



UNIVERSITY  
*of*  
ABERTAY DUNDEE

# Student disciplinary code

|                           |  |
|---------------------------|--|
| <b>Creator</b>            | University Secretariat   |
| <b>Approved By</b>        | Senate   |
| <b>Approval Date(s)</b>   | 05-May-2010  |
| <b>Review Date</b>        | 2015/2016  |
| <b>Version</b>            | 1.1  |
| <b>Document Type</b>      | Code of Practice   |
| <b>Activity/Task</b>      | Student administration and support/Discipline                                    |
| <b>Retention Schedule</b> |  |
| <b>Document Location</b>  | \\uad.ac.uk\dfs\Secretariat\Abertay-Knowledge\Student-administration-and-support |
| <b>Keywords</b>           | Student Discipline   |

**Version Control Table**

| <b>Version number</b> | <b>Purpose / Changes</b>  | <b>Author</b>          | <b>Date</b> |
|-----------------------|---|------------------------|-------------|
| 1.0                   | Approved by Court   | Secretary to Court     | 30-Jun-01   |
| 1.1                   | Revised Code updated to take account of internal changes to roles and bodies approved by Senate | University Secretariat | 5-May-10    |

## STUDENT DISCIPLINARY CODE

- 1 Introduction
- 2 Definitions
- 3 Jurisdiction
- 4 Misconduct
- 5 Investigation of Misconduct
- 6 Action following investigation of Misconduct
- 7 Suspension
- 8 Procedure following investigation of Misconduct
- 9 Student Disciplinary Board
- 10 Disciplinary Sanctions
- 11 Appeals

### Appendices

- 1 Examples of Misconduct; Jurisdiction
- 2 Procedure before and during meetings of the Student Disciplinary Board; procedure before and during meetings with the Chair of the Student Disciplinary Board
- 3 Appeals procedure: A to the Student Disciplinary Board  
B from the Student Disciplinary Board

## 1. INTRODUCTION

- 1.1 As members of the University, students subscribe to the regulations and internal regulations of the University which enable all members of the University community to live and work together in harmony. They require the observance of certain standards of behaviour and certain obligations. The University is entitled to protect these and to protect also its name and reputation.
- 1.2 This Student Disciplinary Code indicates how the University will proceed in cases where students do not comply with the required standards of behaviour expected of them as part of the University community.
- 1.3 The University will operate the procedures in the Code fairly and as quickly and efficiently as is possible.
- 1.4 Copies of the Code are available to all students.

## 2. DEFINITIONS

The following expressions shall have the following meanings in the Code:

|                         |  |
|-------------------------|--|
| "Code"                  | means the Student Disciplinary Code approved by the University Court.  |
| "University"            | means the University of Abertay Dundee, Bell Street, Dundee, DD1 1HG.  |
| "University Court"      | means the University Court of the University of Abertay Dundee.  |
| "Senate"                | means the Senate of the University of Abertay Dundee.  |
| "Principal"             | means the Principal and Vice-Chancellor of the University of Abertay Dundee or a member of the senior management of the University to whom the Principal has delegated the powers of the Principal in terms of the Code.                         |
| "Secretary to Court"    | means the Secretary to Court of the University of Abertay Dundee or a member of the senior management of the University to whom the Principal or the Secretary to Court has delegated the powers of the Secretary to Court in terms of the Code. |
| "University Community"  | means all staff and students of the University.  |
| "University property"   | means all University campuses and buildings and surrounding areas and the fabric of and fixtures, fittings and equipment within buildings.   |
| "Students' Association" | means the Students' Association of the University of Abertay Dundee.   |

|                                 |   |
|---------------------------------|---|
| "Misconduct"                    | is defined in Section 4 of the Code and examples are given in Appendix 1 to the Code.   |
| "Internal regulations"          | mean any authorised internal rules, regulations and codes of practice which regulate or guide areas of University activity.   |
| "Regulations"                   | mean the regulations of the University approved or established in terms of the University of Abertay Dundee (Scotland) Order 1994 or by the University Court, and include internal regulations.                           |
| "Working days"                  | mean Monday to Friday inclusive of each week except during periods when the University is closed.   |
| "Accompanying person"           | means a fellow member of the University community who accompanies or represents a student in the context of the Code. The accompanying person shall have no involvement otherwise in the disciplinary matter in question. |
| "Board"                         | means the Student Disciplinary Board referred to in Section 9 of the Code and "Chair" means the Chair or the Deputy Chair acting in place of the Chair of the Student Disciplinary Board.                                 |
| "Presenter"                     | means a member of the University Secretariat who will present the University's case to a meeting of the Board or the Appeal Board.  |
| "Appeal Board"                  | means the Student Disciplinary Appeal Board referred to in Appendix 3 Part B to the Code.   |
| "Student Disciplinary Database" | means the record kept by the Secretary to Court of disciplinary decisions affecting the record of students of the University whether reached executively or by the Board or the Appeal Board.                             |

