

# **Ordinance XVII - Conduct and Discipline of Students - ARCHIVED VERSION**

## **Conduct and Discipline of Students**

*(Version effective from 4 October 2010 until 31 July 2011)*

### **1. General**

(i) It shall be the duty of all students of the University in all their acts and demeanour to observe and maintain honest and peaceable behaviour at all times. All students are required to observe the University's Charter, Statutes, Ordinances, Regulations and Codes of Practice.

(ii) The University defines misconduct as behaviour which, in its broadest sense, constitutes improper interference with the functioning or activities of the University, or those who work and study in the institution. The University may take disciplinary action in relation to behaviour which affects members of the public which is not honest and peaceable and which damages the standing of the institution.

(iii) All students of the University are subject to the jurisdiction of the Vice-Chancellor and the Senate in respect of their studies and their conduct both on and away from University premises.

(iv) The general powers of the Senate set out in Statute XIV(6) (xxii) to regulate the discipline of students are delegated to the Student Discipline Committee. The Student Discipline Committee is responsible for the operation and review of student disciplinary procedures relating to all areas of University activity.

(v) The Student Discipline Committee shall be appointed annually by the Senate and shall have the following constitution:

A minimum of five and a maximum of seven members of the academic or academic-related staff, one of whom shall act as chair

A minimum of five and a maximum of seven lay members, external to the University, of whom at least one shall be a member of Council

Five University members of the Loughborough Students' Union Executive

The six academic or academic-related members of the Student Discipline Committee other than the Chair shall be formally designated Deputy Chairs.

(vi) The Student Discipline Committee shall have the power to fine students for disciplinary offences. These powers are delegated to authorised individuals under section 2 of this Ordinance and to the Student Disciplinary Panel under section 3 of this Ordinance.

(vii) The Academic Registrar shall appoint a member of his/her staff to act as secretary to the Student Discipline Committee.

(viii) The Student Disciplinary Appeals Committee is the body constituted under Statute XXIV to hear appeals and its membership shall be:

A Chair and Deputy Chair who shall be members of the academic or academic-related staff appointed annually by Council

One lay member external to the University selected by the Academic Registrar from three individuals appointed annually by Council

One University member of the Loughborough Students' Union Executive selected by the Academic Registrar from three individuals nominated by the Union Executive

(ix) The Committee shall be quorate when either its Chair or Deputy Chair and the two other members are present. The Academic Registrar shall appoint a member of his/her staff to act as secretary to the Student Disciplinary Appeals Committee.

(x) Offences are classed under 2. and 3. below as either Minor or Major. Minor Offences shall be considered by a relevant University officer under powers delegated by the Student Discipline Committee. Major Offences shall be considered by a Panel drawn from the Student Discipline Committee. Interpretation of the nature of an offence under the definitions below is at the discretion of the Chief Operating Officer.

(xi) During the investigation of an alleged Offence students and members of staff are required to meet with University officers to assist with their enquiries if requested and to attend a Student Disciplinary Panel if required to do so in writing with reasonable notice. Failure to do so constitutes a disciplinary offence as defined under (xii) below.

At such a meeting, a student has the right to be accompanied by an individual of his/her choosing and to be informed of any Offence he or she is suspected of having committed, where the University has reasonable evidence that they have committed such an Offence.

(xii) Offences defined under the Ordinance shall include the following and may be treated as Minor or Major as defined in (x) above, 2. and 3.

(a) Failure, upon request, to disclose name and other relevant details, or to produce a University identity card if carried, to an officer or employee of the University or the Student Union when it is reasonable to require that such information be given and the officer or employee has identified themselves to the student.

(b) Impersonation of another student by use of his/her identity card, including gaining access to University or Student Union property by the use of such a card.

(c) The possession or storage on University property or in student accommodation of knives, air rifles, firearms, replica firearms, explosive devices and other offensive weapons, other than with the written permission on the Security Manager.

(d) Failure to meet with University officers to assist with their enquiries when requested to do so.

(e) Failure to attend a Hearing of a Student Disciplinary Panel as a witness or defendant if required to do so in writing with reasonable notice.

(xiii) Where the behaviour of a student subject to disciplinary proceedings appears to be indicative of a mental health problem, the procedures may be adjourned to allow the student to seek advice from a medical practitioner or counsellor.

## **2. Minor Offences**

### **(i) Definition and Jurisdiction**

(a) Minor offences include breaches of University regulations which result in some inconvenience to others or lead to limited damage to property. Specific offences are listed in Regulation I Library, Regulation VIII Residence of Undergraduate and Postgraduate Students in the University, Regulation XV Use of University Computing Facilities and Ordinance XXIII Traffic and Parking in the University. Other offences which represent misconduct as defined in section 1 of this Ordinance may also be considered as Minor Offences.

