Queen Margaret University

EDINBURGH

Regulations Governing Discipline

1 Preliminary matters

1.1 All students of the University are subject to the jurisdiction of the Principal in respect of their studies and their conduct. It is a condition of entry to the University that each student shall conform to the published rules and regulations.

1.2 Under these regulations the University has the power to discipline students and to suspend or expel any student for good cause.

1.3 Once disciplinary proceedings have been instituted against a student under these regulations, no disciplinary action will normally be taken against the student under other disciplinary rules or regulations within the University for the same misconduct. However, where an allegation of misconduct is upheld against a student on a health care programme that requires professional registration, that student may be referred to a Fitness to Practice Panel.

1.4 References within these regulations to any University officer shall include his or her properly appointed nominee.

2 Misconduct

2.1 Any student studying or registered at the University shall be subject to disciplinary measures if he or she is found to be guilty of misconduct as defined below.

2.2 The essence of misconduct under these regulations is:

a) Improper interference with the functioning or activities of the University, or of those who work or study in the University; or

b) Action which otherwise improperly damages the University or its reputation.

2.3 In particular, the following shall constitute misconduct, whether occurring on University premises or elsewhere:

a) Any conduct which constitutes a criminal offence.

b) Disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the University.

c) Obstruction of, or improper interference with, the functions, duties or activities of any student or member of staff of the University, or any visitor to the University.

d) Violent, indecent, disorderly, threatening, intimidating or offensive behaviour or language.

e) Harassment of any student or member of staff of the University, or any visitor to the University, on the grounds of sex, sexual orientation, race or disability.

f) Fraud, deceit, deception or dishonesty in relation to the University or its staff, students or visitors

g) Cheating or plagiarism in academic course work or in examinations

h) Theft, misappropriation or misuse of University property, or the property of the University's staff, students or visitors, including computer misuse.

i) Misuse or unauthorised use of University premises.

j) Damage to University property, or the property of the University's staff, students or visitors, caused intentionally or recklessly.

k) Action likely to cause injury or impair safety on University premises.

l) Failure to respect the rights of others to freedom of belief and freedom of speech.

m) Breach of the provisions of any University code, rule or regulation

n) Failure to disclose personal details to a member of staff of the University in circumstances in which it is reasonable to require that such information be given.

3 Involvement of the police and criminal courts

3.1 The following procedures apply where alleged misconduct is reported to the Principal, and the misconduct, if proved, would also constitute a serious offence under the criminal law.

3.2 A serious offence is one that is likely to attract a custodial sentence if proved in a criminal court or one that can be tried as a criminal offence only at the High Court/Crown Court.

3.3 Where the Principal does not regard the alleged misconduct as constituting a serious offence, s/he may decide that it is dealt with internally. If the offence is reported to the police, the Principal may decide to defer action until the police and/or courts have dealt with the matter.

3.4 If the Principal regards the alleged offence as serious, no internal disciplinary action, other than suspension or exclusion from the University, will normally be taken until the matter has been reported to the police, and either a prosecution has been completed or a decision not to prosecute has been taken.

3.5 The University has the right to report any alleged criminal offence to the police. However, if a person claims to be the victim of a serious offence committed by a student, but does not wish the police to be involved, the Principal may agree not to report the matter to the police. In such circumstances the University will not normally proceed with internal disciplinary measures for the serious offence, although it may take disciplinary action over other related offences.

3.6 Where a finding of misconduct has been made under these regulations, and a student has also been sentenced by a criminal court on the same facts, the penalty imposed by the criminal court will be taken into account in deciding the penalty under these regulations.

4 Suspension or exclusion

4.1 A student who is the subject of a complaint of misconduct or against whom a criminal charge is pending or who is the subject of police investigation, may be suspended or excluded from the University by the Principal, pending disciplinary hearing or trial.

4.2 A student who is suspended is prohibited from entering University premises and from participating in University activities. Suspension may be subject to qualification, such as permission to take an examination. The terms of the suspension will be notified in writing to the student. An order of suspension may include a requirement that the student shall have no contact with a named person or persons.

4.3 A student who is excluded from the University has restricted rights to enter University premises and to take part in University activities. The terms of the exclusion will be notified in writing to the student. An order of exclusion may include a requirement that the student shall have no contact with a named person or persons.

4.4 Orders of suspension and exclusion pending a disciplinary hearing or trial are normally to be used where necessary to protect a member or members of the University, or the property of the University or the property of a member or members of the University community. Written reasons for the decision will be recorded and made available to the student.

4.5 Unless the matter is deemed to be urgent by the Principal, no student shall be suspended or excluded unless he or she has been given an opportunity to make representation to the Principal. The representation may be made in person or in writing, as the student chooses, and may be put forward by the student or by the student's adviser, friend or representative. In cases deemed to be urgent by the Principal, a student may be suspended or excluded with immediate effect. An opportunity will be given to the student to make representation as soon as reasonably practicable.

4.6 A decision to suspend a student, or to exclude a student from academic activities associated with the student's course of study, shall be subject to review at the request of the student after four weeks. Such a review will not involve a hearing, but the student, either personally or through his or her adviser, friend or representative, will be entitled to make written representation. The Principal will conduct the review.

4.7 In addition to the initial review, the Principal shall review the suspension or exclusion on receipt of evidence of altered circumstances that might affect the order.

4.8 A student may appeal against an order of suspension or exclusion using the process set out under section 9 of these Regulations.

