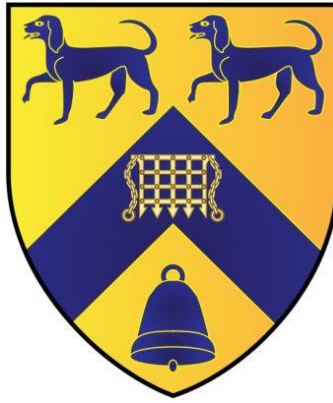




Lady Margaret Hall Disciplinary and Protective Measures Procedures

Name of Policy:	Lady Margaret Hall Disciplinary and Protective Measures Procedures
Scope of Policy:	Student Discipline
Owner, Author and Contact for Further Information:	The Dean, Dr David Campbell
Applicable to:	All student members
Approval Body:	Governing Body
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Version 3.0



Lady Margaret Hall Disciplinary and Protective Measures Procedures

1. Scope

1.1 By becoming and/or continuing as members of Lady Margaret Hall (**‘LMH’** or the **‘College’**), students of the College agree to follow, and are expected to follow, all regulations of the College, to adhere to the conditions of their Accommodation Agreement (if in College-owned accommodation) and to follow the University’s regulations set out in the University’s Student Handbook and elsewhere.

1.2 The purpose of this Code of Procedures (**‘the Code’**) is to enable the College to take appropriate action if students are in breach of these regulations (**‘Misconduct’**). The College has a reasonable expectation that staff, students, and visitors will conduct themselves in ways that are not disruptive or harmful to other members of a community which, although predominantly residential, is also a workplace for many.

1.3 The Code applies to all students of the College. This includes any person matriculated by the University on presentation by the College and still studying for their degree (including undergraduate, postgraduate and senior status students), any Foundation Year or Astrophoria students, any visiting students and any part-time students admitted to and currently studying at the College. The Code also applies to students who are not currently resident in Oxford, which could include students on their year abroad, and those who are suspended or excluded.

1.4 *College premises.* The Code is principally directed at behaviour on College premises, although the College also has concerns for its reputation in the local and wider community,

including with other colleges, the University, and the City of Oxford. The scope of this Code therefore includes:

- College premises, including sports grounds and facilities;
- Behaviour by LMH students in University premises and the premises of other colleges;
- Social media supported by or associated with the College;
- The local and wider community, where the Misconduct may affect the College's reputation;
- College or University-organised activities away from Oxford, for example placements, choir tours, sporting fixtures, and outreach events.

Students are deemed responsible for the behaviour of their guests on College premises or using College facilities.

Other Jurisdictions

1.5 *The University and other Colleges.* The College authorities will cooperate with the University Proctors, other University personnel concerned with discipline and with the Deans (or equivalent officers) of other colleges. In some circumstances it may be appropriate for College officers to support LMH students or assist in their defence at the University's Disciplinary Panel. There may also be occasions when it is appropriate for the College to refer allegations to the University Proctors.

1.6 All Oxford colleges have broadly similar codes of conduct and disciplinary procedures. Officers of this College will cooperate with any reasonable requests from Deans (or equivalent) of other colleges to assist with their investigations and disciplinary measures. We would expect the Deans of other colleges to cooperate with LMH. In some circumstances, for example where students from multiple colleges are involved in alleged Misconduct, it may be appropriate for the Deans of one or more colleges to refer a matter to the University authorities.

1.7 *Proctors' jurisdiction.* Where a breach of regulations is such that it is proper for the University Proctors to consider it, and where they have begun to do so, the College will stay any steps under its own procedure. However, disciplinary steps may be taken under the College procedure notwithstanding that Proctorial proceedings were discontinued or that Proctorial charges were dismissed. No finding of fact by the Proctors or absence of any such finding shall bind the College.

1.8 *Reporting to the Police.* Very serious offences that could lead to criminal proceedings may be reported to the police or other relevant public authority. Repeated offences involving illicit drugs may also be reported. The reporter will generally be the complainant (i.e. the student), and the Dean will act as liaison between College and the Police in such cases. The Dean, in consultation with the Principal, may also report instances of possible criminal misconduct to the Police.

1.9 *In cases of investigation by the Police.* Where a police investigation is extant or their imminent initiation can be reasonably foreseen, any steps proposed or initiated under the College's procedure will be stayed until the conclusion or abandonment of the investigation or prosecution. However, disciplinary steps may subsequently be taken under the College's procedure notwithstanding that criminal proceedings were discontinued or that criminal charges were dismissed and no finding of fact by the criminal courts or absence of any such finding shall bind the College. The fact that proceedings under the College procedure are stayed pending the outcome of criminal investigation or prosecution shall not prevent the Principal, in consultation with the Dean, from taking interim measures - such as the precautionary measures outlined herein - to ensure the peace of the College and the safety of its members.

1.10 *College rights to consider Misconduct also considered elsewhere.* Where a student is found guilty of a criminal offence or a breach of university regulations the College retains the right to implement its own disciplinary penalties to the same breach, making due allowance for any penalty or other measures already imposed by the Criminal Courts or the Proctors. The College retains the right following any criminal or proctorial conviction of the student to take steps to ensure the peace of the College and the safety of its members.

1.11 *Other Policies and Procedures.* Misconduct involving allegations of harassment, discrimination, and bullying are also considered by separate College and/or University procedures. Complaints about members of College staff are considered by separate procedures in College and/or University as appropriate.

1.12 *Disputes between individuals.* The Code is principally intended to address misconduct by students rather than to resolve disputes between individuals, except insofar as they involve a breach of College regulations. The University's Student Resolution Service may be appropriate for disputes between students.

1.13 *Questions about the Code.* Any questions about the scope of the Code should be addressed, in the first instance, to the Dean.

2. *General Principles*

2.1 *Principles.* The Code follows the principles set out by the Office of the Independent Adjudicator for non-academic discipline: accessibility; clarity; proportionality; timeliness; fairness; independence; confidentiality; and improving the student experience. All persons involved in proceedings under this Code are expected to follow these principles. Disciplinary procedures are internal to the College and are not unduly formal. It is recognised that persons involved in proceedings may not have legal or other formal training relevant to disciplinary situations, but they are expected to act to the best of their ability and in a reasonable manner. It is expected that students, their representatives and staff will act reasonably and fairly towards each other and will treat the disciplinary process with respect.

2.2 *Definition of Misconduct.* Misconduct is defined as:

- improper interference, in its broadest sense, with the functioning or activities of the College or those who work, study or are accommodated in the College; and/or
- any conduct or failure to act in a way which otherwise damages the College or its reputation, or those who work, study or are accommodated in the College.
- any conduct or failure to act in a way which is in breach of College or University rules or regulations.