(b) A student who has been found guilty of a series of Minor Offences may be referred for action under the Major Offences procedures if he/she commits a further Minor Offence.

(c) The following University officers are authorised to consider charges of Minor Offences against students and to levy penalties as specified in paragraph 2(iii) below:

- The Librarian in respect of breaches of Regulation I governing the Library
- The Wardens of Halls of Residence in respect of breaches in Regulation VIII governing the Residence of Undergraduate and Postgraduate Students in the University
- The Director of Computing Services in respect of breaches of Regulation XV governing use of University computing facilities
- The Security Manager in respect of breaches of Ordinance XXIII Traffic and Parking in the University, the Code of Practice on Traffic and Parking in the University and over other Minor Offences not specifically covered by another authorised officer
- The Community Wardens in respect of Minor Offences within the geographical area of their jurisdiction
- Heads of Departments in respect of breaches of good order within their departments, in relation to academic activities off campus or breaches of Regulation XV
- The University Health and Safety Officer in respect of actions which put themselves or others at risk
- The Chief Operating Officer in respect of any Minor Offence

### **(ii) Procedure**

(a) Staff, students or members of the public should report, at the earliest opportunity, alleged breaches of University discipline by a student or students to one of the authorised officers listed above or to the Chief Operating Officer in the first instance depending on the nature of the offence.

(b) If the case is reported to an authorised officer, the officer shall investigate the matter and decide whether any action should be taken and if so whether that action should be under the procedures for Minor Offences. If an authorised officer considers the incident to constitute a Major Offence, he/she shall consult with the Chief Operating Officer to determine the action to be taken.

(c) If the case is reported to the Chief Operating Officer, the Chief Operating Officer shall decide whether no action should be taken, whether the matter may constitute a Minor Offence and should be referred for action by the appropriate authorised officer, or be referred for consideration under the Major Offences procedure set out in section 3 of this Ordinance.

(d) A student shall be notified in writing of an alleged Minor Offence and the evidence against him/her by the relevant officer. He/she shall be invited to admit or deny the offence and be permitted to defend himself/herself in writing and in person to the officer, and/or submit details of any mitigating factors that he/she wishes to be taken into account. The student may be accompanied at any meeting with the officer by a person of his/her own choosing. The student should submit his/her written defence and/or mitigation, if any, together with the name and status of any person who will accompany him/her to the meeting within a maximum of 5 working days from the notification of the offence.

(e) Having taken into account the evidence and the defence and/or mitigation, if any, the authorised officer shall decide whether the student is guilty of the offence and, if so, the appropriate penalty from those permitted under paragraph 2(iii) hereof. The officer must reach a decision on the case within a maximum of 10 working days from the notification of the offence to the student.

(f) The student shall be notified in writing of the officer's decision and the penalty, if one is to be applied. He/she shall also be notified of the right of appeal under paragraph 2(iv) hereof.

(g) A record of the offence and any penalty shall be filed with the Secretary to the Student Discipline Committee.

### **(iii) Penalties**

(a) The penalties for Minor Offences, including the maximum level of fines, shall be determined by the Student Discipline Committee. The Committee may provide guidance on the use of these penalties, but authorised officers have discretion to apply one or more of them as they see fit to the circumstances of individual cases.

(b) The following penalties may be applied by authorised officers for Minor Offences:

- Fines
- Formal reprimand

- Community service
- Restriction of non-resident students' access to specified residential accommodation
- Relocation of a student's residential accommodation to another Hall

(c) Authorised officers may require students to cover the cost of making good damage or loss to property.

#### **(iv) Appeals**

(a) Students found guilty of Minor Offences shall have the right of appeal to the Chair of the Student Disciplinary Appeals Committee established under 1(viii) above in respect of both the decision and the penalty.

(b) The appeal should be submitted in writing to the Secretary of the Committee within 10 working days of the student receiving notification of the decision.

(c) The Chair may ask the authorised officer to provide written comments on the case for appeal and may undertake such investigations as he/she sees fit. All evidence to be considered in relation to the appeal shall be made available to the appellant who shall have the right to comment in writing on the evidence. The appellant shall not have the right to appear in person.

(d) Having reviewed the case, the Chair shall reach a decision on the appeal. He/she may confirm, set aside or amend the decision and increase or decrease the penalty which are the subject of the appeal. His/her decision shall be final.

