

## **Resolution No 271 of 2012**

### **[CODE OF PRACTICE ON STUDENT DISCIPLINE (NON-ACADEMIC)]**

After consultation with the Senatus Academicus, the University Court of the University of Aberdeen, at its meeting on 26 March 2013, passed the following Resolution:

1. Resolution No 232 of 2003 [Code of Practice on Student Discipline] of the University Court is hereby revoked.
2. The procedures to be followed in the exercise of the Senatus' powers in regard to student discipline in non-academic matters shall be as set out below.
2. This Resolution shall come into force on the date on which it is passed by the University Court.

### **CODE OF PRACTICE ON STUDENT DISCIPLINE (NON-ACADEMIC)**

#### **1. PURPOSE OF THIS CODE**

- 1.1. The University is a community dedicated to the advancement and dissemination of knowledge through research, teaching and learning. Those objectives can be achieved only if the members of the University community can live and work beside each other in conditions of safety and security and with respect for the rights of others. This code is intended to support these objectives by outlining what constitutes misconduct, the process through which allegations of misconduct by students will be considered and the possible sanctions that may be applied where such misconduct is proven. It is expected that, where possible, efforts will have been made to discuss a student's behaviour with them and that an opportunity will have been given for this behaviour to be corrected, prior to any steps being taken to impose sanctions. This code should be read and applied in the light of the above.
- 1.2. The University may consider a case of misconduct under this Code provided that the conduct in question:
  - (a) takes place on University premises, or
  - (b) is committed by a student engaged on a University activity, or
  - (c) affects or concerns other members of the University community.

Examples of misconduct are given in Appendix A. These are divided into Class 1, Class 2 and Class 3 levels. The list is not exhaustive but can also be used to determine the level of seriousness of other offences.

#### **2. PROCEDURE IN CASES OF ALLEGED NON-ACADEMIC MISCONDUCT**

##### **2.1. Preliminary Investigation**

- 2.1.1. For any investigation or hearing, there will be a Disciplinary Officer or Senior Disciplinary Officer overseeing.<sup>1</sup>

<sup>1</sup> - Class 1 or Class 2 offences: The Disciplinary Officer will normally be the Community Liaison Officer in University Halls of Residence, the Deputy Librarian or a Head of School.

- 2.1.2. Before embarking on any disciplinary action, it is important that the facts are established through a preliminary investigation. In most cases, alleged misconduct will initially be investigated by the Disciplinary Officer, or a person designated by them.
- 2.1.3. The preliminary investigation will include the consideration of such representations as may be submitted by interested parties (e.g. report from staff member, informal discussion with the student and/or witnesses).
- 2.1.4. Following a preliminary investigation, the Disciplinary Officer/Senior Disciplinary Officer may:
- (a) dismiss the allegation of misconduct,
  - (b) decide that, although misconduct did occur, the matter has now been resolved,
  - (c) decide that misconduct did occur and offer the student the option of a written reprimand and/or fixed penalty,
  - (d) where the student does not accept an option under 2.1.4.(c) or where the Disciplinary Officer/Senior Disciplinary Officer considers that further consideration is required, conduct a Local Hearing on the alleged misconduct and determine the case in accordance with the procedures set out in Section 2.2 and Appendix B,
  - (e) decide that the case needs to be considered at a more senior level. This means that a Disciplinary Officer may decide that the alleged offence is a Class 3 offence and refer the case for consideration by a Senior Disciplinary Officer. Where the initial investigation was conducted by a Senior Disciplinary Officer s/he may recommend to the University Secretary that the alleged misconduct should be heard by a University Disciplinary Committee, in accordance with the procedures set out in Section 2.3 and Appendix C.
- 2.1.5. Where the misconduct is the subject of a police investigation and/or prosecution, the University retains the right to apply its own procedure concurrently or to await the outcome of any criminal proceedings before deciding whether or not to apply internal procedures. The University may report to the police any allegation of criminal misconduct if it believes that this will best serve the interests of the University community or the wider public interest.

