

# St Peter's College Non-Academic Discipline Procedure

Approved by the Governing Body in June 2020.

## 1. Introduction

1.1. *Purpose:* This Non-Academic Disciplinary Procedure ('NADP') exists to enable the College to take appropriate measures in cases in which one of its students may be in breach of their non-academic obligations as a member of the College. Such breaches take various forms, and may attract various sanctions. Most are dealt with by the Dean who is responsible for the discipline of the College according to its Statutes. The Dean is authorised by this policy to impose various penalties falling short of suspension and expulsion. This policy also governs cases in which the disciplinary breach is so severe that suspension or expulsion is called for, in which case authority shifts from the Dean to the Master of the College.

1.2. *Student support:* Students who are subject to disciplinary proceedings under this NADP have a number of sources of support available to them, including the College's welfare team, the OxfordSU Advice Service, and the relevant JCR or MCR representatives.

1.3. *Deadlines and timescales:* The College, and the Dean acting on its behalf, aim to deal with problems covered by this NADP as quickly as possible (insofar as this is compatible with the interests of justice) so that delay does not hinder a fair resolution or interfere with academic progress. Accordingly, this NADP includes various deadlines with which the College and any student subject to disciplinary proceedings must make every reasonable effort to comply. In a case where delay is unavoidable, the delaying party must explain the situation giving rise to the delay before the deadline expires, or failing that at the earliest possible opportunity afterwards, and must also keep the other party informed of progress.

1.4. *Giving notice:* Where this NADP requires a notice or record to be given in writing, the normal way for this to be done is by email to the recipient's ox.ac.uk email address or, where the recipient lacks such an address, to the email address which has been supplied by the recipient to the College for such purposes. The email is regarded as having been delivered to the recipient at the time of sending.

## 2. When does the Disciplinary Procedure apply?

2.1. *General scope:* This NADP applies to any current student of the College ('Student'), whether undergraduate or graduate, and whether in residence or out of residence at the time. Visiting Students are included within the scope of this Procedure.

2.2. *Offences:* For the purposes of this NADP, the following constitute offences:

- a) any act, omission, or course of conduct prohibited by the criminal law of England and Wales;
- b) any act, omission, or course of conduct contravening a regulation or rule of the College (including any rules as to neighbourly or collegial conduct that may form part of a tenancy agreement for College accommodation);
- c) any act, omission, or course of conduct that is, in the opinion of the Dean, to the reasonable annoyance, discomfort or distress of any person, whether or not that person is a member of the College, and whether or not that person makes a complaint or petition to the Dean;
- d) any act, omission, or course of conduct which is in contravention of an order or summons issued by the Dean, or which the offender has been warned in writing by the Dean not to repeat.

2.3. *The extent of College jurisdiction:* An offence by the Student under 2.2 above may be the subject of disciplinary steps under this NADP only if the Student committed it in their capacity as a member of the College. An offence counts as having been committed in that capacity if and only if:

- a) it was committed on College premises; or
- b) it might threaten to bring the College into disrepute among reasonable people; or
- c) it was committed by the use of College facilities (such as computer networks) or privileges (such as intercollegiate internal mail); or
- d) it was committed against any other member of the College.

2.4 *Intersection of this Procedure with the Policy and Procedure on Harassment:* Where a complaint of harassment has been made against a student, the Policy and Procedure on Harassment sets out informal mechanisms for dealing with those, and explains the support mechanisms available for students experiencing harassment. Where a student makes a formal complaint of harassment under Section 3 of Annex B of the Policy and Procedure on Harassment, it will be considered and investigated under this Non-Academic Discipline Procedure, except if paragraph 2.5 below applies.

2.5 *Intersection of this Procedure with the University's Non-Academic Discipline Procedure:* The College's *Student Regulations* specifically state that where a formal report of sexual harassment or sexual misconduct is made against a student who is also subject to the University's Code of Discipline, the *University Student Discipline Procedure: Non-Academic Misconduct*<sup>1</sup> will be followed to the exclusion of the College's disciplinary procedures. The outcome of that University procedure will be considered final. No investigation of the matter will be undertaken by the College.