#### **(v) Failure to Comply with Penalties or Costs**

(a) Fines or costs are payable within 10 working days of formal notification by the University, or, if an appeal is lodged, within 10 working days of the conclusion of the appeal if fines or costs remain outstanding. Should a student fail to comply with the requirement to pay fines or costs within this timescale or with other penalties imposed for a Minor Offence within the timescale specified by the authorised officer, the Chief Operating Officer may initiate further disciplinary action.

### **3. Major Offences**

#### **(i) Definition and Jurisdiction**

(a) Misconduct by students constituting a breach of one or more of paragraphs 1(i), 1(ii) and 1(iii) of this Ordinance may be considered a Major Offence. Offences defined under 1 (xii) may also be treated as Major Offences. Offences shall be referred for action under the Major Offences procedure where in the opinion of the Chief Operating Officer the gravity of the offence and the appropriate penalty might be beyond the limits fixed for Minor Offences. Examples of Major Offences include (this list is not intended to be exhaustive):

- Violent, disorderly, threatening or offensive behaviour or language whilst on University premises or engaged in University activity

- Serious acts of fraud, deceit, deception or dishonesty in relation to the University or its staff or in connection with holding any office in the University or in relation to being a student of the University
- Action likely to cause significant injury or impairment of safety on University premises
- Serious disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the University
- Harassment of any kind towards a student, member of staff or authorised visitor to the University
- Serious damage to, or defacement of, University property or the property of other members of the University community caused intentionally or recklessly, and misappropriation of such property
- Serious misuse or unauthorised use of University premises and property, including computer misuse
- Failure to respect the rights of others to freedom of belief and freedom of speech
- Conduct which constitutes a criminal offence
- Conviction of a criminal offence, howsoever, wheresoever and whensoever arising
- Failure to comply with disciplinary action conducted under this Ordinance
- Direct or indirect attempts to influence or intimidate witnesses prior to or during a disciplinary investigation, subsequent proceedings, or any other internal procedures.

(b) Major Offences will be considered by a Student Disciplinary Panel which shall normally be chaired by the Chair of the Student Discipline Committee and include two further members of the Committee selected by the Academic Registrar, one a lay member external to the University and one a student representative. The Deputy Chairs of the Student Discipline Committee shall be invited to attend hearings of the Panel as observers. In the event of a lay member not being available for a Panel hearing, a second academic or academic-related member shall sit as a full member of the Panel. The Panel acts as the body empowered under Statute XIV 6 (xxiv) to make recommendations to Senate in the case of students who may be guilty of gross misconduct. The Secretary of the Student Discipline Committee shall normally act as Secretary to the Student Disciplinary Panel.

(c) Where a series of Minor Offences has been referred for action under the Major Offences procedure, the Chair of the Student Discipline Committee may, where appropriate, authorise the Security Manager to ban an offender from bringing a vehicle onto the campus, or impose a lesser penalty related to traffic and car parking, without a Hearing taking place. The right of appeal under Paragraph 3 (iv) (a) below remains unchanged.

(d) No individual who has any connection with the case to be heard may serve on the Student Disciplinary Panel or act as its Secretary.

## **(ii) Procedure**

(a) Where the Chief Operating Officer has received a report of an alleged breach of University discipline by a student or students and he/she has decided that it may constitute a Major Offence, he/she shall commission an investigation into the matter.

(b) Where there is prima facie evidence of a breach of discipline, the Chief Operating Officer (or nominee) shall contact the student on behalf of the University inviting him/her to admit or deny the charge within five working days.

(c) In the event of the student admitting the charge, the procedure shall be as follows: -

(i) A Hearing shall normally take place within a further twenty working days. The Panel shall comprise any three members of the Student Discipline Committee, nominated by the Academic Registrar, provided that one is a student member.

(ii) The Chief Operating Officer (or nominee) shall prepare and present a short statement for the Panel.

(iii) The student shall be invited to make a brief response, and to submit evidence of any mitigating factors that he/she wishes to be taken into account.

(d)

(i) In the event of the student denying the charge, or failing to respond to the Chief Operating Officer (or nominee) within five working days, the student shall receive at least twenty working days' written notification of a Student Disciplinary Panel. The notification shall include a reiteration of the nature of the charge, together with the evidence for the charge including witness statements, a copy of this Ordinance, the date and time of the meeting of the Panel together with details of the Panel membership.

(ii) The student has the following rights:

- To submit written evidence
- To attend the meeting in person and present his/her case
- To be accompanied by an individual of his/her choosing who may present the case on his/her behalf
- To call witnesses for questioning at the meeting and to question the University's witnesses

(iii) The student shall submit any written evidence and inform the Secretary of the name and status of any accompanying individual and any witnesses he/she wishes to call at least 7 working days before the date of the meeting. The full documentation shall be circulated to all participants, together with the names of any witnesses to be called by the University or by the student, at least 5 working days before the meeting.