## 2.2. **Local Hearing convened by a Disciplinary Officer or Senior Disciplinary Officer**

- 2.2.1. A Local Hearing will be conducted in accordance with the procedures set out in Appendix B.
- 2.2.2. Where the student admits the offence alleged or the Disciplinary Officer/Senior Disciplinary Officer finds the case to be proved, one or more of the following penalties may be imposed:
- (a) a written or oral reprimand;
  - (b) a fine of not more than £100 (Class 1) and not more than £250 (Class 2 or Class 3);
  - (c) compensation not exceeding £100 (Class 1) and not more than £250 (Class 2 or Class 3). This is separate from any contractual requirement to pay for repairs for student residing in University Halls of Residence;
  - (d) confiscation of equipment or items causing damage to property or unreasonable disturbance to people;
  - (e) exclusion from a Service for a period not exceeding 7 days (Class 1) or 14 days (Class 2 or Class 3);
  - (f) expulsion from residence in University Halls of Residence (Class 3).

- Class 3 offences: The Senior Disciplinary Officer will normally be the Director of Student Affairs, the University Librarian or a Head of College.

2.2.3. If, having heard the case for a Class 3 offence, the Senior Disciplinary Officer forms the view that the penalty available to him or her in the event of a finding of misconduct is inadequate<sup>2</sup>, the case must be referred to a Disciplinary Committee, *but only for consideration of the penalty to be imposed*.

### 2.3. **Disciplinary Committee Hearing**

2.3.1. It is expected that, wherever possible, disciplinary matters will be handled without the need for a Disciplinary Committee Hearing. However, where the alleged misconduct is so severe that it could result in the student's exclusion, suspension or expulsion from the University, the matter should be referred to a Disciplinary Committee.

2.3.2. Details of the formation of a Disciplinary Committee and the conduct of the Hearing are given in Appendix C

2.3.3. If misconduct is admitted or, following a hearing, proved, a Disciplinary Committee may impose one or more of the following penalties:

- (a) a written or oral reprimand
- (b) a fine of not more than £1000
- (c) exclusion for a period not exceeding 28 days
- (d) suspension of matriculated student status for a period not exceeding one half-session
- (e) restitution or compensation not exceeding £1000
- (f) expulsion from residence in University Halls of Residence
- (g) recommendation to the Principal or Senior Vice-Principal that the student should be expelled from the University

## 3. **RIGHTS OF APPEAL**

3.1. A student can appeal against the decision of a Disciplinary Officer, a Senior Disciplinary Officer or a Disciplinary Committee, but only if there are valid *grounds to appeal*. Possible grounds for appeal are:

- (a) the University's procedures were not followed; or
- (b) the person or body making the decision did not have the authority to do so; or
- (c) the person or body making the decision did not act impartially; or
- (d) the penalty imposed was unreasonable, that is, that it is one which no reasonable person, properly advised, would have imposed in light of this Code of Conduct. In the case of the level of penalty, it will only be deemed to be unreasonable if it significantly exceeds average fines usually imposed for similar offences.

3.2 An appeal against a decision of a Disciplinary Officer/Senior Disciplinary Officer or Disciplinary Committee must be made in writing to Registry, stating clearly the grounds of appeal, not more than 10 working days after the date of the Disciplinary Officer/Senior Disciplinary Officer or Disciplinary Committee's written decision. An appeal against a decision of a Disciplinary Officer in University Halls of Residence should be made in writing to the Director of Student Affairs in the first instance. S/he will decide whether to offer the student a resolution or to refer it to a Case Officer.

<sup>2</sup> This would happen, for example, in a case where additional evidence came to light at a Local Hearing, which could not have been known during the preliminary investigation.