2.3 *Examples of Misconduct.* Examples of Misconduct include (but are not limited to):

- Violence, harassment and hate crimes;
- Sexual misconduct;
- Grossly indecent or offensive behaviour;
- Acts of unlawful discrimination;
- Inappropriate, abusive, or threatening behaviour, including on social media;
- Rudeness towards staff, visitors, members of the public, other students;
- Theft, or unauthorised possession of money or property, whether belonging to the College, another student, or a third party;
- Possession, supply or use of illicit drugs, including psychoactive substances;
- Compromising the safety of and/or wellbeing of staff, other students, or visitors, for example, by failing to follow stated health and safety rules and procedures;

- Impairment of, or interference with, fire safety systems, for example, interference with fire extinguishers and heat/smoke detectors, malicious activation of fire alarms;
- Obstruction of the freedom of speech;
- Disruptive or antisocial behaviour on College premises, such as unnecessary noise or obstructing access to buildings or rooms;
- Failure to take reasonable steps to prevent disruptive or offensive behaviour on the part of any guests invited into College;
- Relying on forged, falsified or fraudulent documentation, and other forms of deception that are intended to gain an advantage, for example submitting fraudulent mitigating circumstances claims or falsifying evidence in support of mitigating circumstances claims;
- Damage to College property or abuse of its facilities;
- Internet activity in breach of College and/or University IT regulations;
- Misuse of library services;
- Behaviour likely to bring the College into disrepute, such as disruptive behaviour in the community;
- Refusal to comply with reasonable requirements by the Porters, Junior (Welfare) Deans, or other members of staff; e.g. to discontinue unacceptable behaviour and/or withdraw from the scene of an incident;
- Refusal to comply with any penalties and conditions applied as a consequence of this procedure;
- Refusal to disclose your name and other relevant details to an officer, employee or agent of the College in circumstances where it is reasonable to require such information to be given; and
- Failure to attend a summons from the Dean without reasonable cause.
- Voluntarily becoming intoxicated to the point of becoming an inconvenience to fellow students or staff.

2.4 *Minor and major Misconduct.* Misconduct may be categorised as minor or major. Repeated instances of otherwise minor Misconduct may be regarded as major Misconduct and thereby receive more substantial penalties. Likewise, where several acts of otherwise minor Misconduct are committed it may be regarded as major Misconduct. Refusal or failure to comply with penalties and conditions imposed as a result of this Procedures may also be regarded as major Misconduct. Harassment, violence, sexual misconduct and unlawful acts of discrimination are normally regarded as major Misconduct, as is interfering with fire safety systems. Interference with fire extinguishers and heat/smoke detectors is a criminal offence. Misconduct that is illegal under the criminal law, for example, possession and dealing of Class A drugs, may be reported to the police. This may include repeated offences involving minor class drugs.

2.5 It is the responsibility of the Dean to determine whether alleged Misconduct in any given situation should be categorised as minor or major.

2.6 Being under the influence of alcohol or otherwise intoxicated will not be admitted as an excuse for breaches of the Code, and may be regarded as an aggravating feature.

2.7 *Penalties.* Potential penalties for Misconduct include:

- Community Service;
- Confiscation, for example of audio equipment;
- Reparation;
- Exclusion (i.e., banning) from parts of the College, including college-owned accommodation, for a fixed period or pending the fulfilment of certain conditions;
- Disconnection from the IT network, for a fixed period or pending the fulfilment of certain conditions;
- Moving to accommodation elsewhere in College;
- Fines (including suspended fines);
- Charges for damage to property sufficient to cover the costs of repair and/or replacement; and
- Requirement to attend courses of training or similar intended to help the student with behavioural issues, for example excessive alcohol consumption or drug misuse

The potential penalties for major Misconduct include, in addition to the foregoing:

- Suspension, i.e., withdrawal of the right of access to all of the land, buildings and facilities of the College including teaching, and all related academic services for a fixed or indeterminate period or until the fulfilment of specified conditions; and
- Expulsion, i.e., the permanent loss of membership of the College and the University

2.8 Penalties for Misconduct will be proportionate, consistent, and appropriate, and they must be explained to the student in writing. Where needed, a timeframe for compliance will be clearly specified. They may be suspended conditional on subsequent behaviour, in which case they will be treated as formal warnings.

2.9 *Burden and standard of proof.* In any disciplinary proceedings under this Code, the burden of proof will be on the College. The standard of proof will be on the balance of probabilities. If a student wishes mitigating circumstances to be taken into account in determining any penalty imposed as a consequence of disciplinary proceedings, they will need to prove that they exist.

2.10 *Communication.* Where a notice or record is to be given 'in writing', this will normally be done by email with attachment, sent to the student's College email address. Such emails will be deemed to be delivered to the recipient at the time of sending. Students are expected to read emails at their college address at least once a day, although some allowance will be made for communication outside full term. If notice or record is delivered on paper, this will be to the recipient's College pigeon hole (if in residence) or to the address previously notified to the College Office (if out of residence). It will be deemed delivered either when it is placed in the pigeon hole or two days after dispatch by first-class post as appropriate.

2.11 *Timeliness.* Any disciplinary steps taken under this code and procedure will normally be completed within 90 calendar days of the start of an investigation. This will normally mean completing an initial investigation and formal stage within 60 calendar days, and a further calendar 30 days for appeal. The College will endeavour to keep to this timetable but it is recognised that there may be circumstances where it is not practicable to do so, particularly outside of Term Time. In such situations a justification for any delay will be provided to the student(s) concerned in writing.

2.12 *Meaning of 'Day'.* Except where otherwise stated, a day shall mean a full working day (Monday to Friday) and shall exclude Saturday, Sunday, and public holidays. This applies at all times, including University vacations (i.e., outside full term).

2.13 *Online meetings.* Any meetings or hearings that are part of this non-academic disciplinary procedure may take place in-person or online, provided that it uses devices and software of suitable confidentiality.

Confidentiality and Record-Keeping

2.14 *Confidentiality.* Information about students who are subject to disciplinary proceedings will be kept confidential as far as reasonably possible and in accord with any applicable College

policies. Information will be disclosed to as few people as appropriate. This will typically include the Head of Wellbeing, Senior Tutor and Subject Tutor. Students who are either the subject of disciplinary proceedings, or who are called as witnesses, must also maintain confidentiality as far as possible.

2.15 *Witnesses.* In order to enable a student subject to disciplinary hearings to defend themselves adequately, it will not be normal to keep the identity of any witnesses secret. If a witness does not agree to the disclosure of their identity, it may not be appropriate to rely upon their evidence. Witnesses may seek support from the appropriate College officers.

2.16 *Records.* Records of any proceedings and decisions taken during a non-academic disciplinary process, including any documents submitted, will be kept in accord with relevant law such as the Data Protection Act 2018 and the College's Data Protection Policy and its associated retention schedules.

2.17 The Dean will normally keep records relating to minor Misconduct. The College Office will normally keep records of major Misconduct. The Secretary to the Governing Body keeps the record of Governing Body proceedings.

2.18 The Chairs of Disciplinary Committee and Appeal Panels must ensure that any documentation in their possession is passed on to the Academic Office once their role in the process is concluded. They must retain any emails in line with College policies after the Completion of Procedure so that they may be available for any external appeal.

2.19 *Previous disciplinary record.* A student's previous disciplinary record will not normally be relevant to the determination of any allegation, but it may be taken into account in decisions about the appropriate penalty.

Miscellaneous

2.20 *Costs.* Irrespective of the penalty or other disposal imposed for Misconduct under the Code, it is always open to the Dean to pass on to the student who has committed Misconduct under the Code, in addition, any reasonable costs that have been borne by the College in direct consequence of the Misconduct, not including any cost attributable only to the time spent on the detection, investigation or determination of the student's case by any College staff.

2.21 *Situations not explicitly addressed by the Code.* In the course of disciplinary proceedings, a College officer or other person authorised under this procedure, for example, the Chair of a Committee or Panel, may encounter a situation that is not explicitly covered by the Code. In such cases they may make a decision taking account of the OIA Good Practice Framework and/or the University's Student Disciplinary Procedure: Non-academic misconduct and be guided by the duty to act in a fair and impartial manner. They may also consult appropriate College and University officers. The reasoning and justification for any such decision must be recorded in writing.