(iv) The proceedings of the meeting shall take the following form:

- The Chief Operating Officer or nominee presents the case for the University including the questioning of any witnesses
- The student questions the witnesses
- The Chief Operating Officer or nominee may ask further questions of the witnesses but only if these arise from the student's questions
- The Panel asks questions of the witnesses, the Chief Operating Officer or nominee and the student

- The student presents the case for his/her defence including the questioning of his/her witnesses
- The Chief Operating Officer or nominee questions the witnesses
- The student may ask further questions of the witnesses but only if these arise from the Chief Operating Officer's questions-
- The Panel asks questions of the witnesses, the Chief Operating Officer or nominee and the student
- The Chief Operating Officer or nominee sums up the case against the student
- The student sums up the case for his/her defence

(e) Within the procedures at (c) and (d) above, the Panel has discretion over the conduct of the proceedings. The strict rules of evidence in criminal proceedings shall not apply but the Panel shall use its discretion as to the weight to be attributed to any particular statement made.

(f) After the student has concluded his/her final statement, the student and any accompanying individual together with the University staff presenting the case shall leave the meeting. The Panel will consider its decision alone, advised by its Secretary. The Panel shall decide initially whether the student is guilty or not guilty of the charge. The student and any accompanying individual will then be called back into the meeting to be informed of the Panel's decision. If the student is found guilty, he/she shall be permitted to submit evidence of any mitigating factors that he/she wishes to be taken into account. The student and any accompanying individual shall then leave the meeting again, and the Panel will consider what penalty, if any, to impose. The Panel's decision on penalty shall be communicated to the student in writing within 3 working days of the meeting but may be notified verbally in advance of the written communication at the discretion of the Panel. The Panel shall give reasons for its decision. The Panel may determine that a student accused of a Major Offence was guilty of a Minor Offence. If the Panel decides against the student, he/she shall be notified of the right of appeal.

(g) Whilst every reasonable effort will be made to convene hearings at a time suitable for the student, the Panel reserves the right to proceed in the absence of the student if it feels it appropriate so to do.

### **(iii) Penalties**

(a) The Student Disciplinary Panel may apply one or more of the following penalties:

- Fines
- Formal reprimand
- Community service
- Requirement that the student have no contact of any kind with a named person or persons
- Temporary exclusion from use of specified University facilities
- Permanent exclusion from use of specified University facilities
- Temporary suspension of registration at the University for a specified period
- Attachment of such conditions as it thinks fit to the continued pursuit of the student's studies, to the nature of his or her living accommodation and to his or her general conduct



It may also recommend to Senate, under Statute XIV 6 (xxiv):

- Termination of registration at the University

(b) Penalties applied from the above list may be suspended for a specified period.

(c) The Panel may require students to cover the cost of making good damage or loss to property.

#### **(iv) Appeals**

(a) Students found guilty of Major Offences shall have the right of appeal to the Student Disciplinary Appeals Committee established in Paragraph 1(viii) in respect of both the decision and the penalty.

(b) No member of the Committee or its Secretary shall have had any previous involvement with the case.

(c) The appeal, including a clear statement of the grounds and any supporting documentation, shall be submitted in writing to the Secretary of the Committee within 10 working days of notification of the decision.

(d) Possible grounds for appeal include (this list is not intended to be exhaustive):

- That there were procedural irregularities in the conduct of the Student Disciplinary Panel.
- That the student is in possession of new evidence which was not available to the Panel when it reached its decision and the student had good cause for not including the evidence in their case to the Panel.
- That there is evidence of prejudice or bias on the part of one or more of the members of the Panel.
- That the penalties were unreasonably severe given the circumstances of the case.

(e) The appellant shall be notified of the date of the hearing and the membership of the Committee within ten working days of the receipt of the appeal. The date of the hearing shall be at least 15 working days after the date of notification. He/she shall have the right to attend in person and to be accompanied by an individual of his/her choosing. The name and status of any accompanying individual should be notified to the Secretary of the Appeals Committee at least 7 working days before the meeting.

(f) The Chief Operating Officer or nominee presenting the case against the student may be required to attend the meeting of the Appeals Committee and the Student Discipline Committee may prepare its own report to the Committee.

(g) The Committee may determine its own procedures in light of the circumstances of the appeal. It may permit the appellant to call witnesses or present additional evidence. Should this be agreed, the Chief Operating Officer or nominee presenting the case against the student shall also have the right to call witnesses and present additional evidence to address any new issues raised by the appellant. All written submissions and

details of those to be present shall be circulated to the participants at least 5 working days before the meeting.