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<sup>1</sup> The *University Student Disciplinary Procedure: Non-Academic Misconduct* can be found here: <https://academic.web.ox.ac.uk/files/universitystudentdisciplinaryprocedure-non-academicmisconductpdf-0>

2.6 *Overlap with the criminal justice system:* Where an alleged offence also constitutes a proper basis for investigation by the police or by any other public authority, or for any other steps to be taken towards prosecution in the criminal courts, and such steps have been proposed or initiated (or their imminent proposal or initiation can reasonably be foreseen), any steps proposed or initiated under this NADP may be stayed until the conclusion or abandonment of the investigation or prosecution. Disciplinary steps may subsequently be taken under this NADP notwithstanding that criminal proceedings were discontinued or that criminal charges were dismissed, and no finding of fact by the criminal courts or absence of any such finding shall bind the College. The fact that proceedings under this NADP may be stayed pending the outcome of criminal investigation or prosecution shall not prevent the Master or the Dean from taking interim measures, which are not regulated by this NADP, to ensure the peace of the College and the safety of its members, which may include the exclusion of the Student from College premises, or from certain College facilities or activities. Such measures are not penalties and their imposition does not indicate that the College has concluded that the Student under investigation is guilty of misconduct.

2.7 *College response to proctorial or criminal conviction:* Where the Student is found guilty of a criminal offence or a breach of University regulations, the College retains the right subsequently to pursue the same matter under this NADP, and to attach its own penalty or other disciplinary measure to the same offence or breach, making due allowance for any penalty or other measure already imposed by the courts or by the Proctors. The College also retains the right, following any criminal or Proctorial conviction of the Student as well as in any other circumstances, to take steps (not regulated by this NADP) to ensure the peace of the College and the safety of its members, steps which are not regulated by this NADP.

### **3. The Dean's jurisdiction through the *Student Regulations* and appeals to the Master**

3.1. The College's *Student Regulations* set out a process by which the Dean will consider relatively minor infractions of the *Regulations*. These are defined as ones for which the Dean considers that the penalties available to the Dean in section 48(ii) of the *Regulations* are appropriate.

3.2. *Appeals against the decision of the Dean:* If a Student wishes to appeal a decision of the Dean under sections 47-51 of the *Student Regulations* should write to the Master within five days of being informed of the Dean's decision.

3.3. In considering that appeal, the Master may determine any matter afresh that the Dean had power to determine under the *Student Regulations*. However, the Master shall not revisit any conclusions of fact drawn by the Dean except to the extent necessary:

- a) to satisfy themselves that the Dean's conclusions were not such that no reasonable person could have drawn them, and

b) to satisfy themselves that the Dean's duties were performed adequately and appropriately.

3.4. In order to satisfy themselves of the matters set out in 3.3 above, the Master may summon the Student to a meeting. The Student may also request a meeting with the Master.

3.5. *Outcome of appeal:* The possible outcomes of an appeal to the Master under 3.3 and 3.4 above are:

a) confirmation by the Master of the Dean's determination that an offence has been committed and of the penalty imposed by the Dean for the offence;

b) confirmation by the Master of the Dean's determination that an offence has been committed coupled with a recommendation by the Master to the Dean, for which the Master is to give reasons, that the penalty should be reduced, or varied from one type of penalty to another in such a way that the variation is regarded by the Student as a reduction;

c) a recommendation by the Master to the Dean, for which the Master is to give reasons, that the Dean should reconsider their determination that an offence has been committed.

3.6. The Master shall determine the outcome of the appeal with all reasonable speed. The Master shall issue the outcome, together with reasons if applicable, to the Student and to the Dean in writing. The Dean shall then proceed with all reasonable speed to implement any recommendation made by the Master.

3.7. *Finality and further appeals.* The Student has no further right of appeal. They may be able to make a complaint to the Office of the Independent Adjudicator (OIA)<sup>2</sup>. The Master will issue to the Student a Certificate of Completion of Procedures once all in-College procedures have been exhausted.

