

STUDENT DISCIPLINE CODE
GUIDANCE NOTE FOR THOSE INVOLVED IN
DISCIPLINARY PROCEDURES

Paragraph references are those given in the College Procedures for dealing with student disciplinary offences.

Supplementary procedures will be required for those students of the Faculty of Medicine whose conduct may affect their fitness to practise medicine. Cases, including those where the student's conduct is in breach of the standards expected of medical practitioners, will be considered in the first instance under the College's Code of Discipline and then subsequently dealt with under the College's Fitness to Practise Medicine Procedure where the student is found guilty of a disciplinary offence but a penalty short of permanent exclusion from the College is made or where the case raises an issue relating to the student in question's physical or mental health (see paragraph 8 of the Fitness to Practise Medicine Procedure). Allegations that are solely related to the student's physical or mental health will be referred directly to the Faculty of Medicine's Student Progress Group under the Fitness to Practise Medicine Procedure.

1. Paragraphs 4 and 12. *Conduct improper in the case of medical practitioners*

Where the student is charged with conduct which would be improper in the case of a member of the medical profession, the person bringing the charge must present evidence to the disciplinary committee that such conduct is in breach of the standards expected of medical practitioners.

Previous offences

The clerk should remind those presenting cases or acting as witnesses that any earlier misconduct by the student charged which has already been dealt with under the discipline code, shall not be disclosed until a verdict has been reached. If, for example, a Security Officer takes and records a statement from a witness, any parts of the statement that refer to matters not before the Residence Tribunal or Discipline Committee must be removed from the version put to the Tribunal or Committee. Evidence of previous conduct, by the student charged, which has *not* been the subject of previous disciplinary proceedings under the discipline code shall only be introduced if it is directly relevant to the charge, e.g. if it is introduced in order to show how a succession of events led to the final offence. If such evidence is introduced it should be done in a way that enables the accused to contest its accuracy and to question witnesses about it.

Previous offences to influence penalty

They must be offences that were admitted by the accused or proved to the satisfaction of a Tribunal or Committee. So, if for example a Warden deals summarily with an offence, the occurrence must be recorded by the Warden and the student advised of the right of appeal or it cannot be brought up later.

2. Paragraph 6. *Residences and residence activities*

In the interests of consistency, the Warden or Assistant Warden is the Responsible Authority for all offences (other than computing offences) which occur in his/her residence, whether committed by resident or non-resident students.

Offences which occur in non-academic departments or centres

In the interests of consistency, a College Tutor is the Responsible Authority for offences which occur in these areas.

Computing offences

In the interests of consistency, a College Tutor is the Responsible Authority for computing offences committed by students in whichever of the College areas they occur.

3. Paragraph 8. *Reprimand*

Responsible Authorities are reminded that a reprimand may be accompanied by a warning that a repetition of the offence will incur direct referral to a College Disciplinary Committee. This may be particularly useful in instances where one student has been harassing another since this would effectively ban contact between them. Serious instances of harassment should always be referred to a College Disciplinary Committee rather than be dealt with by summary punishment.

Maximum levels for fines and charges imposed under summary punishment

As the Code specifies, these are agreed by the College Tutors and the President of IC Union and currently stand at £120 for fines and £500 for charges.

4. Paragraph 8. *Suspension pending disciplinary hearing*

Where the offence involves a student from the Faculty of Medicine, the Responsible Authority should contact the Head of Undergraduate Medicine [if the student is an undergraduate] or the Director of the Graduate School of Life Sciences and Medicine [if the student is a postgraduate] for advice on further measures to be taken, which may involve expulsion from clinical areas.

5. Paragraph 10. *Referral to the Discipline Committee/Residence Tribunal*

Where a Responsible Authority decides that an offence cannot be dealt with by summary punishment, and should instead be handled by a Discipline Committee or Residence Tribunal, the case should be referred to the Head of Central Secretariat in the case of referrals to the College Discipline Committee, and to the Academic Registrar in the case of referrals to the Residence Tribunal.

6. Paragraph 16. *Notification of the hearing*

Ideally in order to hold the Discipline Committee/Residence Tribunal as soon as possible (the Code specifies ten College working days) and to give the student charged sufficient notice, it is recommended that the student is informed of the date of the hearing, any documents to be presented and any witnesses to be called not less than four College working days before the

hearing is due to take place using email wherever possible. If it is likely that preparation of the case (including identification and interview of witnesses) will be complicated, the date of the formal referral could be delayed.