### 3. JURISDICTION

- 3.1 The University has jurisdiction over students of the University in respect of both their studies and their conduct within the following contexts:
- (i) where the conduct relates to the academic or other work of the University;
  - (ii) where the conduct, though not directly related to the work of the University, has occurred or commenced on University property;
  - (iii) where the conduct relates to the academic or other work of the University but has not taken place on or within University property;
  - (iv) where the conduct involves other members of the University but does not directly relate to the work of the University nor does it take place necessarily on University property; and
  - (v) where the conduct (a) jeopardises or damages or may jeopardise or damage the good name and reputation of the University, (b) causes or is likely to cause injury or impair safety on University property, or (c) raises the question as to whether a student should remain a member of the University because he/she poses dangers to other members, or to the good order, of the University community even though the conduct in question is not related to the work of the University, and/or did not take place on University property, and/or did not impact directly on staff or students of the University.
- 3.2 The University recognises that certain types of misconduct may also constitute an offence under the criminal law of Scotland. In such cases the University will
- (i) if the offence is not considered to be serious and would be so considered as such under the criminal law, deal with it as misconduct under the Code, though it may also be reported to the police;
  - (ii) if the offence is considered to be serious and would be so considered under the criminal law, report it to the police and also in appropriate cases deal with it under the Code.
- 3.3 The University recognises that a member of the University community who has suffered as the result of the misconduct (especially serious misconduct) of a student may not wish to report the misconduct either to the police or to the University to enable appropriate action to be taken against an offender. The University strongly encourages those who suffer misconduct to report it but retains the discretion if incidents of misconduct come to its notice either directly or indirectly to take such action as appears to it to be appropriate or necessary in all the circumstances. The University will always report serious offences to the police (for example, serious or indecent assault, use of or dealing in controlled drugs, storing or downloading of illegal pornographic material).
- 3.4 The University operates the Code for the benefit of all members of the University community and retains absolute discretion as to when and how to implement its provisions.
- 3.5 What constitutes misconduct is outlined in Section 4 of the Code and further information is given in Appendix 1. Neither the description nor the examples given are prescriptive.

- 3.6 Specific rules, regulations or codes of practice (described in the Code as internal regulations) apply to the use or occupation of certain University facilities, for example the library and computer systems, residences, laboratories and the Students' Association. The Code does not supersede these particular rules, regulations or codes, but may be used to reinforce them where (a) there is persistent or serious breach of their provisions, (b) in terms of these rules, regulations or codes particular offences are described as punishable under the Code, or (c) an appeal is allowed from decisions taken under these rules, regulations or codes to the Board in terms of the Code. However the University officer responsible for taking action in terms of internal regulations may refer the misconduct in the event that it is considered to be serious or for other appropriate reason to the Secretary to Court for action in terms of the Code.

#### **4. MISCONDUCT**

- 4.1 Misconduct constitutes (a) improper interference with the proper functioning or activities of the University or with those who work or study in the University, or (b) action which otherwise damages the University.
- 4.2 There is no prescriptive list of what constitutes misconduct in all circumstances. Examples of types of misconduct are given in Appendix 1.
- 4.3 The Code is not part of the criminal law of Scotland and it does not seek therefore to define misconduct in terms of the criminal law. The purpose of the Code is to regulate students' behaviour as students of the University in order to secure the safe and harmonious working of the University.
- 4.4 Misconduct may be treated by the University as serious or minor depending on the nature and/or persistence of the misconduct.
- 4.5 Heads of School or their authorised deputy may deal with appropriate matters of academic deceit in terms of the Senate Policy on Academic Deceit from time to time in force provided that actions taken are recorded on the student's file and reported to the Secretary to Court for inclusion if appropriate in the Student Disciplinary Database.

#### **5. INVESTIGATION OF MISCONDUCT**

- 5.1 When misconduct occurs or is alleged to have occurred, it should be reported, preferably in writing and accompanied by such details as are available, without delay to the Secretary to Court who will investigate the facts of the matter before a decision is taken as to whether formal disciplinary procedures should be initiated.
- 5.2 If circumstances warrant it, immediate action may be taken to suspend a student by the Principal, following a report from the Secretary to Court to the Principal.
- 5.3 The Secretary to Court as part of the investigation may meet with the student concerned and such other persons as the Secretary to Court considers may be able to provide information about the alleged misconduct and may consult with appropriate external agencies. The investigation does not form part of the formal disciplinary process and should aim to be completed within ten working days of the incident being reported to the Secretary to Court. The student concerned and any other persons who meet with the Secretary may during these meetings be accompanied by another member of the University community.

5.4 Following investigation, the Secretary to Court, will decide whether the conduct complained of *prima facie* constitutes misconduct and whether it is serious or minor.

## **6. ACTION FOLLOWING INVESTIGATION OF MISCONDUCT**

6.1 In the event of the Secretary to Court deciding, following completion of the investigation, that no misconduct occurred, no further action will be taken.

6.2 Where, following investigation, misconduct appears to have occurred, the Secretary to Court shall inform the Principal of the misconduct and of the course of action which in his/her view should be taken.

6.3 The Principal may decide at this stage that in the circumstances further action under the Code should not be taken but that the matter be disposed of by a caution.

6.4 Where the Secretary to Court initiates disciplinary action after consultation under Section 6.2, the options available are as follows:

(i) to report the matter with such information as has been obtained in the investigation to the police or other proper authority with a view to their investigating and instigating such action as is appropriate;

(ii) to report the matter as in (i) above and also to refer the matter for action to the Board;

(iii) to refer the matter to the Board for action;

(iv) to refer the matter to the Chair of the Board for action; or

(v) to deal with the matter executively in terms of Section 8.5.