#### **4. Formal consideration by the Master (or a Disciplinary Panel)**

4.1. Where the Dean is of the opinion that the penalties that they are authorised to levy under the *Student Regulations* are insufficient for an offence that has been reported, the Dean may refer the case to the Master.

4.2. *Notice of referral:* Within 72 hours of referring a disciplinary matter to the Master, the Dean shall notify the Student in writing that the referral has been made. The notice shall state what offence or offences have been alleged to warrant the referral.

4.3. *Investigation:* the Master, in consultation with the Dean, will determine the most appropriate method for the disciplinary matter to be investigated. The options available

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<sup>2</sup> No reference is made to an appeal to the Conference of Colleges Appeals Tribunal (CCAT) at this point because CCAT will only consider cases with substantial penalties, and the Dean cannot impose substantial penalties under the *Student Regulations*.

include:

- (a) The Dean undertaking an investigation themselves;
- (b) An independent individual from outside the College being appointed to investigate; or
- (c) A senior member of College (with no connection to the case or the student(s) involved) undertaking the investigation.

4.4. Within 72 hours of the Investigator's appointment, the Student will be given notice by the Master of the identity of the Investigator, and will have 24 hours from the time of being given that notice to object to the appointment, stating the grounds for doing so. If the Master concludes that the Student's grounds for objection are reasonable, an alternative investigator will be appointed.

4.5. *Consideration by the Master or by a Panel:* At this point in the process the Master will decide whether to consider the Investigator's report themselves, or to appoint a Disciplinary Panel to act in their place. If the Master appoints a Disciplinary Panel, it will consist of three Fellows with no connection to the case or the student(s) involved. The Master will notify the Student of the membership of the Disciplinary Panel. Where a Panel is appointed, they will act in place of the Master in sections 4.10 to 4.14 below.

4.6. *Conduct of investigation:* With all possible speed consistent with a careful investigation, the Investigator is to obtain a note from the Dean of how the case progressed to the point at which the referral to the Master took place. This should include a note of any evidence already obtained (and how and when and from whom) and of the identities of any persons who might, in the opinion of the Dean, provide further evidence bearing on the disposal of the case. The Investigator will offer to meet with the Student at least once during the course of the investigation.

4.7. *Other sources of information during the investigation:* the Investigator may collect evidence from other individuals with knowledge or involvement in the matters concerned. Such evidence should be recorded in writing and the individuals informed that, where it is relevant to the conclusions of the investigation, the material will be shared with the Student whose conduct is under investigation.

4.8. *Conduct of meetings:* Any meeting between the Student and the Investigator for the purpose of hearing representations under 4.6 above should be held in private, except as follows:

- a) if in the Investigator's opinion it is necessary to have another person present for the purpose of taking notes or to witness the discussion<sup>3</sup>, then one such person may be present at the invitation of the Investigator; and
- b) if the Student wishes to be accompanied by another student member of the College, a member of the College welfare team, a senior member of the College, or a

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<sup>3</sup> The Dean's normal practice is to ensure one of the Junior Deans is also present at all meetings held with students about decanal matters.

member of staff from OUSU's Student Advice Service this will be permitted.

Notice of at least 24 hours is to be given of the fact that another person will be present or has been invited to be present under (a) or (b) above. Where appropriate, the provisions in this section also apply to meetings between the Investigator and other individuals providing information relevant to the case.

4.9. *Investigation report:* On completion of their investigation, the Investigator will make a written report to the Master containing a recommended verdict on the question of whether – on the balance of probabilities – the offence was committed, and, if so, recommendations as to an appropriate penalty. This report will be sent to the Student who will have the opportunity to comment on the contents of the report, and to present any mitigating circumstances or factors that they believe should be taken into account before a decision about penalties is taken. Where a case involves alleged harassment or injury to another student, that other student should have the chance to see and comment on the contents of the report.