- 3.3 When an appeal is received by Registry, a Case Officer for the appeal will be appointed and receipt of the appeal will be acknowledged.
- 3.4 On receipt of the appeal, a Grounds to Proceed panel, composed of the Case Officer and a senior academic or administrative staff member (depending on the nature of the case), will review the case to determine whether there are grounds for the appeal to proceed.
- 3.5 If the appeal or complaint is deemed not to contain grounds to proceed, the student will be advised of this outcome within 5 working days of receipt of the appeal. The student will be informed of his or her right to seek independent review of the University's decision by the Scottish Public Services Ombudsman.
- 3.6 If the Grounds to Proceed Panel consider that the appeal should proceed, the original Disciplinary Officer/Senior Disciplinary Officer will be asked whether s/he wishes to review his/her decision. If he/she does not wish to amend the original decision taken, the matter is to be referred to an Appeal or Complaint Panel, in accordance with the University's Policy and Procedure on Student Appeals and Complaints. The people who form the Appeal or Complaint Panel will not be the same as those in the original Disciplinary Committee.
- 3.7 Where an appeal is upheld, the Appeal Panel can remove the sanction, impose a different sanction or refer the matter back to the Disciplinary Officer/Senior Disciplinary Officer with recommendations for the matter to be reviewed.

#### **4. SUSPENSION OR EXCLUSION FROM THE UNIVERSITY IN CASES OF URGENCY**

- 4.1 In cases of great urgency, the Principal, or in his or her absence the Senior Vice-Principal, shall have the power to take immediate action to suspend or exclude a student temporarily from the University. These powers will only be used if the Principal or Senior Vice-Principal believes that this action is necessary to protect members of the University community or members of the public in general, or to protect a particular member or members. The terms 'suspension', 'exclusion' and 'expulsion' are defined in Appendix E.
- 4.2 Reasons for the decision shall be recorded in writing and made available to the student. The student will also be informed of the initial duration of the suspension or exclusion, which will not exceed 5 working days, in the first instance.
- 4.3 The Principal or Senior Vice-Principal will appoint a Vice-Principal to be the Disciplinary Officer for the case. This Vice-Principal will arrange to meet or communicate with the student within 5 working days, to conduct a preliminary investigation.
- 4.4. If, following the preliminary investigation, the Vice-Principal believes that there is a case to answer, s/he will convene a Disciplinary Committee in accordance with Section 2.3 and Appendix C.
- 4.5 A student has the right to appeal against a suspension, exclusion or expulsion, in accordance with Section 3.
- 4.6 During any period of suspension or exclusion, all reasonable efforts will be taken to minimise any academic disadvantage to the student (e.g. provision of lecture notes, sitting exams away from the main examination locations etc).

## Appendix A – Forms of Misconduct

A person who, without good cause, seriously disrupts, abuses or interferes with the functions, duties or activities of any member of the University Community or any University activity, is guilty of misconduct under this Code. Examples of offences include, but are not limited to:

Class one:

- Refusal to show ID to University accommodation staff or Security staff on campus
- Minor anti-social behaviour (this includes excessive noise at anti-social times, minor vandalism and throwing items out of windows)
- Refusal to leave a building during a fire alarm
- Parking offences in University car-parks

Class two:

- Repeated Class one offences
- Tampering with fire alarms or fire extinguishers
- Using threatening, abusive or offensive language
- Misusing or making unauthorised use of University premises or items of property, including computer misuse, infringement of copyright when copying or downloading published information
- Intentionally or recklessly damaging University property or the property of any member of the University community.

Class three:

- Repeated Class two offences
- Behaving in a violent, indecent or threatening manner
- Engaging in deception or other forms of dishonesty in relation to the University
- Behaving in a way likely to cause injury to any person or impair safety
- Carrying an offensive weapon
- Harassing any member of the University community. For these purposes “harassment” means behaviour or language which is regarded by the person to whom it is directed as harassment and which would be regarded as harassment by any reasonable person. Where a student alleges harassment by another student, there must be a direct connection to the University relation to the allegation.
- Discriminating against any member of the University community on any ground such as colour, race, nationality, national origins, disability, sexual orientation, religion or belief, family circumstances, political beliefs, gender, gender reassignment, trade union membership, age or any other unfair distinction.
- Deliberately doing, or failing to do, anything which thereby causes the University to be in breach of a statutory obligation.
- Failing to comply with a previously-imposed penalty under this Code.

Note: Any penalty imposed will take account of the severity of the actual misconduct, the wider circumstances and any previously recorded incidents in which misconduct by the same person was either admitted or investigated and proved.

