will normally be dealt with under this section unless the Dean is of the opinion that the circumstances are such that it should be dealt with as a summary or non-summary offence. Sections 4.1, 4.5, 4.6, 4.14, 4.15 and section 6 of this Ordinance shall not apply to proceedings under this section.
- 9.4 In deciding on the appropriate course of action under section 9.3 above, the Dean shall have regard to all the circumstances, including the student's past conduct, and the different penalties available under this Code.
- 9.5 Misconduct that constitutes a breach of Regulation may be treated as such by the Dean even if its facts also amount to another offence under section 2.1 above.
- 9.6 On deciding that the appropriate course of action is to deal with the matter under this section, the Dean shall inform the student of the substance of the complaint, invite any written representations and indicate that, subject to any such representations, the Dean is minded to impose a penalty in accordance with section 9.7 below.
- 9.7 The penalties that may be imposed by the Dean under this section are the penalties provided for summary offences in section 11 below subject to the following modifications:
- (a) In section 11.1(a), the maximum period specified shall be one year;
  - (b) In section 11.1(b), the maximum fine shall be £75;
  - (c) In section 11.1(e), the maximum sum shall be £250;
  - (d) In section 11.1(f), the maximum period shall not extend beyond the end of the Term following the imposition of the sanction; and
  - (e) Section 11.1(d) shall not apply.

- 9.8 A student may appeal against the Dean's finding or penalty to the Student Behaviour Appeal Panel ("SBAP") by giving notice to the Dean within 14 days of receiving the Dean's decision.
- 9.9 The SBAP shall normally consider the appeal without an oral hearing on the basis of written representations, but may in its discretion hold an oral hearing at which the student and the Dean shall be entitled to appear and make submissions.
- 9.10 The SBAP may dismiss the appeal; and if it allows any part of the appeal may quash the Dean's finding or vary the penalty or substitute another penalty under section 9.7 as appropriate.

## **Section 10: Summary jurisdiction**

- 10.1 This section applies to summary offences as defined in section 6.7 above.
- 10.2 Any alleged misconduct actuated by, or that may have been associated with, any characteristic of the person said to be the victim as specified in section 2.2(c) above shall not be treated as a summary offence.
- 10.3 Summary disposal by the Dean may be exercised only if the student has accepted responsibility or has agreed to summary disposal by the Dean; and all other summary cases shall be referred for hearing by the SBP, convened under section 13.2 below, exercising summary jurisdiction and limited in the penalties it can impose to those listed in section 11.1 below (although a Panel may in its written decision express the view that a penalty under section 15 below would have been more appropriate and may indicate what that penalty would have been).
- 10.4 Summary disposal by the Dean shall take the form of a hearing by the Dean at which the student who has been charged and is present in accordance with section 10.5 or 10.6 below may be assisted or represented by a member of the College, is to have been apprised of the evidence and given an adequate opportunity to present any defence or mitigation, to cross-examine witnesses and call evidence as may, in the opinion of the Dean, be appropriate.
- 10.5 A student who admits responsibility shall not be present at the hearing unless the Dean is of the opinion that the student's presence is necessary for the proper disposal of the case or the student asks to be present in order to present mitigation.
- 10.6 A student who does not accept responsibility but has consented to disposal by the Dean shall be present only where the student asks to be present or the Dean is of the opinion that the student's presence is necessary for the proper disposal of the case.

## **Section 11: Penalties in summary cases**

11.1 One or more of the following penalties may be imposed the Dean or by the SBP where a student has accepted responsibility or been found responsible in summary proceedings:

- (a) reprimand and warning to be placed on the student's file for such period up to two years as shall be specified;
- (b) a fine of up to £150;
- (c) a requirement to make a formal apology, either in writing or orally, to the complainant or any other person or persons affected by the misconduct in such terms as may be prescribed and if so ordered subject to the approval of the Dean or Panel as the case may be;
- (d) attendance at a relevant training session or course;
- (e) payment of compensation in respect of damage to property or physical injury to the person up to a maximum of £1000; and
- (f) exclusion from prescribed College facilities or activities, other than lectures, supervisions, classes, seminars and similar academic activities, for up to three terms.

11.2 An award of compensation under section 11.1(e) above shall be separate from the obligation to pay in full for any damage caused to College property, including the costs of cleaning, redecoration, repair or replacement.

11.3 Sections 15.5-15.7 below shall apply to financial penalties under this section.

## **Section 12: Appeals in summary cases**

12.1 A student may appeal against a decision of the Dean or the SBP in summary cases to the SBAP by giving notice of appeal to the Dean within 14 days of receiving the Dean's or SBP's report.