2.22 *Keeping Principal Informed.* The Dean shall identify and report to the Principal on any case they consider constitutes a serious incident as defined by the Charity Commission.

2.23 *Annual review.* The Code will be reviewed at least annually by the Dean, using the core principles of the OIA Good Practice Framework as a guide. Any significant changes will be put to Statutes Committee for decision. The annual review will normally take place during Trinity Term.

2.24 *Training.* Training on the key aspects of this code - and as necessary, on the specifics of roles undertaken - shall be undertaken by Fellows, Students, Staff and College Officers as appropriate.

2.25 The Disciplinary Code and Procedures are inquisitorial rather than adversarial in nature. This central guiding principle will inform the determination of procedures used within this code.

2.26 *Time Limit.* There is a strong presumption against acting on reports of misconduct where such conduct is alleged to have occurred more than 6 months prior to the report. The Dean shall at his absolute discretion determine whether or not to accept and respond to such reports. Factors which the Dean may consider include (but are not limited to): the gravity of the alleged breach of discipline; whether the alleged breach of discipline was an isolated event, was repeated or was part of an alleged course of conduct; the length of any delay in reporting; the reasons for any delay in reporting and any barriers to reporting. Exceptional circumstances are more likely to be found to exist in cases of sexual misconduct and/or violence. The Dean will notify the reporter of any decision not to investigate.

2.27 *Delegation.* The functions of any person identified in this code may on occasion and as appropriate be delegated to another individual. Examples of where this may be warranted include where an officer identified may be indisposed or where there is a reasonable perception of bias.

3. *Sources of Support and Advice*

3.1 There are many sources of support and advice in College and in the University both for students who are going through disciplinary procedures and for students who are providing information relevant to procedures, for example as witnesses. Students who are the subject of disciplinary procedures can also be accompanied at meetings or during hearings.

It is not possible to detail all the sources of advice and support here, but they include:

- The College Welfare Team;
- Oxford SU and Student Advice (oxfordsu.org); and
- MCR and JCR officers.

3.2 The Dean shall direct students to relevant sources of advice and support at the earliest appropriate opportunity and thereafter remind them, for example, when the procedure moves to another stage.

3.3 *Disputes between students.* The Code is not a mechanism for resolving disputes between students but for dealing with Misconduct. But some cases of Misconduct may involve one student making a complaint against another. In such cases, the Dean will take care to ensure that they are both equally afforded access to support and advice but also that any College officers or individuals providing that support and advice are not themselves conflicted. As far as reasonably possible students who are in dispute ought (if practicable) to receive help from different individuals.

3.4 *Withdrawal of Complaint.* It should be noted that should a student complainant withdraw their complaint the disciplinary process will not automatically discontinue. Standardly the process will continue to its conclusion. Welfare supports such as those referenced in this section shall be available to support such students as the disciplinary process continues.

3.5 *Legal representation.* Disciplinary procedures are internal to the College and are not unduly formal. There is support available from inside the College and also from properly trained and resourced sources in the University such as the Oxford Student Union Student Advice Service. That being so, it will not normally be necessary for students to seek independent legal advice. An exception might be made in complex cases or where there is the possibility of a penalty of expulsion being applied. The Chair of the relevant Disciplinary

Committee or Appeal Panel is responsible for deciding whether or not, in a specific case, legal representation will be permitted and will be informed in that decision by pertinent law, e.g., *AB v, University of XYZ* [\[2020\] EWHC 2978 \(QB\)](#).

3.6 *Fitness.* The College has a separate procedure for ‘fitness to study’. If, under the Code, there is a concern about a student’s health to the extent that it might compromise their ability to properly take part in, or be subject to, non-academic disciplinary proceedings and measures, the Dean and/or Chair of the appropriate Committee or Panel may suspend the process while an assessment can be made.

3.7 *Adjustments for disability.* In all proceedings, including communications, the College will take proper account of any needs and adjustments disclosed by disabled students. If a student reports that the behaviour which gives rise to the non-academic disciplinary concern is related to their disability, the Dean and/or Chair of the appropriate Committee or Panel will consider whether to proceed as planned or to refer the students to the appropriate support services. They may seek appropriate independent evidence for any disability so disclosed. In cases of referral, proceedings may continue or be suspended awaiting proper assessment. A student’s disability must also be considered during the setting of any penalties.

3.8 Although disability must be taken into account throughout any proceedings, it is not normally a sufficient reason not to proceed and nor is it a sufficient reason not to set a penalty.

4. *The Deans' Authority*

4.1 *The Dean.* The Dean is the College Officer with oversight of the non- academic disciplinary code and procedure and has lead responsibility for enforcing College rules relating to discipline. This role includes supporting and advising all Disciplinary Panels and Committees in their application of the Code and Procedures.

4.2 *Initiation of procedures.* Non-academic disciplinary procedures may be initiated by any member or employee of the College who has good reason to believe that a student has breached the Code. This person shall refer the matter to the Dean, or a Junior (Welfare) Dean as soon as reasonably possible after the occurrence of the alleged breach. Anonymous reports will only be considered in this procedure under exceptional circumstances where there are compelling reasons to do so. Malicious or vexatious allegations may result in disciplinary action against the person making the report.

4.3 *The Dean's powers.* The Dean has all necessary powers as may reasonably be required to promote and maintain good order. The Dean has the authority to exercise disciplinary powers over minor Misconduct. Disciplinary powers exercised by the Dean normally include: the requirement to perform Community Service (of no more than 10 days per instance of misconduct) fines totalling up to £1,000 per individual for any single instance of Misconduct; exclusion ('banning') from parts of the College for short periods (no more than one term); moving accommodation within College; disconnection from the IT network; and confiscation. The Dean may also impose charges for damage to property, sufficient to cover the costs of repair and/or replacement, and impose reparation payments up to £1,000. The Dean has the power to summon students as part of an investigation into Misconduct. The Dean will provide a written explanation to a student against whom any action under these powers has been taken and keep a record of same.

4.4 *Junior (Welfare) Deans.* Junior (Welfare) Deans carry authority delegated by the Dean. Such authority normally includes having the power to issue students with any reasonable instructions as may be necessary to maintain peace and order in College and to enforce College rules. Junior (Welfare) Deans will make a written record of any decanal interventions undertaken and supply this to the Dean.

5. *Minor Misconduct*

Procedures differ according to whether the alleged Misconduct is minor or major. Cases of minor Misconduct are addressed in this section. Major Misconduct is addressed in Section 6.

Summons by the Dean

5.1 *Dean's power to summon.* The Dean may summon any student alleged to have breached the Code and any student who, in their opinion, may be able to provide evidence relevant to the investigation. Notice of a summons must be in writing and state the alleged Misconduct. The Dean will also direct the student to the Code. There will normally be at least one day's notice of a summons. In circumstances where the Dean is themselves present during or immediately after an alleged Misconduct, the summons may be made orally.

5.2 *Failure to attend.* Failure to attend a summons without good reason is Misconduct. It will not cause disciplinary proceedings to be suspended and may be taken into account in any subsequent determination of a penalty. At their discretion, the Dean may issue a second summons to a student who did not appear for the first.