6.5 The University may under the Code deal with misconduct which may comprise an offence under the criminal law (a) even if the police or other proper authority decide to take no action, or (b) during the course of any investigation by the police or other proper authority and prior to the student in question being either charged or convicted of said offence where such action appears to the University to be necessary or appropriate.

6.6 In the event of (a) proceedings being taken which result in a finding of guilt against a student in terms of Section 6.4 (ii) to (iv) inclusive or (b) the matter being dealt with executively in terms of Section 6.4 (v) above, a record of the outcome will be maintained by the Secretary to Court in the Student Disciplinary Database.

## 7. SUSPENSION

- 7.1 The Principal may on the request of the Secretary to Court suspend or exclude from the University or University property a student against whom an allegation of misconduct has been made or who is the subject of a police investigation pending further consideration of the alleged misconduct or determination of the investigation if it appears that continued attendance by the student is likely to be detrimental to the interests of other students, staff or University property. Such suspension or exclusion will continue in force for such period as is required to investigate the alleged misconduct or complete the investigation and to enable the outcome to be determined by either or all of the Board, the Appeal Board or the Courts.
- 7.2 Details of the suspension of a student shall be reported without delay to the Chairman of the University Court and the Chair of the Board for the purpose of information.
- 7.3 Suspension involves a total prohibition on attendance at or access to the University or University property or facilities and on participation in University activities. Suspension may on cause shown and in appropriate circumstances (for example, such as to attend for the purpose of an assessment or examination) be qualified by the Principal or the Secretary to Court to a limited extent provided that no other party (including the University or other students) is thereby prejudiced. Suspension shall come into effect from a date and time (which may be immediate) indicated to the student and/or confirmed in a notice of suspension sent to the student. For the avoidance of doubt where suspension or exclusion is *inter alia* from occupancy of a student residence it may take immediate effect; and while the University through its accommodation office may assist a student who has been suspended or excluded from a residence in finding alternative accommodation, the University is under no obligation to do so or to make such accommodation available.
- 7.4 Exclusion involves a selective restriction on attendance at or access to the University or University property or facilities or a prohibition on exercising the functions or duties of any office or committee membership in the University or the Students' Association. Exclusion shall come into effect from a date and time (which may be immediate) indicated to the student and/or confirmed in a note of exclusion sent to the student.
- 7.5 Confirmation of suspension or exclusion shall be given in writing or by email and shall set out briefly and clearly the reasons for and the extent of the suspension or exclusion, including a specification if appropriate of persons with whom the student concerned shall have no contact. A student to whom notification of confirmation of suspension or exclusion is given shall be deemed to have received such notification within 24 hours of it having been issued.
- 7.6 The Principal shall review the suspension or exclusion every four weeks taking into account the current circumstances of the investigation or its outcome and any representations made by or on behalf of the student concerned.

## **8. PROCEDURE FOLLOWING INVESTIGATION OF MISCONDUCT**

- 8.1 Each student whose conduct is the subject of an investigation will be notified of the decision reached and as to whether disciplinary action is to be taken by the University. Notification will normally be given to the student within five working days of the completion of the investigation (ie normally within fifteen working days of the misconduct being reported to the Secretary to Court) although in cases where the investigation is complex or information is delayed the decision and notification may also be delayed. The Secretary to Court shall notify the student concerned if there is going to be such a delay in the decision and give an indication as to when the student may expect to have a decision.
- 8.2 The University may decide (a) to take no further action, (b) to deal with the matter executively, (c) to refer the matter to the Chair of the Board for action, or (d) to refer the matter to the Board for disposal.
- 8.3 At any stage in the investigation it is open to the student concerned to admit that the misconduct occurred and accept responsibility therefor. He or she should do so in writing to the Secretary to Court and may be required to appear before the Board for sentence.
- 8.4 In the event of it being deemed that no further action is to be taken by the University against the student, the student concerned will be notified accordingly.
- 8.5 The Secretary to Court may in appropriate cases where the misconduct is considered to be of a very minor nature and has been admitted by the student concerned, decide to take no formal disciplinary action but to deal with the matter executively by giving a written caution to the student containing a warning about the misconduct and the action which could be taken in the event of recurrence or other misconduct taking place.
- 8.6 Where the Secretary to Court considers in all the circumstances that the misconduct is of a minor nature and/or if the misconduct has been admitted and/or if time is of the essence in its disposal but where he/she does not consider that a caution is of itself appropriate, it may be referred to the Chair of the Board for action. The Chair will meet with the student concerned, who may be accompanied by another member of the University community and will thereafter reach a decision as to disposal. The Chair may request the Secretary to Court or other adviser to be present during the meeting. Action taken by the Chair shall be considered as action taken by the Board.
- 8.7 Where an incident of misconduct is referred to the Board for consideration, the Secretary to Court will arrange a meeting of the Board as soon as possible, taking into account the need to provide appropriate notice to the student concerned. The Board will normally be convened within twenty working days of the conclusion of the investigation. The student concerned will receive a formal notice including a specification of the misconduct alleged together with a requirement that he/she is to be present at the meeting, normally giving at least five working days' notice of the date and time of the meeting and indicating where the meeting is to be held. The student will also be informed of his/her entitlement to be accompanied. The procedure before and during the meeting of the Board is set out in Appendix 2.
- 8.8 If the student does not appear before the Board at the time and place indicated and no satisfactory explanation for the absence has been given and provided that the Board is satisfied that due notice to appear has been sent to the student at his/her last recorded address, the Board may proceed to deal with the misconduct charged and where appropriate impose a sanction in his/her absence.