(h) Having reviewed the case, the Committee shall reach a decision on the appeal. The Committee may confirm, set aside or amend the decision and increase or decrease the penalties which are the subject of the appeal. Its decision shall be final.

#### **(v) Failure to Comply with Penalties**

Fines or costs are payable within 10 working days of formal notification by the University, or, if an appeal is lodged, within 10 working days of the conclusion of the appeal if fines or costs remain outstanding. Should a student fail to comply with the requirement to pay fines or costs within this timescale, or to agree with the University a schedule of payments and to conform subsequently with that schedule of payments, or fail to comply with other penalties imposed for a Major Offence within the timescale specified by the Disciplinary Panel, the Chief Operating Officer may initiate further disciplinary action or, under Statute V(4), the Vice-Chancellor may suspend the student and the Student Disciplinary Panel recommend to Senate termination of the student's registration at the University. A right of appeal exists under Statute XXIV.

#### **4. Action by the University pending disciplinary procedures or prosecution**

(i) A student who is the subject of an allegation of misconduct may be excluded by the relevant authorised officer from use of the Library, computing facilities, residential accommodation or specified facilities within an academic department, and by the Chief Operating Officer from other University premises, on a temporary basis pending disciplinary action where the authorised officer or Chief Operating Officer considers that the student is likely to reoffend in the immediate future and/or represents a risk to other students, staff or to property. The student shall have the right to make representations to the authorised officer or Chief Operating Officer before the decision is implemented when circumstances permit. However, when the exclusion is regarded as a matter of urgency, representations may only be possible after implementation of the exclusion.

(ii) Where a student has been excluded under paragraph 4(i) above, the University must invoke formal disciplinary procedures for Minor Offences within 10 working days or for Major Offences within 30 working days or the exclusion will lapse.

(iii) A student who is the subject of an allegation which may constitute a Major Offence or against whom a criminal charge is pending or who is the subject of police investigation may be suspended or excluded by the Vice-Chancellor on the recommendation of the Chief Operating Officer, in accordance with Statute V(4), pending the disciplinary hearing or the trial. Suspension should only be used where exclusion from specified activities or facilities would be inadequate. The student shall have the right to make representations to the Vice-Chancellor before the decision is implemented when circumstances permit. However, when the exclusion is regarded as a matter of urgency, representations may only be possible after implementation of the exclusion.

(iv) Where a student has been suspended or excluded by the Vice-Chancellor under paragraph 4(iii) above, the student has the right to make a written submission to the Vice-Chancellor on a monthly basis requesting that the suspension or exclusion be reviewed.

(v) Suspension or exclusion pending a hearing must not be used as a penalty.

(vi) Students shall be notified in writing of the reasons for, and scope of, any suspension or exclusion by an authorised officer, the Chief Operating Officer or the Vice-Chancellor.

(vii) Suspension involves a total prohibition on attendance or access to the University and on any participation in University activities; but may be subject to qualification, for example, permission to attend an examination.

(viii) 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.

(ix) An order of suspension or exclusion may include a requirement that the student should have no contact of any kind with a named person or persons.

(x) Any student who is suspended or excluded shall be deemed to have forfeited any fees paid to the University which would have covered the period of suspension/exclusion.

## **5. Misconduct which is also a Criminal Offence**

The following procedures shall apply where the alleged misconduct would also constitute an offence under the criminal law if proved in a court of law.

(i) Where the offence under the criminal law is considered by the Chief Operating Officer to be not serious or unlikely to result in imprisonment, action under this Ordinance may continue, but such action will normally be deferred while the matter is under active police investigation or where charges have been brought but not yet brought to court.

(ii) In the case of all other offences under criminal law, no action (other than suspension or exclusion pursuant to paragraph 4 above) will normally be taken under this Ordinance unless the matter has been reported to the police and either prosecuted or a decision not to prosecute has been taken, at which time the Chief Operating Officer may decide whether disciplinary action under this Ordinance should continue or be taken.

(iii) Only in exceptional circumstances shall the University report an alleged crime to the police contrary to the wishes of the victim. Guidance on the reporting of offences relating to controlled drugs is given in the University's Guidelines on Illicit Drugs (1993). If the victim will not report the crime to the police, or will not co-operate with their inquiries, the University's internal disciplinary procedures should not be invoked.

**(iv) Where the University continues with its own hearing following a court conviction, the penalty imposed by the court shall be taken into consideration by the University in deciding its own penalty.**

**(remade July 2010)**