

St Cross College Bylaws on Discipline

I Definitions

For the purposes of these by-laws, the following words should have the following meanings:

- (a) The term 'student member' shall include any person who has been or is to be registered or enrolled as a student whether for a degree or diploma or otherwise.
- (b) 'Expulsion' by the College shall mean the permanent loss of membership of the College and the University.
- (c) 'Banning' by the College shall mean a withdrawal of the right of access to specified premises or facilities for a fixed period or pending the fulfilment of certain conditions.
- (d) 'Rustication' by the College shall mean 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.
- (e) 'Suspension' by the College shall mean a withdrawal of a right of access as above where action is taken as an interim measure pending further investigation, or where action is required in a non-disciplinary situation. Such withdrawal may be for a limited period pending the fulfilment of certain conditions or may be indefinite.
- (f) 'Harassment' shall mean a course of unwarranted behaviour such as to cause or as may reasonably be expected to cause such distress or annoyance as seriously to disrupt the work or substantially to reduce the quality of life of another person.
- (g) 'Member of the College' shall mean any fellow of the College, student member, member of Common Room (visiting or otherwise), member of College staff, employee or agent of the College.
- (h) 'In a College context' shall mean:
 - (i) on College premises
 - (ii) in the course of College activity within or outside Oxford whether academic, sporting, social, cultural or other.

II Disciplinary Code: Misconduct

No Fellow, student member or Member of Common Room of the College shall in a College context intentionally or recklessly:

- (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, students, or employees at the College, or by visiting speakers;
- (c) Obstruct any employee or agent of the College in the performance of his or her duties;
- (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 the College or University authorities concerned;
- (f) Forge or falsify expressly or impliedly any University certificate or document or knowingly make false statements concerning standing or results obtained in examinations;
- (g) Engage in any activity likely to cause injury or to impair safety;
- (h) Engage in violent, indecent, disorderly or 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 his or her name or any 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) Use, offer or sell or give to any person drugs, the possession or use of which is illegal;
- (m) Engage in conduct in breach of the Statutes and Regulations of the University or in breach of College regulations published from time to time;
- (n) Engage in conduct in breach of College regulations regarding the use of the College library or computing facilities;

III Criminal Offences

In the event that a student member has been convicted of a criminal offence of such seriousness that an immediate term of imprisonment might have been imposed (and whether or not such a sentence was in fact imposed) the Governing Body shall have the 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.

IV University Offences

- (a) 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. The grounds of appeal shall be limited to the application of that penalty to the student member's use of College premises and facilities.
- (b) 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. The grounds of appeal shall be limited to the application of that penalty to the student member's use of College premises and facilities.

V Disciplinary Procedures

1. For the purposes of the Disciplinary Procedures

- (a) The Disciplinary Committee shall consist of the Vice-Master, the Senior Tutor, the Tutor for Women and two persons appointed by the Master from a panel of ten members of the Governing Body nominated by the Governing Body. A sitting of the committee shall be sufficiently constituted (always provided that clause (c) below is observed) by a panel comprising three members, one of whom shall be one of the College Officers specified above, who will take the chair (in the order Vice-Master, Senior Tutor, Tutor for Women);
- (b) No person who has an actual or apparent interest in the outcome of a case before the Disciplinary Committee because, for example, he or she was the complainant or he or she has participated in any decision against which an appeal is being brought, may be a member of the Disciplinary Committee considering the case. In the event that this requirement disqualifies any *ex officio* member of the Disciplinary Committee, the Master shall have discretion to appoint a substitute;
- (c) Membership of the Disciplinary Committee shall be chosen in a way that is consistent with the equality policies of the college and, in particular, so that there is at least one member of each sex.

2. The Disciplinary Procedure may be initiated by the Dean or by any other Member of the College who has good reason to believe that a student member has breached the Disciplinary Code in Section II of these by-laws. Other than the Dean him/herself, this person (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.