8.9 The decision of the Chair or the Board referred to respectively in Sections 8.6 and 8.7 above will be notified in writing to the student concerned normally within five working days of the respective meeting. The notification will also set out details as to how, if the student is aggrieved at the decision, the appeal procedure will operate. A student dealt with in terms of Section 8.5 also has the right to appeal against the caution given to him/her.

## **9. STUDENT DISCIPLINARY BOARD**

9.1 The Board has the responsibility of (a) dealing at first instance with misconduct considered to be serious or persistent or referred to it, and (b) acting as an appeal forum for misconduct considered to be less serious which has been dealt with executively (by the Secretary to Court) or in terms of internal regulations.

9.2 The Board will comprise a Chair, appointed by Senate; three members of academic staff selected by the Chair on a rotational basis from a list of experienced academic staff agreed by Senate, of whom one shall act in the place of the Chair if the Chair is absent as Deputy Chair; and the President of the Students' Association or a student appointed by him/her from the Executive of the Students' Association who is not involved whether as the accompanying person in the proceedings or otherwise.

9.3 The Board may, in appropriate cases, or in cases of urgency (as to which the Chair and the Secretary to Court shall decide) act through the Chair and any actions taken or decisions reached in this way shall be treated as decisions of the Board and shall be reported to the next ensuing meeting of the Board.

9.4 A member of the University Secretariat will act as presenter and will present cases to the Board at its meetings.

9.5 The Board may seek advice from and may have present during its meetings such advisers as it considers appropriate or necessary. Such advisers shall be present to provide advice to the Board as to the carrying out of its function, decisions as to guilt and penalty in terms of the Code being matters for the Board. A note of the proceedings of the Board will be taken by a member of University administrative staff.

9.6 The Board will reach decisions by a majority vote, the Chair having a casting vote (in the event of no majority decision having been reached) in addition to his/her deliberative vote.

9.7 The Board will maintain minutes of its proceedings, summaries of evidence given at hearings conducted by it, and a Student Discipline Database for the recording of disciplinary decisions reached whether executively, by the Board, by the Appeal Board or otherwise.

## 10. DISCIPLINARY SANCTIONS

10.1 The sanctions which may be imposed in the event of misconduct being admitted or found proved include the following:

- (i) a caution in terms of Section 8.5 above which will be in writing and will remain on the student's record for a specified period or for the remainder of his/her time at the University;
- (ii) a reprimand or severe reprimand which will be recorded and will remain on the student's record for a specified period or for the remainder of his/her time at the University;
- (iii) exclusion for a specified period from the University;
- (iv) exclusion for a specified period from a part or area of the University, for example student residences or the library;
- (v) withdrawal of privileges (for example access to and use of the computer systems) for a specified period;
- (vi) expulsion from the University;
- (vii) a financial penalty by way of a fine not exceeding £500 (see Section 10.4);
- (viii) an order for reimbursement or compensation payable either to a victim or the University (see Section 10.4);
- (ix) the carrying out of work to rectify any damage or other outcome of the misconduct;
- (x) in the case of misconduct relating to academic work, the cancellation of the academic work in question together with the cancellation of any other work which may possibly be affected in addition to any other appropriate penalty.

10.2 The above sanctions are not exclusive and shall be combined in appropriate cases.

10.3 The application of appropriate sanctions will be dependent on the nature and type of misconduct and its seriousness in the view of the University acting through the Board, the Chair, or the Secretary to Court as the case may be.

10.4 In the case of a financial penalty being imposed or an order for reimbursement or compensation being made (Section 10 (vii) and (viii) above), the student concerned may be excluded from the University or part thereof or part or all of its facilities pending payment being made or satisfactory arrangements as to payment being agreed with the Secretary to Court. The Board may, while imposing a penalty or order, include within its decision provisions which will come into effect in the event of non-payment.

10.5 In the event of the misconduct relating to academic work the Board may, prior to imposing a penalty, seek advice on the effect of the misconduct and the appropriate penalty in the view of the School from the School to which the student concerned belongs and will take this into account in fixing the appropriate penalty.

10.6 The Board will, in cases where the student concerned is also being prosecuted in the Courts in respect of the same incident of misconduct, where possible take into

consideration the penalty imposed following the criminal trial, but need not await the outcome of the criminal trial before deciding on the appropriate penalty to be imposed if the misconduct is admitted or found to be proved in terms of the Code. Neither a decision by the Procurator Fiscal not to proceed at any stage with the complaint arising from the misconduct nor an acquittal of the student concerned following trial are of themselves grounds for a review or an appeal against a decision by the Board.