5.3 *Procedure.* The Dean shall determine the procedure of any hearing provided that:

- (a) The Dean will provide the student about whom the allegation of Misconduct has been made with any available supporting evidence prior to the hearing, including the names of any witnesses to be called.
- (b) The Dean has discretion as to the organisation and timing of the hearing. The Dean may adjourn proceedings with reasonable cause.
- (c) In cases where more than one student is involved in an alleged Misconduct, the Dean will take steps to ensure that they are treated equally and fairly.
- (d) The student will have been given reasonable time, to assemble their evidence.
- (e) At the hearing, the student will be given a reasonable opportunity to respond to the allegation and all supporting evidence, including statements made by witnesses before and during the hearing.
- (f) The hearing will normally begin with the Dean reading out the allegation to the student and giving them an opportunity to either admit to or deny the alleged Misconduct.
- (g) The Dean must satisfy themselves as to fact, responsibility and identity.

- (h) The Dean may summon witnesses.
- (i) The student may call witnesses, having informed the Dean in writing before the hearing of their intention to do so. If being accompanied, the student's companion must not also be one of their witnesses.
- (j) The Dean has discretion as to whether the student who is subject to the allegations and any witnesses are present at the hearing at the same time.
- (k) The student may be accompanied by a student or another member of the University, College, or Oxford University Student Union, having informed the Dean in writing before the hearing of their intention to do so.
- (l) The Dean shall ask one or more other members of the decanal team to be present, for example to keep notes of proceedings.
- (m) The Dean will give the student the opportunity to make known any mitigating circumstances that might be relevant to the determination of any penalty.
- (n) The Dean shall remind all those involved of the importance of confidentiality
- (o) If, in the course of their investigation, the Dean determines that the misconduct is more serious, then they may ask the Principal to refer the matter to a Disciplinary Committee.

5.4 *Determination of case.* The Dean will write to the student with their determination of the matter, normally within five days of the conclusion of the hearing. The Dean will provide a written outcome setting out the decision reached, any penalty to be imposed, the timeframe for compliance (where needed), and any provisions for appeal. Even if no further action is to be taken, the Dean will advise the student that concerns have been raised about their behaviour. If appropriate, the Dean may signpost the student to sources of advice and support. The Dean is responsible for keeping a written record of the proceedings and the outcome.

Appeals and Minor Appeals Panel

5.5 *Scope and grounds for appeal.* The student may appeal the Dean's decision by writing to the Principal, and within no more than two days of the Dean's written resolution. The student must specify the grounds for appeal [i.e. a) there were significant procedural irregularities; b) the Dean was in error in reaching their decision; and/or c) in the case of an appeal against the penalty imposed, the penalty was disproportionate, inconsistent, and/or inappropriate]. The Principal will refer the appeal to the Minor Appeals Panel. Any penalty imposed by the Dean will normally be stayed pending the outcome of an appeal, provided that the Principal believes there is no more than a minimal risk of harm to other members of College in so doing.

5.6 *Constitution of the Minor Appeals Panel.* The Minor Appeals Panel consists of up to three Fellows appointed by the Principal - from a pool of ten Fellows agreed by the Governing Body at its first meeting in Michaelmas Term. The pool must include five Fellows with at least 10 years seniority, and must not include the Principal, Vice-Principal, Senior Tutor or Dean. The three Fellows will be chosen by lot, but must include at least one Fellow with at least 10 years seniority. No disciplinary panel/committee may include the student's Personal Tutor, any of the student's subject tutors or any other member who has had significant involvement with the student. The Panel may consider one or more appeals. The Panel will elect their own Chair, who will be responsible for all communication with students and for keeping a record of the proceedings. It will normally meet no more than once a term or no more than once during the Long Vacation. The Principal will appoint a Secretary to the Panel who will provide administrative support.

5.7 *Role of Minor Appeals Panel.* The Minor Appeals Panel shall determine whether the appeal should be allowed or dismissed. Its responsibility is to review the Dean's decision and determine whether: a) there were any significant procedural irregularities; b) whether the Dean was in error in reaching their decision; and/or c) whether, in the case of an appeal against the penalty imposed, the penalty was disproportionate, inconsistent, and/or inappropriate.

5.8 *Procedure.* The Minor Appeals Panel shall determine its own procedure, having regard to the core principles of the OIA Good Practice Framework. Its decisions shall be taken by a simple majority of those members present and voting. The Panel shall have power to confirm or vary the Dean's decision and any penalty imposed by the Dean, (including an increase of any penalty) provided that it shall not impose a penalty which is reserved for Major Misconduct. Vexatious, trivial or frivolous appeals will normally attract an increase in the penalty imposed by the Dean.

5.9 *Determination of Outcome.* The Chair or Secretary of the Minor Appeals Panel will write to the student with their determination of the matter, normally within five days of the conclusion of its meeting. The Chair will provide a written outcome setting out the decision reached and any penalty to be imposed, and the timeframe for compliance (where needed). If appropriate, the Chair may signpost the student to sources of advice and support.

6. *Major Misconduct*

6.1 *Referral of cases of major Misconduct.* Cases of suspected major Misconduct, as determined by the Dean, are subject to a formal investigation and then, if necessary and appropriate, referred to a Disciplinary Committee. Misconduct that is illegal under the criminal law may be reported to the police. The Dean shall inform the student:

- the Misconduct alleged to have been committed;
- which provision(s) of the Code are alleged to have been breached;
- the possible penalties associated with the Misconduct;
- that there will be a formal investigation or that it has been reported to the police; and
- that it may then be referred to a Disciplinary Committee.

6.2 The Dean shall also provide the student with a copy of the Code and refer them to the appropriate sources of support and advice. If appropriate, they should, at this stage, also direct any students potentially harmed by or otherwise involved in the case to the sources of advice and support available.

Formal Stage Investigation

6.3 *Determination of Investigator.* The Principal and the Dean will determine whether the investigation of the case should be carried out by the Dean or by an Independent Investigator. If the Dean has had significant previous involvement in the case or other conflict of interest it must be referred to an Independent Investigator. An Independent Investigator, who need not be a member of College, must be someone of suitable experience and expertise to carry out a formal investigation in the timeframe provided for.

6.4 The Dean must inform the student at the earliest opportunity who is to investigate the case, and the likely timescale of the investigation and possible hearing.

The Investigation

6.5 In this section the term ‘The Investigator’ may mean Dean.

6.6 *Purpose.* The purpose of an investigation is to provide information for the Dean to determine if the matter should be categorised as either major or minor and if deemed major for a Disciplinary Committee to be provided with the information and evidence it requires to decide the case. It does not take the place of a hearing.

6.7 *Initial considerations.* The Dean will provide the Investigator with: whatever information and evidence they have on the case; the names of possible witnesses or persons who might have evidence relevant to the case; a copy of any communication with the student; a copy of the Non- Academic Disciplinary Code and Procedure; a guideline timetable for proceedings. The timetable must aim to complete the formal stage investigation and the Disciplinary Committee hearing within 60 calendar days of the Dean first becoming aware of the misconduct.