3. When an alleged breach of the Disciplinary Code 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, if necessary, with immediate effect, for as long as the Disciplinary Procedure is in operation. The student member may, by giving notice to the Dean, appeal a suspension lasting in excess of seven days to a panel of three members of the Governing Body appointed by the Master consistently with clause 1 (b) and (c) above.
4. Where an alleged breach of the Disciplinary Code constitutes, in the opinion of the Dean, a sufficiently serious offence, the Dean shall immediately refer the matter to the Police, and where a student member is subject to criminal proceedings arising out of the alleged breach of the Code, the Dean shall not normally proceed with the case other than to suspend him or her from residence, or from use of College facilities if appropriate. The student member may appeal such suspension as in clause 3 above.
5. If the alleged breach is not proceeded with as a criminal matter by the prosecuting authorities, the Dean shall then deal with the matter as if it had not been referred to the Police.
6. If the complaint relates to activity that falls within the College's Code of Practice on Harassment, whether or not it constitutes 'harassment' for the purpose of these by-laws, the Dean shall consider whether the complaint should more appropriately be dealt with under the informal procedures set out in that Code. If he or she takes the view that the complaint should not be so dealt with he or she shall deal with the matter under the following procedure.
7. The Dean shall, if possible, within 24 hours of receiving the report of the alleged breach, require in writing the student member concerned to attend for interview before him or her at a time and place stipulated 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 Disciplinary Code. The student member may be assisted by a third person who may be another member of the College or of the University.
8. At the interview, the Dean shall explain to the student member that he or she can:
 - (a) admit the alleged breach and continue with the interview;
 - (b) 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 requires evidence in relation to the alleged breach to be provided by other persons.

If the student member opts for (a), the Dean shall elicit all information about the breach relevant to penalty.

If the student member opts for (b), the Dean shall investigate whether the alleged breach is established.

9. (a) At any stage of the interview, the Dean may, if he or she considers it appropriate in all the circumstances, refer the matter to the Disciplinary Committee;
- (b) At the close of the interview, the Dean may, dependent on its nature and outcome, either:
- (i) take no further action;
 - or
 - (ii) if the breach has not been admitted, determine that a breach has been established and, after hearing any mitigation, impose a penalty from those listed in 9(c) below;
 - or
 - (iii) if the breach has been admitted, after hearing any mitigation, impose a penalty from those listed in 9(c) below;
- (c) If the Dean is satisfied that a student member is guilty of the breach with which he or she is charged, the Dean may, separately or in any combination:
- (i) impose a fine not exceeding £70 or such other amount as is determined from time to time by the Governing Body;
 - (ii) order the student member to pay compensation not exceeding £70 to any person or body suffering injury, damage or loss as a result of the student member's conduct;
 - (iii) impose an order banning the student member from specified premises or facilities for such period or on such terms as she/he thinks fit, such ban not to exceed one Full Term without review;
 - (iv) rusticate the student member for a period not exceeding one Full Term.
- The Dean may, instead of exercising his or her powers under this clause, give the student member a written warning as to his or her future conduct and the Dean shall keep a record of the warning. Subject to good conduct, the warning will be spent after one year and removed from the student member's record.
- (d) If the Dean considers in any case that his or her powers under clause 9(c) above are insufficient to meet the gravity of the breach of which he or she finds the student member guilty, the Dean may refer the case to the Disciplinary Committee and invite it to make such decision as it thinks appropriate. The Dean must state to the Committee what penalty would in his or her opinion be appropriate and give reasons for that opinion.
- (e) In case 9 (b) (ii) or (iii), details of the breach established 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 retained by the Dean and one given to the student member.

(f) In case 9 (b) (ii) or (iii), the student member may appeal the matter to the Disciplinary Committee, against a finding of breach and/or any of the penalties (i) to (iv) imposed under clause (c) above. He or she shall inform the Dean of his or her intention to exercise the right of appeal within 48 hours of the receipt of the Dean's determination.

10. The function of the Disciplinary Committee shall be to hear and determine:

(a) references made to it by the Dean under clause 9 (a) above

(b) cases remitted to it for decision as to penalty under 9 (d) above

(c) appeals made to it by student members under clause 9 (f) above.

11. The Disciplinary Committee will be informed by the Dean

(a) where there is a reference under paragraph 9 (a) above, of the particulars of the alleged breach of the rules;

(b) where if there is an appeal under paragraph 9 (f) above, particulars of the breach of the rules and the penalty imposed;

(c) in either event of the name or names of the student member(s) involved, and of any known witnesses;

(d) where there is a reference under paragraph 9 (d) above, of the penalty the Dean thinks appropriate together with reasons for that penalty.

12. Within, if possible, five days of the reference or appeal the Disciplinary Committee shall require in writing the student member concerned and witnesses to attend for a hearing at a time and place stipulated, normally with two full days' notice. In the case of a reference such notice shall state the details of the alleged breach of the Disciplinary Code. The student member may be assisted by a third person who may be another member of the College or a member of the University. Both the student member and the Disciplinary Committee shall have the right to call witnesses to the hearing and the right, through the Chair, to question witnesses. In all cases the notice shall state the membership of the Disciplinary Committee. The student member shall have the right to challenge the membership of the Disciplinary Committee stating in writing and in advance of the hearing the reasons why it is inappropriate for the person or persons concerned to hear the case. The Master shall determine whether the reasons given by the student member are sufficient justification to change the membership. If the Master does so determine, a new and final written notice shall be issued that may prescribe a different date and time for the hearing. The membership of the Disciplinary Committee proposed in this final notice may not be challenged. Where a challenge has been made, the facts and their outcomes shall be recorded in the report of the Disciplinary Committee's hearing.