A copy of the charge should be sent to the College Tutors and to the student's Head of Department/Division/Head of Undergraduate Medicine and (in the case of undergraduate students) Senior Tutor. For Residence Tribunals a copy of the charge should also be sent to the Warden or Assistant Warden acting as the Responsible Authority.

7. Paragraph 21. *Written account*

When the Chairman has asked for a written account to be prepared by the Clerk this must be approved by the Chairman.

Public hearing

In accordance with the Human Rights Act 1998 students may request that the hearing is held in public. However, the numbers of people attending can be limited by the size of the room in which the meeting is being held.

Notification of decision

A copy of the decision should be sent to the College Tutors and to the student's Head of Department/Division/Head of Undergraduate Medicine and (in the case of undergraduate students) the Senior Tutor. A copy of the decision of a Residence Tribunal should also be sent to the Warden or Assistant Warden acting as the Responsible Authority.

Reasoned judgement

In accordance with the Human Rights Act students will be given reasons for the judgement reached by the Committee.

8. Paragraph 23. *Declaration of interests*

Some examples which would prevent someone from serving as a member of a Discipline Committee or a Residence Tribunal are:

For student members - being a current or former flatmate, a study or laboratory partner, or being a member of the same sporting team or society as the accused, a victim or a witness.

For academic members - having, at any stage, taught the accused, a victim or a witness.

9. Paragraphs 24 and 46. *Criminal offences*

Responsible Authorities are reminded that the College disciplinary procedures may not be used as an alternative to criminal investigation, even where the student has said that he or she would not contest the allegation or where the victim of a criminal offence will not report the matter to the police or co-operate in their inquiries. In the latter instance, the College disciplinary procedures should not be invoked, but the matter should be notified to the Academic Registrar and the Head of Central Secretariat where relevant.

10. Paragraphs 26 and 28. *Exclusion from residences*

Both the Residence Tribunal and the Discipline Committee should, if considering excluding students from residences, pay careful attention to the potential impact of the Protection from Eviction Act 1977. In particular, exclusion would not be immediate (this is only permitted under summary punishment and even then only if there is a perceived real danger to others) and instead notice would need to be given (the exact terms of which being determined by the current tenancy or licence). In some circumstances it may be deemed preferable to move a student to another Hall. This is permitted under the student's contract for accommodation but the consent of the prospective warden should be sought. Further advice on the legal procedure or implications of exclusion can be obtained from the Central Secretariat.

Penalties and mitigation

The bans must be the appropriate penalty for the offence. The penalty can be reduced if the defendant has been helpful, shown genuine contrition, etc. It cannot be increased because he/she has pleaded not guilty and been unhelpful. It can properly be more severe for a second or third offence than for a first.

11. Paragraph 29. *Circumstances where a student fails to pay a fine*

This may be particularly relevant when the fine has, for example, been imposed through summary punishment. It might prove unnecessarily cumbersome to set up a Discipline Committee; instead the Clerk and Chair should produce a written opinion paper on which a committee, which has been constituted but will not be required to meet, gives its written opinion.

12. Paragraph 29. *Payment of fines*

The Clerk should advise that all cheques collected from fines are to be made payable to Imperial College, so that they can be paid into the Student Hardship Fund.

13. Paragraphs 29 and 33. *Payment of fines; notification of appeals*

The Clerk should specify the exact date by which fines should be paid and appeals are permitted. This is probably best covered in the letter to the student(s) charged which gives the outcome of the hearing and the fines/charges imposed (see paragraph 21).

14. Paragraph 34. *Right of appeal against summary punishment*

Responsible Authorities are reminded that, when imposing summary punishment, the person being disciplined must be informed of his/her right of appeal.

15. Paragraphs 34-47. *Appeals against Summary Punishment*

Appeals against summary punishment end at the Residence Tribunal/ Discipline Committee/ President of the Union as appropriate. Further appeal

may not be made to the Rector and the terms of paragraph 47 of the Procedure apply.

16. *Paragraph 49. Appeals against the Residence Tribunal or College Discipline Committee*

Where a student appeals the report of the proceedings prepared by the Clerk to the Tribunal/ Committee should be approved by the Chairman of the Tribunal/Committee.

The report should then be sent to the appellant, who may submit comments, before both are submitted to the Rector.

17. *Co-defendants*

If one of two or more co-defendants gives evidence against his/her co-defendant(s) he/she has become in effect a witness, and the others must be given a chance to question him or her.

18. *Previous discipline cases*

The Chairman of the Tribunal or Discipline Committee should be given sight of a list detailing previous discipline cases and the penalties imposed. Since the circumstances behind each case can vary considerably, this should act as a guide only.