4.10. *Due process:* Before the Master considers whether an offence has been committed and makes a decision about penalties, they shall

- a) satisfy themselves that reasonable efforts have been made to obtain all relevant evidence from the Student and from others, whether orally or in writing;
- b) satisfy themselves from that evidence obtained whether – on the balance of probabilities – the offence was committed by that Student, and in circumstances warranting the proposed penalties; and
- c) satisfy themselves that the Student has had a reasonable opportunity to present a justification or excuse for the offence, whether orally or in writing.

4.11. In order to satisfy themselves of the due process points in 4.10 above, the Master may meet with the Student. The provisions of 4.8 above will apply to such a meeting. In addition, the Master may choose to be accompanied by a legally-qualified representative in this meeting.

4.12. *Possible penalties:* If the Master concludes that – on the balance of probabilities – the Student committed the offence, the Master has the power to impose the following penalties:

- a) expulsion from the College; or
- b) suspension from the College for a period of up to two academic years, with or without conditions that need to be satisfied before return to College; or
- c) expulsion from the College unless certain conditions are satisfied; or
- d) suspension from the College for a period of up to two academic years unless certain conditions are satisfied, with or without further conditions that need to be satisfied

before return to College; or

e) lesser sanctions including, but not limited to, banning the Student from certain parts of the College for a defined time period, requiring the Student to step down from any representative position within the College (eg from any elected JCR position or Club leadership position), imposing extended 'community service' punishment, or requiring other actions by way of reparation to other individuals affected;

f) a referral back to the Dean for the imposition of a penalty for the offence, the penalty to be in the Dean's discretion but limited to those that the Dean could have imposed under section 48(ii) of the *Student Regulations*.

4.13. *Communication of outcome:* The Master shall communicate the outcome of the case, including any penalties imposed, to the Student in writing. This communication will give a clear explanation of, and set out the reasons for, each decision. Any penalty will be clearly stated. The letter will also provide information about the Student's right of appeal.

## **5. Internal appeal stage**

5.1. The Student has a right of appeal against any judgement of the Master (or a Disciplinary Panel acting in place of the Master as set out in 4.5 above) under section 4 above that involves the imposition of a disciplinary measure, and against any penalty imposed. The Student can exercise their right of appeal by giving notice of appeal in writing to the Master within 7 days of receiving the communication of the outcome.

5.2. Where the Master made the determination in the Formal stage set out in Section 4 above, the appeal will be considered by an Appeal Panel of three Fellows with no connection to the case or the student(s) involved. Where the determination was made by a Disciplinary Panel, the appeal will be considered by the Master. Where the Master rather than an Appeal Panel is the decision-maker, the Master will act in place of the Appeal Panel in sections 5.3 to 5.7 below.

5.3. *Grounds for Appeal:* The grounds on which a Student may appeal are limited to:

- a) that the procedures set out within this document were not followed properly;
- b) that the decisions in the outcome were not reasonable;
- c) that the penalty applied was disproportionate, or was not one permitted by the procedure;
- d) that there was bias or reasonable perception of bias during the procedure.

5.4. New evidence will not be considered at the appeal stage unless the Student can provide valid reasons for why it was not provided during earlier stages in the procedure.

5.5. The appeal stage will not normally include a hearing, but the Student may request

a meeting with the Appeal Panel and the Appeal Panel will consider this request. Where a meeting is requested but not granted, the Appeal Panel must justify their decision not to meet the Student in writing.

5.6. *Possible outcomes:* The Appeal Panel may:

- a) uphold the appeal on the basis on any of the grounds laid out in 5.3 above
- b) reject the appeal and uphold the outcome.

5.7. If the Appeal Panel uphold the appeal, their report should make clear which elements of the original outcome are retained and which are changed. The Appeal Panel has the power to alter the penalties imposed, substituting any alternative penalties which were available to the Master in the previous stage of the process. The Appeal Panel must have regard to the same principles and purposes which the Master was required, under this NADP, to have regard.

5.8. *Finality and further appeals:* The Student has no further right of appeal within the College's procedures. They may be able to appeal to the Conference of Colleges Appeal Tribunal (CCAT) or to make a complaint to the Office of the Independent Adjudicator (OIA). The Master will issue to the Student a Certificate of Completion of Procedures once all in-College procedures have been exhausted.