## **Appendix B – Local Hearing**

### **B.1 Prior to the hearing**

- B.1.1 Prior to the hearing, student who is the subject of disciplinary proceedings (“the student”) shall be informed in writing of any allegations made against him or her and of the date and venue of the proposed hearing, normally with notice of at least seven days during term-time and fourteen days out of term. In the case of a minor breach of discipline, the period of notice can be reduced to a period not less than three days. The student shall be required to confirm that they will attend the hearing on the specified date/time.
- B.1.2 The student shall be provided with a copy of the Code of Practice on Student Discipline (Non-academic) and with any other relevant University Codes of Practice. The student shall also be provided with a copy of any written submissions that will be considered as part of the hearing. The student will be invited to respond to these allegations in writing in advance of the hearing, but shall not be required to do so.
- B.1.3 The student, and, where the proceedings are based on an alleged offence against another person, that person (“the complainant”), may be accompanied or represented at any hearing of the case by one person of his or her choice. The University will not provide legal or other representation for complainants or for students subject to disciplinary proceedings under this Code.

### **B.2 Conduct at the Hearing**

- B.2.1 The hearing will be chaired by the Disciplinary Officer/Senior Disciplinary Officer. A staff member will be present to take a note of the hearing. The Disciplinary Officer/Senior Disciplinary Officer may ask that an additional University staff member attends. For hearings held within the Halls of Residence, the Disciplinary Officer/Senior Disciplinary Officer may ask that an additional student member who has been trained in the Disciplinary Process attends.
- B.2.2 The Disciplinary Officer/Senior Disciplinary Officer will outline the procedures to be followed, after which any witness(es) will be asked to leave until called to give evidence.
- B.2.3 The Disciplinary Officer/Senior Disciplinary Officer will then outline the nature of the allegation(s) against the student and invite the student to state whether he or she admits or denies the allegations.
- B.2.4 The Disciplinary Officer/Senior Disciplinary Officer will invite the person making the allegation of misconduct, if present, to make a statement. The person making the allegation of misconduct may at this stage present supporting evidence to the hearing. Evidence may include oral testimony of witnesses or previously submitted written evidence.
- B.2.5 The Disciplinary Officer/Senior Disciplinary Officer will invite the student to make a statement in response.
- B.2.6 The student and/or the student’s representative may at this stage present supporting evidence to the hearing. Evidence may include oral evidence of witnesses or written submissions.
- B.2.7 The Disciplinary Officer/Senior Disciplinary Officer will take the opportunity to seek clarification on any points raised, both with the student and any witness(es).
- B.2.8 Any oral evidence will be taken in the presence of the student or, in his or her absence, and with his or her approval, in the presence of his or her representative.

- B.2.9 The student and/or his or her representative will be invited to address questions through the Disciplinary Officer/Senior Disciplinary Officer to any witness(es) on their statement(s) and on their written submissions.
- B.2.10 The student and/or his or her representative will be invited to give a concluding statement. This will be the final stage at which new evidence can be submitted.
- B.2.11 The Disciplinary Officer/Senior Disciplinary Officer, together with any other panel members present, will consider the evidence and reach a decision, which will be communicated to the student in writing **normally** within five.<sup>3</sup> working days.

## **Appendix C – Disciplinary Committee**

### **C.1 Disciplinary Committees**

- C.1.1 The Convener of a Disciplinary Committee will be a Vice-Principal, who will be appointed by the Secretary to the University.
- C.1.2 Members of the Disciplinary Committee are appointed from the Disciplinary Committee Panel.
- C.1.3 The Disciplinary Committee Panel comprises twelve staff and seven student members of the Senate appointed by the Senate each year to deal with breaches of discipline.
- C.1.4 Alongside the Convener, the Disciplinary Committee will comprise one staff member and one student member from the Disciplinary Committee Panel to form the Committee. An administrative staff member will be appointed to administer the Committee and to take a note of its proceedings.
- C.1.5 A Disciplinary Committee shall be quorate provided 2 of the 3 members are present.
- C.1.6 The student will be informed in advance of the composition of the Committee. If the student objects to the composition of the Committee, these objections should be submitted in writing to the Clerk not less than seven days prior to the Disciplinary Committee hearing. It will be for the Convener of the Committee to determine whether the objection should be upheld. If the objection is to the Convener of the Committee, the will be determined by another Vice-Principal.