19. *Notification of offences*

Responsible Authorities should, as and when offences occur, pass on a brief note to the Head of Central Secretariat in the case of matters to be considered by the College Discipline Committee, and the Academic Registrar in the case of matters to be considered by the Residence Tribunal. This should give a brief outline of the charge, the evidence and any penalties imposed, together with a brief summary of the reasons behind the decisions. This will enable a record of all cases to be kept, will ensure consistency and will mean that evidence of previous offences can be passed on (at the point of deciding on penalties).

20. *Circulation*

Those who are Responsible Authorities (and their deputies), those who will potentially serve on Residence Tribunals, College Discipline Committees, etc., and those who are to be the Clerk to such committees should all receive the guidance notes. They should be recirculated to relevant persons when a case arises.

21. *The specification and wording of charges*

(a) The basic charge is an offence against College Regulations for Students. The particular Regulation(s) should be quoted.

(b) More specific charges should also be stated. These should be as specific as is needed for the accused and the Tribunal or Discipline Committee to understand them, mentioning dates (if known) and particular actions by the accused. There may be occasions where it would be unwise to be too specific, e.g. mentioning precise time of

day and details of circumstances, bearing in mind that the accused may have to be acquitted if he/she could show that some detail of the charge was incorrect. Some disciplinary proceedings are brought following a build up of bad behaviour by a student (particularly in residences), in which case a more general charge should be specified, eg. during the period from X to Y, he/she disturbed and threatened..... The final offence might be merely "the straw that broke the camel's back" and in deciding penalties the Tribunal or Discipline Committee will want to be aware of the build-up of bad behaviour and the full nature of the offences and their consequences. This can be done more easily if the charge is broad enough to encompass earlier incidents. Note that only misconduct which has been the subject of previous disciplinary measures may be revealed after conviction and before decisions on penalties. This is to protect the rights of the accused to contest such statements.

22. *Prior information to the Chairman*

The Chairman may participate in discussions with the other members of the Tribunal or Discipline Committee at the stage when they are deciding their verdict of guilty or not guilty. It is therefore important that the Chairman should not be apprised before the hearing of further details or documentation which the accused and other members of the Tribunal or Discipline Committee have not seen; otherwise it might be held that the Chairman was not impartial. It is also important that any documents outlining the events which are given to the Tribunal or Discipline Committee are restricted to factual information and do not include prejudicial comments.

23. *Reading of charges and pleading*

At the start of the proceedings the charges should be read out to the accused and they should be asked whether they plead guilty or not guilty (or whether they admit the charges). This can help avoid confusion during the hearing. Where a student pleads guilty the Tribunal or Discipline Committee may still wish to hear the evidence of witnesses in order to form a view of the seriousness of the effects of the misconduct.

24. *Presentation of cases*

The Academic Registrar (or his/her nominee) shall decide who should present the case to a Residence Tribunal and the Head of Central Secretariat (or his/her nominee) shall decide who should present the case to the College Discipline Committee. For Residence Tribunals, the Warden of the Hall where the misconduct occurred would normally be asked to present the case. For College Discipline Committees, one of the College Tutors would normally be asked to present the case, although the relevant Head of Department or Deputy Principal of the Faculty of Medicine could also be asked to do this.

It is appropriate (and indeed recommended) that the person presenting the case should talk to witnesses before the case. If it is felt useful for formal statements to be taken from witnesses by the Chief Security Officer, these statements need not be presented as evidence and should not be regarded as substituting for oral evidence unless it is impossible (or very undesirable) for the witnesses to attend the hearing.

25. *Witnesses*

All witnesses who give evidence in person at hearings held under the College Discipline Procedures shall confirm that they will tell the truth throughout the hearing, before they commence their testimony and answer any questions put to them. Written witness statements should contain a statement that the author acknowledges that the contents of the statement are true, and the author should provide their signature to this effect.

26. Proceedings at Hearing

All contents of hearings held under the College Discipline Procedures and anything that is discussed during the hearing will remain confidential and shall not be talked about outside of the hearing by any of the parties who were present, unless the panel, in consultation with the College Tutors, agrees not to do so would result in justice not being done or the risk of harm or actual harm to any person or person(s) (and unless the student concerned has made a request for the hearing to be made public, in accordance with the Human Rights Act 1998).

27. Disability Discrimination Act

Reasonable adjustments for students with a disability will be made where necessary during the application of the College Discipline Procedures, in line with the Disability Discrimination Act.

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