12.2 An appeal under section 12.1 above where the student did not accept responsibility but was found responsible may be on one or both of the following grounds:

- (a) that there was some irregularity or procedural unfairness at the hearing or during the investigation such as to render the finding unsafe;
- (b) that the evidence did not support the finding reached;

but an appeal under para. (b) shall lie only where the finding of responsibility was made by the Dean.

- 12.3 A student may appeal under section 12.1 above to the SBAP on the ground that the penalty imposed by the Dean or the SBP was too severe.
- 12.4 The SBAP shall normally consider the appeal without an oral hearing on the basis of written representations, but may in its discretion hold an oral hearing at which the student and Dean may appear and make submissions.
- 12.5 On an appeal under section 12.2 above, the SBAP shall confirm or quash the finding of misconduct and, if quashing the finding, may –
- (a) direct a fresh hearing, which shall take place before the SBP even if the original finding was made by the Dean;
  - (b) substitute such other finding of misconduct as is justified; or
  - (c) direct that no further action be taken, with or without a declaration as described in section 7.7 above (misconduct by unidentified students).
- 12.6 On an appeal against penalty under section 12.3 above, the SBAP shall confirm the penalty or substitute such other penalty or penalties under section 11.1 as it sees fit, provided that the substituted penalties are not in the opinion of the SBAP in aggregate more severe than the penalty originally imposed.

### **Section 13: Composition of hearing and appeal panels**

- 13.1 The Governing Body shall compile a list (the “Fellows List”) of at least 18 Fellows who are not members of Council or Tutors, such List to be reviewed and updated at least once in each academic year.
- 13.2 The Master may elect to chair the SBP, but if the Master chooses not to do so, the chair will be taken by the President or, if the President is unable to serve, by the most senior Fellow on the Fellows List who is available to serve.
- 13.3 The SBP shall consist in total of three members, except that a hearing once begun may proceed if one member is unable to continue, but the presiding member of a two-member panel may at any time adjourn the proceedings to begin afresh before a full panel.
- 13.4 The presiding member shall select the other members of the SBP from the Fellows List by lot, ensuring that wherever possible at least one member is a former Tutor or current or former Director of Studies.
- 13.5 The SBAP shall consist in total of five members, including the Master, who shall chair the Panel, unless the Master served on the SBP or is otherwise unable to serve, in which case it shall be chaired by the President or (if the President is unable to

serve) by the most senior Fellow on the Fellows List who is available, together with other Fellows drawn from the Fellows List by the presiding member as in section 13.4 above; but an appeal once begun may continue if a member or members is or are unable to serve provided that at least three members remain.

13.6 Notwithstanding section 13.5 above, a hearing or appeal panel may if the Master deems it expedient be chaired by an Honorary Fellow or alumnus of the College with appropriate judicial or legal experience selected by the Master, and an appeal panel shall be so chaired where the penalty imposed was expulsion.

13.7 The following shall not serve on a Panel:

- (a) any person who has had any prior involvement in the case;
- (b) a person who is or has been the student's or complainant's Tutor;
- (c) any person who has some other close relationship with either the student or the complainant;
- (d) any person in respect of whom there is a real risk of actual or perceived bias;

and it shall be for the presiding member of the Panel to determine if any person shall be excluded on any of the above grounds.

#### **Section 14: Hearings by Panels**

14.1 Any case that is not dealt with by the Dean under the summary jurisdiction procedure or otherwise disposed of shall be referred for hearing by the Student Behaviour Panel.

14.2 A Panel shall, subject to the requirement in Statute F.IV.3 to act impartially and fairly, have the power to determine its own procedure, to call such evidence and direct such enquiries as it sees fit, to control and regulate proceedings, and to seek independent legal advice.

14.3 All hearings and appeals shall take place in private, but where the complainant is a member of another College and the alleged misconduct is a non-summary offence, the Master may invite the Head of the complainant's College to nominate one of that College's Fellows or Honorary Fellows to observe the proceedings.

14.4 The College may arrange for a clerk to be present at hearings of a Panel; and the Panel shall ensure that a record of the proceedings is kept.

14.5 At any hearing or appeal by a Panel in a summary matter, a student may be assisted or represented by any member of the College or University and in a non-summary

matter by the same or a barrister, solicitor or advocate qualified in the United Kingdom; and the Dean may nominate a member of the College or University to present the case and, where the student is represented by a qualified member of the legal profession as stipulated in this section, may likewise nominate such a lawyer.

- 14.6 A hearing may take place or continue in the student's absence if the student charged with misconduct fails without reasonable excuse to attend or has been excluded on account of disorderly behaviour at the hearing.
- 14.7 Charges against two or more students arising out of the same incident or event may be heard at the same time if the Panel so directs.
- 14.8 Panels shall reach their decisions by majority vote, except that a two-member Panel (under section 13.3 above) which is unable to agree shall adjourn the proceedings to be re-heard before a differently constituted three-member Panel unless both members agree that no further action should be taken and a finding of not responsible should be recorded.
- 14.9 A fully reasoned decision shall be issued as soon as possible following every hearing and appeal, including the reasons for the penalty imposed.