### **C.2 Conduct at Disciplinary Committee**

- C.2.1 The Convener will outline the procedures to be followed, after which the witness(es) will be asked to leave until called to give evidence.
- C.2.2 The Convener will then outline the nature of the allegation(s) against the student and invite the student to state whether he or she admits or denies the allegations.
- C.2.3 The Convener will invite the Disciplinary Officer/Senior Disciplinary Officer to make a statement regarding the decision he/she reached following the disciplinary hearing.

<sup>3</sup> In some cases further clarification may have to be sought. Where such further investigation will leave to a delay in notifying the student of the outcome, the student will be advised of this.

- C.2.4 The Committee will take the opportunity to seek clarification on any points raised with the Disciplinary Officer/Senior Disciplinary Officer.
- C.2.5 The Convener will invite the student to make a statement.
- C.2.6 The student and/or the student's representative may at this stage present supporting evidence to the Disciplinary Committee. Evidence may include oral evidence of witnesses or written submissions.
- C.2.7 The Committee will take the opportunity to seek clarification on any points raised, both with the student and any witness(es).
- C.2.8 Any oral evidence will be taken in the presence of the student or, in his or her absence, and with his or her approval, in the presence of his or her representative.
- C.2.9 The student and/or his or her representative will be invited to address questions through the Convener to the Disciplinary Officer/Senior Disciplinary Officer or witness(es) on their statement(s) and on their written submissions.
- C.2.10 The student and/or his or her representative will be invited to give a concluding statement. This will be the final stage at which new evidence can be submitted.
- C.2.11 When all statements have been made, all witnesses heard and all questioning completed, all persons present other than the members of the Disciplinary Committee must leave the room. The Clerk may, however, remain with the Disciplinary Committee.
- C.2.12 The Disciplinary Committee will consider the evidence and reach a decision, which will be communicated to the student in writing **normally** within five<sup>4(1)</sup> working days.

#### **Appendix D - Determination of the case in the absence of the student**

- D.1 Where a student cannot attend the hearing, s/he may nominate another person to represent him or her, but shall not be required to do so. Where a student elects to nominate another person to represent him or her at the hearing, written notification of this must be submitted in advance to the Disciplinary Officer/Senior Disciplinary Officer.
- D.2 Where a student cannot attend the hearing and requests that the hearing be deferred to allow him/her to attend in person, the student cannot subsequently use the impact which deferring the hearing may have on his/her academic performance as grounds for an appeal or complaint.
- D.3 In the event that a hearing is deferred at the request of the student, the hearing will normally be rescheduled within 6 weeks of the original date. If the student is unable to attend the rescheduled hearing, the case will be considered and a decision reached in the absence of the student. Under the terms of paragraph B.3.1, the student may nominate another person to represent him or her.
- D.4 Where a student has not informed the Disciplinary Officer/Senior Disciplinary Officer in advance that they are unable to attend a hearing, it will be at the Disciplinary Officer/Senior Disciplinary Officer's discretion to consider whether the hearing proceeds in the student's absence.

<sup>4</sup> In some cases further clarification may have to be sought. Where such further investigation will leave to a delay in notifying the student of the outcome, the student will be advised of this.

## **Appendix E - Definition of expulsion, suspension or exclusion**

E.1 Expulsion is the termination of matriculated student status involving a total prohibition on attendance at or access to the University and on any participation in University activities. A student who has been expelled will not normally be eligible for re-admittance to the University.

E.2 Suspension of matriculated student status involves a total prohibition on attendance at or access to the University and on any participation in University activities; but it may be subject to qualification, such as permission to attend for the purpose of an examination. Suspension should be used only where exclusion from specified activities or facilities is considered to be inadequate.

E.3 Exclusion involves selective restriction on attendance at or access to the University or prohibition on exercising the functions or duties of any office or committee membership in the University or Students' Association, or other bodies. It may also extend to restriction on access to other places such as hospital wards or school premises (where access to such places is integral to the student's programme of study or professional training). The exact details of such exclusion must be specified in writing.

E.4 An order of expulsion, suspension or exclusion may include a requirement that the student should have no contact of any kind with a named person or persons.