6.8 *Investigator’s authority and procedure.* The Investigator shall determine the course of their investigation bearing in mind the recommended timeframe and what might reasonably be expected from an individual with their knowledge and experience of the matter, provided that the following points are observed:

- i) The Investigator shall meet, preferably in person, with the student to confirm that they are aware of: the Misconduct they have allegedly committed; the sources of support and advice available to them; the disciplinary procedure, including appeal.
- ii) At any meeting, the student may be accompanied by a student or another member of the University, College, or Oxford University Student Union, having informed the Investigator of their intention to do so at least 24 hours before any scheduled meeting.
- iii) Any meeting with the student shall take place in private, unless either the student or witness has asked to be accompanied or the Investigator feels that it is necessary to have a note-taker. In the latter case, the Investigator will advise the student or witness before the meeting. The person being interviewed will be sent a copy of any notes and will be invited to agree it.
- iv) The student shall be advised that they do not have to answer any questions, that any responses or documents provided may be used by a Disciplinary Committee in evidence, and that if they decline to answer questions this may be taken into account by a Disciplinary Committee.

- v) The student shall be given sufficient information and opportunity to allow them to respond to the allegations, make representations regarding any justification or excuse for the Misconduct, and any relevant material considerations and/or mitigating circumstances. If it is appropriate, the Investigator may give the student an opportunity to respond to any witness statements produced in the course of the investigation.
- vi) In cases involving a complaint by one student against another, the complainant and the subject of the complaint, having each been interviewed and invited to agree the note with the Investigator, shall be provided with a copy of the other's interview notes. This enables them to comment on the other person's account. Confidential information which is not about disputed facts may be redacted.

6.9 The Investigator may interview any members of College, including staff and students.

6.10 *Responsibility of Investigator.* It is the Investigator's responsibility to produce a report based on their investigation which outlines the process followed, the information gathered, and their conclusions. The Investigator shall provide the student or their representative copies of the information obtained during the investigation, a copy of the report and information about the next steps in the process. The Investigator shall send copies of the information obtained during the investigation and a copy of the report to the Dean (unless they have acted as Investigator) and the Principal.

6.11 *In cases of dispute between students.* In cases of a dispute between two students, the Investigator shall inform the complainant that they have completed their investigation. If, during the course of the investigation the complainant withdraws their complaint, the investigation shall nonetheless continue to its conclusion. The Dean will decide whether the disciplinary process should continue, taking account of the interests of the College and the student who is subject of the complaint.

6.12 *The decision to form a Disciplinary Committee.* On completion of the Investigator's report, the Dean will, in his or her absolute discretion, decide whether the alleged Misconduct ought to be classified as major. If the Dean concludes that the alleged Misconduct should be categorised as major the Dean must inform the Principal as soon as is reasonably practicable who will in turn appoint a Disciplinary Committee. Alternatively, if the Dean concludes that the alleged Misconduct is minor, the Dean will deal with it pursuant to the procedure established herein. The Dean may also terminate disciplinary proceedings if they are satisfied that no further action is required.

The Disciplinary Committee

6.13 *Forming a Disciplinary Committee.* On receipt of the Dean's request to form a Disciplinary Committee, the Principal shall proceed without delay to appoint its members.

6.14 *Composition of Disciplinary Committee.* The Disciplinary Committee consists of three members, normally Fellows, excluding the Chaplain and the Head of Wellbeing (all of whom may have other roles in the process). These Fellows shall be drawn from a pool of ten Fellows agreed by the Governing Body at its first meeting in Michaelmas Term. The pool must include five Fellows with at least 10 years seniority, and must not include the Principal, Vice-Principal, Senior Tutor or Dean. The three Fellows will be chosen by lot, but must include at least one Fellow with at least 10 years seniority. No disciplinary panel/committee may include the student's Personal Tutor, any of the student's subject tutors or any other member who has had significant involvement with the student. The Principal may not be a member. Committee members may be drawn from outside College should the Principal deem it appropriate – for example where specialist expertise may be warranted – however, College Fellows must always make up the majority of any committee. They are appointed by the Principal, who also appoints one of them as Chair. Letters of appointment should name the student alleged to have committed Misconduct, the Dean's judgment that the alleged misconduct be categorised as major and direct Committee members to appraise themselves of the Code as well as the OIA Good Practice Framework: Disciplinary Procedures. The Principal will appoint a Secretary to the Committee who will provide administrative support. The Chair and the Secretary should agree at the outset who will take lead responsibility for all communications with Committee members, the student or students being investigated and any witnesses.

Rules for Appointing a Disciplinary Committee

6.15 *Membership.* The members of a Disciplinary Committee shall not be:

- Any person who has taught, advised, supported or supervised any student significantly involved in the case or who might reasonably be expected to do so given their role in College; or
- Any person directly involved in the events relating to the case; or
- Any person who has served on a Disciplinary Committee or appeal panel (either Academic or non-Academic) involving the same student.

6.16 *Objections.* If the student wished to object to any members of the Committee they must do so in writing to the Principal, giving their reason and within 24 hours of having been first informed of the Committee membership. If the Principal agrees to the objection, they will appoint one or more replacements normally within 48 hours. The Principal will inform the student of the new Committee membership. The date of this communication will be regarded as the date of the constitution of the Committee.

6.17 The Principal will give due consideration to the gender balance of the Committee, taking account of the particular circumstances of the case. Its cultural mix or diversity may be relevant in some cases.

6.18 If the Principal finds it difficult to convene a Committee from eligible Fellows, they may consider other College Fellows or other suitable members of the University. The reasons for doing this must be explained to the student.

6.19 The Dean shall provide the members of the Committee with: a copy of this Code and Procedure; copies of any other College policies relevant to the case; the information provided to the student on referral to the formal stage; a copy of the Investigator's report; the names of any witnesses interviewed during the formal investigation; and any documentation or evidence received during the investigation.

The Disciplinary Committee Hearing

6.20 *Purpose of Disciplinary Committee.* The purpose of the Disciplinary Committee is to consider all relevant facts, based upon the information in the Investigator's report and any statements made during the hearing itself and then to decide, if it is satisfied that there is Misconduct and bearing in mind the interests of the College and the student, the proportionate, appropriate and practical penalty. It shall conduct a hearing to consider the case. The procedure shall be inquisitorial rather than adversarial in nature.

6.21 *Timing of hearing.* The Committee's hearing shall take place as soon as practicable; normally within one week after the Principal has received the Dean's request. The Chair or Secretary will inform the student of the proposed time and place of the Committee's hearing. The Chair or Secretary will confirm with the student that they have:

- a clear statement of the grounds for their being referred to the Committee;
- a copy of the Code;

- a copy of all documentation with which the Committee is provided;
- any proposed penalty and/or a clear indication of the penalties available to the Committee should it uphold the charge;
- the right to call witnesses at the hearing;
- a list of any witnesses the Chair intends to summon to the hearing; and
- the right to be accompanied and/or represented.

For alleged Misconduct involving more than one student, the Committee may choose to hear each case separately or to hear all alleged offenders' cases together before the Committee.

6.22 *Appearance in person.* There is an expectation that the student will appear at the hearing, with or without a representative, unless they give notice of an intention not to appear, in which case they will be permitted to make a written submission or appear by alternative means (for example, video call). The hearing may proceed if the student fails to attend as notified or to make a submission.

6.23 *Right to be accompanied.* At the hearing, the student may be accompanied by a student or another member of the University, College, or Oxford University Student Union, (or if permitted, legal representation) having informed the Chair or Secretary of their intention to do so at least 24 hours beforehand.

6.24 In those cases where the student has legal representation the Chair may also seek support from legal advisers or other external people.

6.25 *Witnesses.* The student has the right to call witnesses in their defence. To do so, they must inform the Chair as soon as reasonably possible and no later than two days before the hearing. It will be the Chair's responsibility to summon the witness. The Dean may ask the Chair to summon witnesses on their behalf. If they do so, the student must be informed as soon as reasonably possible and no later than two days before the hearing. Witnesses may attend in person or by alternative means (for example video call).