13. Unless the Disciplinary Committee thinks it inappropriate in a particular case or the Dean is unable to act (in which event the Vice-Master shall appoint a substitute), the Dean shall act as clerk to the committee for the purposes of formulating the charges, making any administrative arrangements for such matters as the summoning of witnesses and the production of documents, and keeping a record of the hearing as in clause 18 below. The Dean will have no part in the Committee's decision.
14. If penalty only is in issue, the Disciplinary Committee shall follow, so far as appropriate, the procedure referred to in clause 12 above, save that the notice shall state the details of the penalty imposed.
15. 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 concerned fails to appear, may deal with his or her case in his or her absence, if satisfied that proper notice has been given.
16. Failure by a student member of the College to attend when summoned to appear before the Committee as a witness, unless after enquiry the Committee is satisfied that there was reasonable cause for such failure, shall be treated as an offence under Section II (a) and (c) above and dealt with under these procedures.
17. The Chair shall explain the procedure to be followed at the hearing and shall read out, in the case of a reference, the complaint of alleged breach of the Disciplinary Code against the student member; and in the case of an appeal the finding of breach and/or the penalty imposed against which the appeal is directed.
18. At the hearing, the Disciplinary Committee shall ensure that a full and accurate record of all evidence considered and of the determination made is compiled.
19. If, in the course of such a hearing, the Disciplinary Committee is given the names of additional potential witnesses, whose evidence it considers may be significant, it shall follow, so far as appropriate, the procedure referred to in clause 12 above so as to arrange their attendance.
20. At the conclusion of the hearing, the Disciplinary Committee shall determine whether any breach of the Disciplinary Code has been established, taking into account any representations made by or on behalf of the student member. If the Committee is satisfied that a student member is guilty of the breach with which he or she is charged, or in any case remitted to it under clause 9(d) above, the Disciplinary Committee may, separately or in any combination:
 - (a) impose a fine of such amount as it thinks fit;
 - (b) order the student member to pay compensation to any person or body suffering injury, damage or loss as a result of the student member's conduct;
 - (c) make an order banning the student member from access to specified premises or facilities for such period or on such terms as it thinks fit;
 - (d) rusticate the student member for such time as it thinks fit;
 - (e) expel the student member.

The Committee may, instead of exercising its powers under this clause, give the student member a written warning as to his or her future conduct and a record of the warning shall be lodged with the Dean. Subject to good conduct, the warning will be spent after one year and removed from the student member's record.

21. The Committee shall inform the student member in writing, as soon as is practicable, of its determination and remind the student member of his or her right of appeal to the Governing Body in appropriate cases, as described in the next paragraph.
22. The student member shall have the right of appeal to the Governing Body against the finding of the Disciplinary Committee and/or any of the penalties (a) to (e) imposed under clause 20 above in cases remitted to it under clause 10 (a) above; or against any such penalty imposed in cases remitted under clause 10 (b) above. The decision of the Disciplinary Committee shall be final in cases remitted to it under clause 10 (c) above.
23. The student member shall inform the Dean of his or her intention to exercise the right of appeal within 48 hours of receipt of the Disciplinary Committee's determination. The appeal shall be made to a panel comprising the Master (who will take the chair) and one other member of the Governing Body and one legally qualified member of Congregation who shall be appointed by the Master consistently with clause 1 (b) and (c) above.
24. If the Disciplinary Committee has imposed the penalty of expulsion or rustication in excess of one term and the Governing Body endorses the Disciplinary Committee's decision, the student member shall be informed of his or her right of appeal to the Colleges' Tribunal in the first instance. Students who are not satisfied with the outcome of an appeal to the Tribunal will be able to take their complaint to the Office of the Independent Adjudicator for Higher Education. Details of which are available from the Master's office.
25. Any findings of a breach of the Disciplinary Code by the Dean or a Disciplinary Committee shall be based on the balance of probabilities.
26. The student member may waive at any stage all or any of his or her rights under the foregoing procedure; nor shall any departure from such procedure invalidate any determination purported to be made there under unless in all circumstances such departure is productive of substantial unfairness to the student member.
27. Any time limits contained in this disciplinary procedure may be extended at the discretion of the Dean or the Disciplinary Committee as is appropriate.