#### **Section 15: Penalties in non-summary cases**

- 15.1 The Panel shall impose one or more of the following penalties where a student is found responsible for a non-summary offence of misconduct:
  - (a) a reprimand and warning which shall be placed on the student's file and remain for such period as may be specified not exceeding five years;
  - (b) a fine not exceeding £500;
  - (c) a requirement to apologise as set out in section 11.1(c) above;
  - (d) attendance at a relevant training session or course;
  - (e) payment of compensation in respect of damage to property or physical injury to the person with no limit as to the maximum that may be awarded;
  - (f) removal of a scholarship or exhibition;
  - (g) dismissal or suspension from any College post or office;
  - (h) loss of the right to occupy College accommodation for such period as shall be specified;
  - (i) disqualification from holding office, including committee membership, in any College organisation, club or society for such period as shall be specified;

(j) exclusion as defined in section 11.1(f) above either for such period as shall be prescribed or permanently;

(k) suspension, as defined in section 15.2 below, for a prescribed period which may be for the remainder of the current academic year or for the whole of the following academic year or for a combination of the two or for such shorter period as may be prescribed; and

(l) expulsion, which shall extinguish all the rights and privileges of a student, cancel the student's status as a student and registration for any degree or other award of the University and revoke the student's membership of the College.

15.2 Suspension shall require the student to go out of residence and prohibits the student from any attendance at or entry into any College or University premises for any purpose whatsoever, subject to any exceptions or qualifications which may be prescribed either at the time the penalty is imposed or subsequently.

15.3 In determining the penalty, the Panel shall have regard to all relevant factors, including the student's previous disciplinary record and conduct since the complaint was made, whether the offence was admitted and the impact of the misconduct on the complainant or other victim.

15.4 The provisions of section 11.2 above shall apply to this section.

15.5 Regard shall be had to the student's means in determining the appropriate amount of any substantial financial penalty.

15.6 The fines and awards of compensation set out in sections 11.1(b) and (e) and 15.1(b) and (e) may be adjusted from time to time by the Governing Body on the recommendation of the Dean.

15.7 All revenue from fines shall be credited to the Sizars' Fund (the College's students' hardship fund).

## **Section 16: Appeals in non-summary cases**

16.1 A student dealt with for misconduct by the SBP in a non-summary case may within 14 days of receiving the SBP's report give to the Dean notice of appeal to the SBAP on one or more of the following grounds:

(a) that there was irregularity or procedural unfairness at the hearing or during the investigation such as to render the finding unsafe;

(b) that the evidence did not support the finding reached;

(c) that the facts as found did not amount to misconduct under the Code;



(d) that the penalty imposed was too severe;

but an appeal on grounds (a) to (c) shall be possible only where the student did not accept responsibility for the misconduct and was found responsible by the SBP.

16.2 The SBAP may dismiss the appeal or, if it allows the appeal in whole or in part, shall have the following powers:

(a) quash the finding of misconduct;

(b) where the finding is quashed, it may direct that no further action be taken, with or without a declaration as described in section 7.7 above (misconduct by unidentified students), substitute a different finding of misconduct, or direct a new hearing before a differently constituted SBP;

(c) confirm the penalty or substitute such other penalty or penalties as it sees fit provided that the new penalties are not in the SBAP's opinion in aggregate more severe than that originally imposed; and

(d) where the Panel is of the view that the penalty imposed was too lenient, it may pronounce the penalty that in its view would have been appropriate, but that penalty shall not be applied to the appellant.

16.3 Appeals shall not take the form of a re-hearing of the original hearing with witnesses and evidence, but the SBAP shall consider submissions on the points on which challenges are made and may exceptionally agree to hear or decide to call a witness from the original hearing.

16.4 Fresh evidence will normally be admitted only if it was not reasonably possible to have presented it before the SBP.

16.5 The burden is on the appellant to satisfy the SBAP that the appeal should be allowed.

16.6 The SBAP shall hear from both the Dean and the appellant or the appellant's representative and both shall be entitled to be present throughout the hearing.

16.7 If the appellant fails without reasonable excuse to attend the appeal hearing, the SBAP may either dismiss the appeal forthwith or proceed with the hearing in the appellant's absence.

16.8 (a) The Dean may, in the absence of an appeal against penalty by the student, refer a penalty to the SBAP on the ground that it is unduly lenient, and the Panel shall have the power set out in section 16.2(d) above.

(b) The Dean may, where the SBP has declined to declare that misconduct has been committed by unidentified students of the College in accordance with

section 7.7 above, refer the refusal to the SBAP which shall either dismiss the referral or make the declaration sought.