6.26 *Procedure.* The Chair, in consultation with the other members of the Committee, may determine the procedure of the hearing subject to the foregoing provisions. What follows is only a suggestion; it is not binding on the Disciplinary Committee, which is entitled to determine its own procedure.

- (a) The hearing will begin with the Chair reading the statement of the grounds for the student being referred to the Committee.

- (b) The Dean, Junior (Welfare) Deans, student and witnesses may be asked to speak in an order and format to be determined by the Chair.
- (c) The student or their representative will be given an opportunity to: make an opening statement; test the evidence; make a closing statement after any closing statement by the Dean.
- (d) It is at the discretion of the Chair whether to allow any new evidence not previously considered by the Investigator.
- (e) The Chair may determine whether the student can cross-examine any witness in person, through the Chair, or by written questions. In cases of a dispute between two students it is not normally appropriate for one student to be given the opportunity to cross-examine the other and questions should usually be asked through the Committee rather than directly, unless the other student is represented.
- (f) The Chair will ask the student, the Dean and any witnesses to withdraw before deliberation. They may re-summon any of the above; the Student (along with any representative) will be given the opportunity to be present for any further summons.

6.27 *Determination of outcome.* Having considered the matter, the Committee will agree its decision by vote. The Committee will decide whether the Misconduct alleged was committed and, if so, the appropriate penalty (which may be different from that proposed by the Dean). If there are any conditions attached to any penalty, the Committee shall set out the possible consequences of a failure to observe them.

6.28 *Plea in mitigation.* If the Committee determines that there should be a penalty it shall be promptly communicated to the student. The student must be given an opportunity to make written (or, exceptionally, oral) submissions and to provide evidence of any mitigating circumstances they believe are relevant to the determination of a penalty. The plea must be made within five days of communication of the Committee's preliminary decision.

6.29 *Complainant's statement.* In cases of a dispute between students, the Committee has the discretion to seek and consider a statement from the complainant regarding the impact of the Misconduct on them. This may be taken into account in the final determination of any penalty.

6.30 *Communication of decision.* Having considered any plea in mitigation and/or complainant's statement, the Chair of the Disciplinary Committee shall promptly write to the student with the final outcome of the formal stage, giving a clear explanation of, and setting out the reasons for, each decision and any penalty and conditions. This letter shall also give information about: the right to appeal and the grounds on which appeals can be made; the time limit for making an appeal; the appropriate procedure; and where to obtain appropriate support and advice.

The written record of the hearing will also be provided to the student by the Chair. A copy of the letter shall be made to the Principal.

6.31 The Chair of the Committee is responsible for ensuring that there is a written record of the hearing.

Appeal Panel

6.32 *Purpose.* The appeal stage is not intended as a rehearing of the case; it is a review of the formal stage, including the independent investigation and the Disciplinary Committee. It should be noted that there are further levels of appeal beyond the College.

6.33 *Notice of Appeal.* The student or their representative may appeal against the decision of the Disciplinary Committee. Notice of any appeal must be made to the Principal within three days of the student receiving written notification of the Disciplinary Committee's decision. The student must communicate the grounds of appeal. Grounds for appeal can include:

- i) That the procedures were not followed properly;
- ii) That there is a bias or reasonable perception of bias during the procedure;
- iii) That the student has new material evidence that they were unable, for valid reasons, to provide earlier in the process;
- iv) That the penalty imposed was disproportionate or not permitted under the procedures

6.34 *If there is an Appeal.* On receipt of an appeal, the Principal shall promptly appoint an Appeal Panel. If there is no appeal the Principal will report to the Governing Body as described below.

6.35 *Composition of Appeal Panel.* The Appeal Panel consists of three Fellows drawn from a pool of ten Fellows agreed by the Governing Body at its first meeting in Michaelmas Term. The pool must include five Fellows with at least 10 years seniority, and must not include the Principal, Vice-Principal, Senior Tutor or Dean. The three Fellows will be chosen by lot, but must include at least one Fellow with at least 10 years seniority. No disciplinary panel/committee may include the student's Personal Tutor, any of the student's subject tutors

or any other member who has had significant involvement with the student. . The Principal will appoint one of the Panel as Chair. The members of the Panel shall not be:

- The Dean;
- Any person who has taught, advised, supported, or supervised any student significantly involved in the case; or
- Any person directly involved in the events relating to the case.
- Any person who has served on a Disciplinary Committee or Appeal Panel (either Academic or non-Academic) involving the same student

6.36 *Objection.* If the student wished to object to any members of the Panel they must do so in writing to the Principal, giving their reason and within 48 hours of having been first informed of the Panel membership. If the Principal agrees to the objection, they will appoint one or more replacements normally within 48 hours. The Principal will inform the student of the new Panel membership. The date of this communication will be regarded as the date of the constitution of the Panel.

6.37 The Principal will give due consideration to the gender balance of the Committee, taking account of the particular circumstances of the case. Its cultural mix or diversity may be relevant in some cases.

6.38 If the Principal finds it difficult to convene a Panel from eligible Fellows, they may consider other suitable members of the University. The reasons for doing this must be explained to the student.

6.39 *Preparation for the Panel.* The Principal shall appoint a Secretary to the Appeal Panel, who may be the same person as the Secretary to the Disciplinary Committee. The Secretary will provide the members of the Appeal Panel with all documentation presented at the hearing of the Disciplinary Committee, including its report as well as the letter of appeal from the student to the Principal. Panel members shall appraise themselves of the Non-Academic Disciplinary Code and Procedure as well as the OIA Good Practice Framework.

6.40 *Timeliness.* The appeal stage will normally be completed within 30 days of the Principal's receipt of the students' appeal.

6.41 *Panel's duty.* The Chair shall convene the Panel as soon as practicable; normally within one week of being appointed by the Principal. It shall be the duty of the Panel to determine whether the appeal should be allowed or dismissed.

6.42 *Appeals on penalty.* If the Panel determines that an appeal should be allowed it may substitute its own penalty or it may decide to impose no penalty. All penalties available to the Disciplinary Committee are also available to the Panel.

6.43 *Appeals on new evidence.* If the Panel determines that there is new material evidence that the student was unable, for valid reasons, to provide earlier in the process and that: a) this evidence may be significant enough to alter the decision of the Disciplinary Committee; and b) a fair consideration of this evidence requires a hearing, it may request that the Principal appoint a new Disciplinary Committee.

6.44 *Appeals on Procedural Irregularity or Bias:* If an appeal is allowed on the ground that procedures were not followed or on the ground of Bias/reasonable perception of Bias, then the Panel may request that the Principal appoint a new Disciplinary Committee.

6.45 Vexatious, trivial or frivolous appeals will normally attract an increase in the penalty imposed.

6.46 *Remedy.* If the appeal is successful the Panel may need to consider whether there has been an adverse impact on the student and whether it should provide a remedy.

6.47 The Chair of the Panel will be responsible for ensuring that there is a written record of its deliberations.

6.48 *Communication of outcome.* The Chair of the Appeal Panel shall promptly write to the student with the outcome of its deliberations, giving a clear explanation of, and setting out the reasons for, each decision and any penalty. This letter shall also give information about: the further right to appeal (see below); the time limit for making an appeal; the appropriate procedure; and where to obtain appropriate support and advice. The written record of the hearing will also be provided to the student by the Chair. A copy of the letter, which must be dated, shall be made to the Principal.