## **11. APPEALS**

- 11.1 A student who wishes to appeal against the outcome of action taken or a penalty imposed should appeal in writing to the Secretary to Court within ten working days of the date of issue of the written notification of the decision. The Secretary to Court will arrange for the appeal to be heard in accordance with the relevant procedure set out in Appendix 3.
- 11.2 A student who remains dissatisfied with the outcome of the University's internal processes may make a formal complaint using the University's Student Complaints Procedure

**Examples of Misconduct**

**Note:** *It should be clearly noted and understood that any specific references to misconduct given in this Appendix are only examples of types of misconduct and do not exclude in any way the University's discretion as to conduct in individual circumstances which may constitute misconduct under this Code.*

1. The following shall (subject to the Note above) constitute examples of misconduct:

1. Non-Academic Misconduct

- (i) disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the University, whether on University premises or elsewhere.
- (ii) obstruction of, or improper interference with, the functions, duties or activities of any student, member of staff or other employee of the University or any authorised visitor to the University.
- (iii) violent, indecent, disorderly, threatening or offensive behaviour or language whilst on University premises or engaged in any University activities.
- (iv) 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 or graduate of the University.
- (v) action likely to cause injury or impair safety on University property or in connection with any University activities.
- (vi) harassment / bullying, including sexual or racial harassment / bullying, of any student, member of staff or other employee of the University or any authorised visitor to the University.
- (vii) breach of the provisions of any authorised University rule, regulation or code of practice which either provides for breaches to constitute misconduct under the Code or constitutes misconduct which would otherwise be dealt with under the Code.
- (viii) 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.
- (ix) misuse or unauthorised use of University property or items in or attached to such property, including computer misuse.
- (x) conduct which constitutes a criminal offence where that conduct
  - (a) takes place on University property, or
  - (b) affects or concerns other members of the University Community, or
  - (c) damages the good name of the University, or

- (d) itself constitutes misconduct within the terms of the Code, or
- (e) is an offence of dishonesty, where the student holds an office of responsibility in the University.
- (xi) behaviour which brings the University into disrepute.
- (xii) failure to disclose name and other relevant details to an officer or an employee of the University in circumstances where it is reasonable to require that such information is given.
- (xiii) failure to comply with a previously imposed penalty under the Code or under any other internal rule, regulation or code of practice.

## 2. Academic Misconduct

*The degrees and other academic awards of the University are granted in recognition of a student's individual achievement. Students are not permitted to seek unfair academic advantage, i.e. to cheat. Any deliberate attempt to obtain unfair advantage by one or more of a variety of means (including, but not exclusively, those described below) will be penalised. If Academic misconduct is reported through ROUTE B of the University's 'Academic deceit policy and procedures', this will be dealt with through the Student Disciplinary Code*

- (i) **Plagiarism;** i.e. the use of another person's work as *your own* apart from minor and infrequent reference. Students can be guilty of plagiarism if they:
  - a) use another person's work, whether taken from print, electronic or internet sources without due acknowledgement; **or**
  - b) produce work as their own which expresses the flavour and ideas of another person's work without due acknowledgement; **or**
  - c) modify the words and order of another person's work and pass it off as their own; **or**
  - d) copy another person's work.
- (ii) **Unauthorised Collusion;** i.e. aiding/attempting to aid or obtaining/attempting to obtain aid from another student in relation to an *individual* assessment.
- (iii) **Misrepresentation, i.e.**
  - a) incorporating material into your own work which is identical or contains substantially similar content to material which has already been incorporated within any other piece of work submitted for assessment within the University; **or**
  - b) making a false declaration with the aim of receiving special consideration by an Assessment Board (see Assessment Board Guide for Subject Boards) or with the aim of procuring extensions to deadlines, exemptions from work or accreditation for prior learning; **or**
  - c) forging data which has been devised or modified or copied from another piece of work in any piece of coursework which is assessed (including laboratory

reports, projects, theses and dissertations) **or** claiming that the data has been obtained through your own work when it has not.

**(iv) Cheating in Examinations; i.e.**

- a) obtaining an examination paper in advance of its authorised release; **or**
- b) using, or having at or near your examination desk, any books, materials or other text or equipment which has not been explicitly specified; or using an electronic device where this has not been explicitly authorised; **or**
- c) communicating with other candidates or passing objects to another candidate; **or**
- d) impersonating or attempting to impersonate another student (see the University's 'Rules for Candidates in Modular Examinations').

For information on Research misconduct; i.e. deliberate attempts to gain advantage by deception by students registered for the degrees of MPhil, DBA, PhD or DSc, please refer to the University's *Policy on Academic Misconduct in Research Degrees*.

In broad terms, research misconduct can be defined as *wilful* behaviour that breaches the principles of good practice in research. For the purposes of the University's Disciplinary Procedures 'research misconduct' is the *wilful* failure to comply with any part of the Code of Good Research Practice.

**Minor and Serious Offences**

3. The level of action taken will depend on the misconduct which occurs. While some instances of misconduct are clearly identifiable as *minor* or *serious*, in the case of misconduct normally considered by the University as minor, the level of action taken will depend on the nature of the misconduct, and whether it is persistent or where there have been previous instances of misconduct.

There is no hard and fast definition of what constitutes minor or serious misconduct: for example persistent instances of minor misconduct may lead to the matter being dealt with by the Board rather than more informally. As a guide however, any instances of assault, indecent assault, fraud, theft, academic deceit, serious misuse of computer facilities or conduct likely to cause serious damage to University property or endanger the safety of persons is likely to be treated as serious misconduct.