### **Section 17: Related criminal and University proceedings**

- 17.1 Action under this Code, except under section 5 above, shall normally be deferred or adjourned where the alleged misconduct is subject to investigation or consideration by the police, the prosecuting authorities or the criminal courts, or a criminal trial is pending or imminent.
- 17.2 A student who has been convicted in a criminal court may be subject to disciplinary action under this Code in respect of substantially the same conduct, but such action shall be taken only if in the opinion of the Master the interests of the College or its members or staff demand it.
- 17.3 Where disciplinary action under section 17.2 is taken, the conviction shall be taken as irrebuttable proof that the student committed the act or acts in question and any penalty imposed shall take into account the sentence imposed by the court.
- 17.4
- (a) The Council, on being informed that a student has been sentenced by a court to an immediate term of imprisonment of 12 months or more shall, as soon as possible and wherever practicable, invite the student, or anyone authorised to act on behalf of the student, to make written representations regarding the termination of that student's membership of the College.
  - (b) The membership of the College of a student so sentenced shall normally be terminated by the Council, but the Council may, in the light of any representations received or otherwise, resolve not to terminate the student's membership of the College.
  - (c) Where the student's membership is not terminated, the Council may direct the Dean to prefer a charge of misconduct for hearing by the SBP, notwithstanding section 17.2 above.
  - (d) A student whose membership is terminated in accordance with this section shall be treated as having been expelled for misconduct under this Code.
  - (e) No right of appeal arises following termination under paragraph (c) above.
  - (f) If the sentence of imprisonment referred to in paragraph (a) above is subsequently reduced on appeal to a period of less than 12 months or the conviction is quashed, any decision to terminate under paragraph (b) above shall be rescinded and the student may be dealt with in accordance with section 17.2 or 17.5 as appropriate.

- 17.5 Where a student has been acquitted in a criminal court, disciplinary action under this Code shall not be taken in respect of substantially the same conduct.
- 17.6 The above provisions of this section shall apply in like manner to disciplinary proceedings of the University.
- 17.7 A student who has been –
- (a) arrested and either remanded in custody or released on bail; or
  - (b) convicted of, charged with or summonsed for a criminal offence,
- shall as soon as practicable report the fact, together with explanatory details, to his or her Tutor, who shall promptly pass the information to the Dean.

### **Section 18: Excluded offences**

- 18.1 This section is made pursuant to Statute F.IV.5(c).
- 18.2 An excluded offence for the purposes of this Code is any offence of misconduct within section 2 above which falls within one of the following categories:
- (a) amounts to an offence which is triable only on indictment;
  - (b) amounts to a criminal offence which is designed to facilitate or lead to an offence against the person (including a sexual offence) which is triable only on indictment;
  - (c) amounts to a criminal offence contrary to section 3 of the Sexual Offences Act 2003, unless the Dean is satisfied of the following:
    - (i) that there are no aggravating features;
    - (ii) that the case if prosecuted in the criminal courts would be regarded as suitable for summary trial in the magistrates' court and on conviction would be unlikely to result in a custodial sentence; and
    - (iii) that the complaint is in all the circumstances appropriate to be handled under this Code and would not exceed the resources, powers or capacity of the College;
  - (d) amounts to any other criminal offence punishable by imprisonment where the Dean, having regard to all the circumstances and in particular to the seriousness, difficulty or complexity of the matter, at any stage reasonably considers that the investigation or hearing of the alleged offence would exceed the resources, powers or capacity of the College such that justice could not be done; or

(e) constitutes any misconduct which by agreement or otherwise the College has yielded to the exclusive or primary jurisdiction of the University.

- 18.3 Subject to section 18.6 below, it shall be for the Dean, having taken such legal advice as is deemed appropriate, to determine whether any alleged misconduct constitutes an excluded offence; and alleged misconduct which appears to the Dean to amount to a criminal offence triable only on indictment shall be so treated, and any lesser offence or offences included within that offence shall not be pursued under this Code as an alternative to the excluded offence.
- 18.4 A complaint of misconduct within the terms of section 18.2 above shall not be pursued under this Code unless there has first been a conviction for that offence in a criminal court or University proceedings, as the case may be, or the student against whom the complaint has been made accepts full responsibility and does not substantially dispute the facts alleged.
- 18.5 Where a complaint cannot be pursued because of section 18.4 above, the complainant shall be advised by the Dean or other appropriate person of the other options available for pursuing the matter.
- 18.6 A complainant may appeal to the SBAP against the Dean's determination that the complaint involves an excluded offence by giving notice to the Dean within 14 days, and the SBAP shall either confirm the Dean's determination or declare that the complaint does not fall within section 18.2 above.