Report to Governing Body

6.49 If the student does not appeal the decision of the Disciplinary Committee, the Principal will report its decision at the next meeting of the Governing Body. If the student does appeal the decision of the Disciplinary Committee, the Principal will report the decision of the Appeal Panel to the next meeting of the Governing Body.

6.50 By convention, the Governing Body will approve the decision of a Disciplinary Committee. A student therefore has no right to make further representations to Governing Body in respect of any recommendation of a Disciplinary Committee.

7. *Further Appeal*

7.1 If the student wishes to appeal against the outcome they may be able to do so to the Appeal Tribunal of the Conference of Colleges of which LMH is a member. The appellant must file such an appeal with the Secretariat of the Conference of Colleges (Conference of Colleges, in the University of Oxford), within five days of the communication of the Appeal Panel's conclusion. Note:

“The functions of the Tribunal shall be to consider appeals on disciplinary decisions imposing a substantial penalty, made by the body with final jurisdiction within any participating College (for these purposes the Visitor shall be deemed not to be such a body). Disciplinary decisions means the imposition of penalties for breach of College statutes, by-laws, regulations or rules relating to academic or any non-academic matters. Substantial penalty includes the penalties of expulsion, rustication or suspension, substantial fines, and other penalties of similar severity.”

7.2 The Office of the Independent Adjudicator for Higher Education (OIAHE). Under the Higher Education Act 2004, certain complaints which the student considers not to have been properly dealt with by either the College and/or the Conference of Colleges Appeal Tribunal can be pursued with the Office of the Independent Adjudicator for Higher Education (Office of the Independent Adjudicator for Higher Education - OIAHE)

In cases of a complaint by one student against another

7.3 Where the disciplinary process resulted from a complaint made by one student about the behaviour of another, the Chair of the Disciplinary Committee or the Chair of the Appeal Panel, as appropriate, shall inform the complainant that the respective stage has been completed. They may share with the complainant such information about the outcome as does not conflict with the requirements of confidentiality and data privacy concerning the student against whom the complaint was made.

7.4 A complainant cannot appeal the outcome of the disciplinary process but if they are dissatisfied with the outcome they may make a complaint under the College's Complaints Procedure. The Chair as above shall direct them to this Procedure.

Completion of Procedures

7.5 *Completion of Procedures Letter.* Either at the conclusion of the Disciplinary Committee or, if there has been an appeal at the conclusion of the Appeal Panel, the Principal must provide the student with a Completion of Procedures Letter within 28 days of the communication of the relevant decision. Guidance (including a template) on how to write a Completion of Procedures Letter can be found at: Completion of Procedures Letters - OIAHE. The Letter shall also inform the student of their possible right to appeal to the Conference of College Appeal Tribunal as well as to the Office of the Independent Adjudicator for Higher Education.

Reconsidering the Same Misconduct

7.6 The issue of a Completion of Procedures letter will normally constitute the conclusion of proceedings under this code and procedure. Only under exceptional circumstances can the same allegation of misconduct be reconsidered. Such circumstances might include, for example, the emergence of new evidence that the College could not, for good reason, have obtained in time for the original consideration. Any decision to reconsider must be made by the Dean in consultation with the Principal. In deciding whether to reconsider a case the Dean must weigh up: the severity of the alleged Misconduct; whether the outcome of the first process has been called into question; whether the lapse of time since the first consideration has affected the reliability of evidence and the availability of witnesses; the potential impact of a further process on the student or students concerned; and whether there are any issues of fitness to practice or any obligations the College has towards professional and regulatory bodies in respect of the particular student.

8. Protective Discretion and Precautionary Measures

8.1 The Principal, in exercise of a protective discretion on behalf of other members and employees of the College, may require a student to leave the premises of the College, and not to re-enter them except on such terms and under such conditions as the Principal in her absolute discretion may impose, if, in the opinion of the Principal, the student's health or conduct is such as to damage or put at risk the safety and welfare of the student or other members or employees of the College.

a) Without prejudice to the generality of the above, the following are examples of circumstances in which the Principal might need to exercise protective discretion:

- (i) if the student is charged with or convicted of a criminal offence and, in the opinion of the Principal, the circumstances are such that it would be inappropriate for the student to remain on College premises;
- (ii) if the student's conduct is threatening to persons or property, or disruptive of the proper functioning or activities of the College, and, in the opinion of the Principal, is likely to continue to be so if the student remains in or enters College premises pending the completion of the appropriate disciplinary procedures;
- (iii) if the medical or psychological condition of the student is such as, in the opinion of the Principal, to present a risk to the safety and welfare of the student or of other members or employees of the College;
- (iv) if the medical or psychological condition of the student is such that the student requires supervision and/or care which, in the opinion of the Principal, is beyond that which the employees of the College are qualified or able to provide;
- (v) if the medical advice concerning the student is that the student should, in the interests of his or her physical or mental health, return home, engage in outpatient support incompatible with remaining on course, or seek admission to hospital;
- (vi) if the student refuses to see a doctor or medical specialist or other appropriate professional, such as a counsellor, when the Principal has reason to be anxious about the student's physical or mental health or psychological condition.

b) The duration of any order made by the Principal under these procedures shall not extend beyond the end of the term in which the order was made, unless the Governing Body decides that it should be extended.

c) The Principal's decision in exercise of her protective discretion under these procedures shall in any case be reviewed by the Governing Body for confirmation, modification or rejection, at its first meeting after the action in question has been taken.

d) Before the matter is considered by Governing Body, the Principal shall write to the student to invite them to bring forward any relevant matter for consideration by the Governing Body.

e) For the avoidance of doubt, the premises of the College include the buildings and grounds within the College perimeter and the houses and gardens of houses in Fyfield Road and any other property owned, leased or managed by the College and occupied by members and employees of the College.

8.2 *Actions in the Principal's power.* Immediate measures taken by the Principal may include but are not limited to: limiting access to College services; no contact restrictions; alternative College teaching arrangements; temporary exclusion (up to the end of the term) from accommodation; and a period of temporary suspension of up to the end of the term. Where any Misconduct involves allegations made by one student against another, the Principal may take measures to ensure that they are not in the same teaching groups and/or accommodation and/or to ensure that they access facilities at different times.

8.3 Any disposal relating to accommodation must take account of the relevant Accommodation Agreement.

8.4 *Fitness.* Where a student's mental health is a serious issue, the Principal shall refer the matter to the Head of Wellbeing who may seek such professional medical advice as appropriate and possible, and within the requirements of confidentiality and data privacy.

8.5 The Principal will take account of the potential effects of these measures on a student, for example, when approaching assessment. Precautionary measures should aim to cause the minimum restriction necessary to protect the individuals concerned or others from an identified risk. Suspension and/or exclusion from College will normally only be considered in serious cases or as a last resort.

8.6 The Principal may attach conditions to any precautionary measures, for example, a requirement to report to a designated officer at regular intervals.

8.7 *Meaning of precautionary measures.* Taking immediate action on foot of an allegation of misconduct does not indicate that the Principal or College has concluded that a student is guilty of Misconduct; it is a precautionary and interim measure which may be used while a full investigation is completed. Any measures should be kept under periodic review. The Principal should make this clear in writing to any student subject to precautionary measures.

8.8 *Communication.* The Principal should communicate any precautionary measure and conditions to the student in writing, and set out possible consequence of a failure to comply. Non-compliance with any measures specified by the Principal may result in penalties additional to any arising from the instant disciplinary process.