**Jurisdiction**

4. The jurisdiction of the University (Section 3 of the Code) will apply in the undernoted areas (examples of types of misconduct within each area are also given). The references are to Section 3 of the Code.

*where the conduct relates to academic or other work of the University.* Examples of misconduct will include, for example, misuse of computer systems; matters of academic deceit, such as cheating in examinations, or plagiarism in coursework; theft of or damage to library books; theft of or damage to laboratory or computer equipment. (3.1 (i))

*where the conduct, though not directly related to the work of the University, has occurred or commenced on University property. Examples of misconduct will include, for example, damage to University property; fighting; assault; theft from the University, staff or another student; possessing, using or supplying drugs; incitement to racial hatred. (3.1 (ii))*

*where the conduct relates to the academic or other work of the University but has not taken place on or within University property. Misconduct may occur, for example, on field trips, visits to other institutions or organisations, or during work placements. (3.1 (iii))*

*where the conduct involves other members of the University but does not directly relate to the work of the University nor does it take place necessarily on University property. Examples of misconduct will include assault (including sexual assault) on another student or member of staff; supplying drugs to other students. (3.1 (iv))*

*where the conduct (a) jeopardises or damages or may jeopardise or damage the good name and reputation of the University, or (b) raises the question as to whether a student should remain a member of the University because he/she poses dangers to other members, or to the good order, of the University community even though the conduct in question is not related to the work of the University, and/or did not take place on University property, and/or did not impact directly on staff or students of the University. Examples of misconduct include supplying drugs; downloading pornographic materials; serious sexual or other assaults; persistent theft; or incitement of racial hatred. (3.1 (v))*

**Procedure before and during meetings of the Student Disciplinary Board**

**A. Procedure prior to the meeting**

1. The Secretary to Court will notify the student, normally not less than five working days prior to the date of the meeting, that a disciplinary meeting is to be held and that he/she is required to attend. The notification will contain the time, date and place of the meeting, a specification of the misconduct and will ask the student whether he/she wishes to plead guilty or not guilty to the charge. The student will also be advised in the notification that he/she may be accompanied by another member of the University community, and that if he/she wishes to submit written statements or call witnesses, copies of the written statements and the names and addresses of the witnesses should be submitted to the Secretary to Court not less than two working days before the date of the meeting.
2. The University will notify the student at least two working days before the meeting of any witnesses whom it proposes to call and will provide copies of or information about any relevant papers or written statements on which it proposes to found.

**B. Procedure at the meeting**

3. If the student does not appear before the Board at the time and place indicated and no satisfactory explanation for the absence has been given and provided that the Board is satisfied that due notice to appear has been sent to the student at his/her last recorded address, the Board may proceed to deal with the misconduct charged and where appropriate impose a sanction in his/her absence.
4. At the meeting, the Chair of the Board will identify those present and the purpose of the meeting. The Chair will seek confirmation from the student (a) that he/she understands the purpose of the meeting, (b) whether he/she pleads guilty or not guilty to the charge(s), (c) that any relevant papers which have been issued have been received, and (d) that the student accepts the procedure. The student and accompanying person will be present throughout the meeting except as stated below.

**In the event of the student pleading not guilty**

5. The Presenter will present the case against the student by describing the alleged misconduct in detail by reference to documents and by calling witnesses (if any).
6. The student will then present his/her case with any supporting documentary evidence and oral evidence from witnesses (if any).
7. Witnesses will be called separately to the meeting. In each case, once witnesses have given the information which they have been asked about, the other party will have the opportunity of asking questions for clarification. Witnesses will leave the meeting after the conclusion of their evidence.
8. A final statement may be made on behalf of the University, followed by a final statement by or on behalf of the student.

9. If at any time relevant information is brought forward which requires further investigation or if further information is required, the meeting may be adjourned by the Chair and a time, date and place agreed for it to be reconvened.
10. Members of the Board may ask questions during the presentations. Once the presentations have been concluded, the Chair and members of the Board may seek further clarification to ensure that a clear understanding of the issues is reached. The Chair will then summarise the main points raised by the University and the student, and seek confirmation from the student that he/she has had the opportunity to say all that he/she wishes to say.
11. The Board will then meet in private to consider the evidence which it has heard and its decision. It may require the presence of an adviser if it considers this to be necessary or appropriate. After reaching a decision, the Board will normally again meet with the student and his/her accompanying person to intimate orally its decision and to invite the student to present or have presented on his/her behalf information about any extenuating or mitigating circumstances which he/she may wish to advance prior to the Board deciding on the penalty to be imposed.
12. The Board will again meet in private (with an adviser if it considers this to be necessary or appropriate) to decide on the penalty to be imposed. The Board will normally thereafter reconvene with the student and his/her accompanying person present to intimate to him/her its decision as to the penalty to be imposed.
13. The Board has the discretion if it considers it appropriate to intimate its decisions in writing only but if it chooses to follow this procedure it must, having reached a decision as to the student's guilt (see paragraph 11 above), reconvene with the student and his/her accompanying person present to allow the student the opportunity of presenting information about any extenuating or mitigating circumstances before it reaches a decision as to penalty.

#### **In the event of the student pleading guilty**

14. The Board may ask the Presenter to outline the case against the student but will invite both the Presenter and the student to inform the Board of any relevant facts and circumstances additional to those set out in the documentary evidence available to the Board. The Chair and members of the Board may ask questions of the Presenter and/or the student for clarification. The student will then be invited to present or have presented on his/her behalf information about any extenuating or mitigating circumstances which he/she may wish to advance prior to the Board deciding on the penalty to be imposed.
15. The Board will meet in private (with an adviser if it considers this to be necessary or appropriate) to decide on the penalty to be imposed. While the Board will normally thereafter reconvene with the student and his/her accompanying person to intimate to him/her its decision as to the penalty to be imposed, it may intimate to the student that its decision will be conveyed to him/her in writing.

#### **Miscellaneous**

16. A student may provide written statements by third parties and/or may call a witness or witnesses to speak to his/her character, but in the event of a witness being called that witness shall be entitled only to make a brief relevant statement and shall not be examined or cross-examined in any way although the Chair or member of the Board may ask questions for clarification.

17. Written notification of the decision and the penalty, together with advice on the student's right of appeal against the decision and/or the penalty will be sent to the student normally within five working days of the date of the decision having been made.

**Procedure before and during meetings with the Chair of the Student Disciplinary Board**

18. Where the Chair deals with an incident of misconduct without referring this to the Board, written notification will be given to the student that the matter will be considered by the Chair who may be accompanied by an adviser and a Presenter. The student will be informed that he/she may be accompanied by another member of the University community, and that he/she should indicate (a) that he/she pleads guilty to the charge of misconduct, and (b) that if he/she wishes, a written statement setting out the student's position and any extenuating or mitigating circumstances should be submitted to the Secretary to Court not less than two days before the date set for the meeting. The notification will normally also give to the student five working days' notice of the meeting and will specify the misconduct and the charge against the student and the time, date and place of the meeting. A note of the meeting will be kept.
19. The Chair will ask the student to confirm his/her plea and to advance any further information in addition to any written statement which he/she may wish to bring to the Chair's notice, particularly in regard to extenuating or mitigating circumstances. If necessary further clarification can be sought from the adviser, Presenter or the student.
20. The Chair will at the conclusion of the meeting consider the evidence and the penalty without the student being present and will again meet with the student to indicate his/her decision.
21. The decision of the Chair will be confirmed in writing to the student together with an indication that if the student disagrees with the decision, he/she may appeal to the Board.
22. The Chair may at any stage of the proceedings decide to refer the matter to the Board for a decision.

**Appeals Procedures**

**A. Appeals to the Student Disciplinary Board**

1. The Board will hear appeals against decisions of the Disciplinary Board of the Students' Association in the case of offences under the Students' Association Code, appeals against decisions made under internal regulations of the University, and appeals against decisions in terms of the Code taken by the Secretary to Court or the Chair.
2. The procedure for and during a meeting of the Board acting as an appeal board shall be as set out below.

**Procedure prior to the Meeting**

3. Appeals shall be intimated in writing to the Secretary to Court within ten working days of the date of intimation to the student of the original decision. The notice of appeal must state clearly the grounds of appeal and whether the appeal is against the decision and/or the penalty imposed.
4. The Secretary to Court will convene a meeting of the Board normally within twenty working days of the date of receipt of the notice of appeal. When the date of the meeting is set, the Secretary will give to the appellant normally not less than five days' written notice of the date, time and place of the meeting, the notification of the meeting indicating that the appellant may be accompanied by another member of the University community (the accompanying person will not include an officer of the Students' Association where the appeal is against a decision of the Disciplinary Board of the Students' Association) and that if the student wishes to submit a further written statement or call witnesses, the written statement and the names and addresses of the witnesses must be in the hands of the Secretary to Court not less than two working days before the date of the meeting.
5. The University will notify the appellant at least two working days before the hearing of any witnesses whom it proposes to call and will provide copies of or information about any relevant papers or written statements on which it proposes to found.
6. The Board will receive a note of the proceedings of the original hearing and of the evidence considered and the decision reached. The Board has discretion not to hear witnesses and not to consider evidence already heard by the original hearing.

**Procedure during the Meeting**

7. At the meeting, the Chair of the Board will identify those present and the purpose of the meeting. The Chair will seek confirmation from the student (a) that he/she understands the purpose of the meeting, (b) that any relevant papers which have been issued have been received, and (c) that the student accepts the procedure. The student and accompanying person will be present throughout the meeting except as stated below.
8. The appellant will present his/her evidence first with any witnesses being called. The University will then present its case with any supporting evidence from witnesses.
9. Witnesses will be called, subject to the discretion of the Board, separately to the meeting. In each case, once witnesses have given the information which they have

been asked about, the other party will have the opportunity of asking questions for clarification. Witnesses will leave the meeting after the conclusion of their evidence.