8.9 *Appeal*. There is no appeal against such precautionary measures except where exclusion from accommodation or suspension is involved. In such cases an appeal must be communicated in writing to the Governing Body within no more than two days after the Principal's decision.

8.10 The Principal may inform any other students affected by any changes to precautionary measures.

Approved by Governing Body: Trinity Term 2023

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Version of Code: 2.0

Appendix A

CONFERENCE OF COLLEGES – APPEAL TRIBUNAL (“THE TRIBUNAL”) REGULATIONS

1.1 The functions of the Tribunal shall be to consider appeals on disciplinary decisions imposing a substantial penalty, made by the body with final jurisdiction within any participating College (for these purposes the Visitor shall be deemed not to be such a body). Disciplinary decisions means the imposition of penalties for breach of College statutes, by-laws, regulations or rules relating to academic or any non-academic matters. Substantial penalty includes the penalties of expulsion, rustication or suspension, substantial fines (defined as fines above £1,000) and other penalties of similar severity. Substantial penalty does not include measures such as the imposition of probation or specially assessed collections.

1.2 The Tribunal shall not have appellate jurisdiction in relation to decisions which are exclusively within the province of the University disciplinary organs.

2. Each member of Conference of Colleges which is a College should nominate no more than three persons to serve, if appointed to do so as provided herein, upon the Tribunal. Each member of Conference of Colleges which is a Hall shall nominate one person to serve, if appointed to do so as provided herein, upon the Tribunal. A person nominated to serve should be a member of the Governing Body of the College or Hall, or a member with sufficient expertise in student welfare and academic issues as recommended by the Head of House. A list of those persons so nominated (“the list”) shall be maintained at the Secretariat of the Conference of Colleges.

3. Conference of Colleges shall elect a chair (“the Chair”) and a deputy chair (“the Deputy Chair”) for such Tribunal, who will serve for three years from date of appointment. Such appointments can be renewed for a further term of three years only. The Deputy Chair will exercise the functions of the Chair if for any reason the Chair is unable to do so.

4. Any student member of a participating College (“an appellant”) who wishes to bring before the Tribunal an appeal shall file a written application with the Secretariat of the Conference of Colleges normally within 5 days of the date of the decision appealed against. The Chair shall have power to extend such time if he considers that there is good and sufficient reason for so doing.

5. The application shall include

- a) a copy of the decision being challenged
- b) a brief statement of the facts
- c) a statement of the arguments on which the application is based
- d) the appellant’s request for a remedy
- e) where applicable an application for a stay of the effects of the decision being challenged or for any other preliminary relief of an urgent nature
- f) the appellant’s address, telephone number and, where applicable, the electronic mail address at which he/she can be reached for the purpose of the proceedings.

6. Upon the receipt of the application the Chair shall constitute a Panel composed of three members appearing on the list (“the Panel”), and appoint a President of the Panel (“the President”), who thenceforth shall have responsibility for the proceedings of the Panel.

7. The President shall be the holder of a degree in law or a professional legal qualification. If no such person is available from among those on the list, the Chair shall, at his discretion, appoint (with his or her consent) such a person with such qualifications from among other senior members of Colleges.

8. No person sitting on a Panel shall be a member of, or have any direct connection with, the College against whose decision the appeal is brought.

9. Any defence of lack of jurisdiction of the Panel must be raised as soon as possible or at the latest at the start of the hearing. The question whether an appeal falls within the Panel's jurisdiction can be considered by the Panel at a hearing, or by the President under regulation 12, even if it is not raised by either party.

10. Both the appellant and the College can challenge a Panel member (including the President) if circumstances give rise to legitimate doubts as to his or her independence or impartiality. The Chair is empowered to resolve any such challenge as soon as possible after giving the parties and the Panel member concerned, so far as circumstances permit, the opportunity to be heard. The challenge must be brought as soon as the reasons for the challenge become known.

11. In any case of extreme urgency the President may rule on any application for a stay of the effects of the challenged decision or for any other preliminary relief without hearing the College first. When deciding whether to award any preliminary relief the President shall consider whether the relief is necessary to protect the appellant from irreparable damage, the likelihood of success on the merits of the claim, and whether the interests of the appellant outweigh those of the College or other interested persons.

12. The President may summarily dispose of an appeal that does not fall within the Tribunal's jurisdiction without consulting the other members of the Panel and without summoning the parties to a hearing. The President should invite the parties to make written observations on the matter before deciding whether it is appropriate to exercise this power. Where the President decides to dispose of an appeal under this provision the decision shall be written, dated and signed and immediately communicated to the parties, via the Secretariat. Brief reasons will be stated with or as soon as possible after communication of the decision. The decision and the brief reasons will be public documents unless, in the President's judgment, the interests of justice or other compelling public or private interest otherwise require.

13. Except where it considers another form of procedure more appropriate, the Panel shall as soon as possible summon the parties to a hearing which normally should be held no later than 14 days from the Secretariat's receipt of the application. The President shall arrange via the Secretariat for details of the date, time, and venue of the hearing, and any additional information required, to be conveyed to the parties. The parties should notify the Panel as soon as possible of their proposed witnesses.

14. It shall be the duty of the parties, to work together and produce no later than 48 hours before the hearing, an agreed bundle of relevant documents, (paginated) and an outline of each's respective submissions (which should be no longer than 10 pages in length).

15. The Panel may, either before or at the hearing, require of its own motion the production of documents, information or other evidence. At the hearing the Panel shall hear the parties who shall produce their witnesses and introduce their other evidence. The Panel shall have complete discretion as to the evidence which it admits and will be the sole judge of the weight to be given to any such evidence.

16. Both the appellant and the College may be represented by a third party, including at the Panel's discretion, by Counsel and/or a solicitor. The hearing itself (not including the Panel's internal deliberations) shall be in public unless, in the Panel's judgment, the interests of justice or other compelling public or private interest otherwise require.

17. The Conference Secretariat shall arrange for the hearing to be recorded, and arrange for transcription, if required, at a later stage. With the exception of cases where the hearing was not held in public the recording shall be made available to anyone upon request. Any costs of transcription shall be borne by those making such a request.

18. If one party or both parties fail to appear at the date fixed for the hearing, without reasonable excuse, the Panel may nevertheless proceed to determine the appeal.

19. The Panel shall have full power to establish the facts on which the application is based; but, it will normally assume that the facts as found by the body against whose decision the appeal is brought were correct.

20. The Panel shall rule on the dispute pursuant to the statutes, by-laws and other regulations or rules of the College, and any general principles of law applicable to the application which it deems appropriate.

21. The decision shall be taken by a majority of the Panel. It shall be written, dated and signed and immediately communicated to the parties, via the Secretariat. Brief reasons will be stated with or as soon as possible after communication of the decision. The President shall be responsible for ensuring that these tasks are performed. The decision and the brief reasons will be public documents unless, in the Panel's judgment, the interests of justice or other compelling public or private interest otherwise require.

22. The Panel shall use its best endeavours to give a decision normally within 7 days of the hearing of the appeal.

23. The participating Colleges shall agree to give to the Tribunal and/or the Panel such assistance as either may require and to abide by the outcome of the decision of the Panel.

24. Except that where express provision is made herein, the Chair, the President and the Panel shall have discretion as to appropriate procedure. In all or any of their activities each shall be guided by the principles of natural justice.