10. Each party will have the opportunity of making a final statement, in the same order as in paragraph 8 above.
11. Members of the Board may ask questions during the presentations. Once the presentations have been concluded, the Chair and members of the Board may seek further clarification to ensure that a clear understanding of the issues is reached. The Chair may adjourn the meeting if in the opinion of the Board further information is required, fixing a date, time and place for the reconvened meeting.
12. The Board will thereafter meet in private (with adviser(s) if it considers it necessary or appropriate) to consider its decision and will intimate this in writing to the appellant normally within five working days of the date of the meeting.
13. The Board has the right to confirm, vary or set aside any finding, decision or penalty imposed upon the appellant in terms of the Code or other internal regulation, and has the power in particular to increase any penalty previously imposed. The decision reached by the Board will be entered in the Student Disciplinary Database and will be intimated to the person or body having heard the matter at first instance.
14. In the case of appeals against a decision or a penalty imposed in terms of an internal regulation, the decision of the Board is final and no appeal to any other authority is competent.

## **B. Appeals from decisions of the Student Disciplinary Board**

1. Appeals against decisions of the Board, or against decisions of the Chair where the Board takes the view that it would be appropriate for such an appeal not to be heard by the Board, shall be to the University Court acting through a sub-committee known as the Student Disciplinary Appeal Board. The Appeal Board will comprise three lay members of Court of whom one shall act as Chair.

### **Procedure prior to the Meeting**

2. An appellant requires to submit to the Secretary to Court a written notice of appeal setting out clearly the grounds of appeal, whether the appeal is against the decision of or the penalty imposed by the Board and any information or evidence supporting the grounds of appeal. The notice of appeal shall contain sufficient information to identify and support the grounds of appeal.
3. Appeals will normally be heard by the Appeal Board within twenty working days of receipt by the Secretary to Court of a notice of appeal which provides the necessary information or the date on which such information is received. The Secretary to Court will arrange a meeting of the Appeal Board, and will notify in writing the appellant not less than five working days before the meeting. The notification will specify the date, time and place of the meeting, will have attached to it a statement responding briefly to the notice of appeal submitted by the appellant together with a note of any witnesses to be called by the University and information about any documents or other information to be founded on, and will advise the appellant that he/she may be accompanied by another member of the University community.

4. The appellant should submit to the Secretary to Court not less than five working days before the meeting the names and addresses of any witnesses who are to be called in support of the appeal and a note of any further evidence or documentation which the appellant wishes to use in support of the appeal. The appellant requires also to indicate whether he/she intends to be accompanied by another member of the University community and to provide details of said accompanying person. In the event of the supporting information being extensive, new or submitted at a late stage, the Appeal Board may decide to postpone the meeting to enable it to be considered, or may decide to disregard such evidence.
5. The Appeal Board may seek advice from and may have present during its meetings such advisers as it considers necessary or appropriate.
6. The Appeal Board will not reconsider any matters raised at an original hearing and will only consider new or additional evidence or a statement of mitigating circumstances which was not reasonably available at the original hearing. In particular the Appeal Board will not re-hear any or all of the evidence considered at the original hearing, relying on the record of the meeting and the statements submitted by the appellant although it has the discretion to recall and question witnesses if it wishes.
7. The answer to the appeal will be presented by the Presenter. A member of the Secretariat will keep a minute of the proceedings of the Appeal Board.

#### **Procedure during the Meeting**

8. The meeting will be conducted as follows:
  - (i) The appellant or his/her accompanying person shall speak to his/her statement of appeal and may call witnesses. The Presenter has the opportunity of asking questions of either the appellant, his/her representative or of any witnesses. The Appeal Board may also seek clarification of any points raised in the notice of appeal and any supporting documentation or in the evidence given.
  - (ii) The Presenter shall put the University's response to the appeal in the presence of the appellant and may call witnesses. The appellant or his/her accompanying person may ask questions of the Presenter and of any witnesses. The Appeal Board may also seek clarification of any matters raised during the presentation.
  - (iii) Witnesses will only be present in the meeting during their evidence.
  - (iv) The appellant or his/her accompanying person and the Presenter will have the opportunity to sum up their cases if they so wish, with the appellant speaking first. The Chair and members of the Appeal Board will seek any further clarification which is considered necessary from the parties. The appellant and his/her accompanying person and the Presenter will then withdraw from the meeting.
  - (v) The Appeal Board will consider the information made available to it and will reach a decision in private. The parties may be recalled to clarify facts presented, but any recall must include both parties. The Appeal Board's advisers will be present to advise during the meeting and may be present during consideration of the outcome of appeal.

- (vi) The Appeal Board will intimate its decision in writing through the Secretary to Court, normally within five working days of the hearing. The decision given will be final. The decision will be recorded in the Student Disciplinary Database.

### **Scottish Public Services Ombudsman**

A student who remains dissatisfied with the outcome of the University's internal processes may make a formal complaint using the Student Complaint Procedure, which involves a number of internal review stages and, ultimately, the right to review by the Scottish Public Services Ombudsman.

Since October 3<sup>rd</sup>, 2005, the Scottish Public Services Ombudsman (SPSO) has had responsibility for investigating complaints against higher education institutions where the complainant is dissatisfied with the handling of the internal appeals procedure once that process has been completed.

The following should be noted:

- (ii) No-one may make a complaint on someone else's behalf without the express permission of that individual
- (i) Complainants must have exhausted all internal processes before their complaint will be considered by the SPSO
- (ii) Unless new information has become available, a case already concluded by the institution will not be re-examined by the SPSO
- (iii) Academic judgements will not be investigated by the SPSO, although the processes related to said judgement could be

Secretary to Court & Head of Secretariat  
May 2010