5 Summary procedure

5.1 Allegations of misconduct under these regulations should be made to the University Secretary, who will refer them to the Principal. The Principal may dismiss the allegation immediately if he or she believes that there is no case for the student to answer, or that it is for some other reason appropriate to do so.

5.2 If the allegation is not so dismissed, and the offence does not lead the Principal to suspend or exclude the student under the provisions outlined in section 4 above, the matter will be referred to the relevant Dean of School. The Dean of School will consult with the University Secretary to determine whether or not the matter should be dealt with summarily or referred to a Disciplinary Panel, subject to paragraph 5.6 below.

5.3 If the matter is dealt with summarily, the Dean will consider written or oral evidence as he or she thinks fit. The Dean will find the student guilty of misconduct only if, on the available evidence, he or she is satisfied of the student's guilt. If a finding of guilt is made, he or she may impose any of the penalties set out in these regulations, other than expulsion from the University.

5.4 At the termination of the proceedings, the Dean will write a short report. In the event of a finding of guilt, the report will set out the misconduct alleged, a brief summary of evidence received, the grounds for the finding of guilt, the penalty imposed, and the factors taken into account in deciding the penalty. A copy of the report will be sent to the student. Where the misconduct relates to examinations or other assessed work, the report may contain recommendations concerning examination marks, and a copy of the report will also be sent to the appropriate Board of Examiners.

5.5 There is a right of appeal against a finding of guilt as set out in section 9 below.

5.6 If the University Secretary does not consider it appropriate to deal with the matter summarily, or if the student does not agree to its being dealt with in that way, then it shall be referred to a Disciplinary Committee under the procedure set out in section 6 below.

6 Disciplinary Committee

6.1 The University Secretary will appoint the members of the Disciplinary Committee, and invite one of them, other than a student, to act as Convener. The Committee will have three or five members, at the discretion of the University Secretary. The members will normally include both a member of the academic staff of the University and a student of the University. The University Secretary shall have regard to the need to ensure that all members of the Committee are impartial and have had no previous involvement with the matter. Care will be taken to ensure an appropriate gender balance in the composition of the panel.

6.2 The University Secretary will appoint a clerk to the Committee and will arrange for a note of the proceedings to be taken. The Committee may seek advice from a qualified lawyer.

6.3 The student may attend the disciplinary hearing, and may be accompanied by an adviser, friend or other representative. If a student is accompanied and opt to have their adviser, friend or representative speak on their behalf, should it become necessary to ensure good order in the hearing, the Committee may stipulate that the student may speak only when called upon to give evidence by his or her representative. Legal representation is not permitted.

6.4 The Committee will rely only on evidence presented at the hearing. The deliberations and decisions of anyone previously considering the matter shall be irrelevant for the Committee's purposes.

6.5 The Committee will find a student guilty of misconduct only if, on the evidence before it, it is satisfied of the student's guilt. If the members of the Committee cannot agree, the verdict of the Committee will be that of the majority of its members. Any decision of the Committee shall be based on the balance of probabilities.

6.6 Subject to the provisions of these regulations, the order of proceedings shall be at the discretion of the Committee. Members of the Committee may ask questions of any witness called before it. The Committee may ask for additional enquiries to be undertaken, and may call for additional witnesses to attend.

6.7 If two or more students are involved in related misconduct, the Committee may at its discretion deal with their cases together.

6.8 The evidence presented at the hearing will normally be oral evidence, given by witnesses appearing in person. The Committee may accept a witness's written statement in evidence where it agrees that the witness need not attend, or where it is impracticable for the witness to attend, or where in the opinion of the Committee it is for some other reason in the interests of justice to do so.

6.9 The allegation or allegations will be notified to the student at least one week before the hearing.

6.10 The University Secretary may call for written witness statements in support of the allegation in advance of the hearing. If such statements are obtained, members of the Committee will be entitled to see them in advance of the hearing and copies will be made available to the student at least one week before the allegation is heard.

6.11 The Committee may impose time limits on oral addresses and submissions.

6.12 The Committee will refuse to admit evidence that is in its opinion irrelevant to the issues raised.

6.13 The Committee shall have power to adjourn a hearing to another date, as it thinks fit.

6.14 If the Committee finds that there is no case for the student to answer, it must dismiss the allegation.

6.15 At the termination of the proceedings, the Convener of the Disciplinary Committee will write a short report. In the event of a finding of guilt, the report will set out the misconduct alleged, a brief summary of evidence received, the grounds for the finding of guilt, the penalty imposed, and the factors taken into account in deciding the penalty. A copy of the report will be sent to the student and to the Principal. Where the misconduct relates to examinations or other assessed work the report may contain recommendations under section 7 of these regulations, and a copy of the report will also be sent to the appropriate Board of Examiners.

6.16 The Convener of the Committee, on the advice of the University Secretary, has the power to suspend the activity of the Disciplinary Committee at any time and to stop the proceedings against the student, if he or she believes it appropriate to do so.

7 Penalties

7.1 If a student is found guilty of an allegation of misconduct, penalties may be imposed by the Dean in the case of matters dealt with summarily, or by the Disciplinary Committee in other cases. The penalties are set out below. A student may not be expelled following an allegation heard under the summary procedure. The student or his or her representative shall be entitled to make representations in mitigation before the penalty is decided.

7.2 When determining penalties, consideration will be given to the seriousness of the misconduct, the circumstances of the misconduct, and the means and general personal circumstances of the student.

7.3 A student found guilty of misconduct may be:

a. Absolutely discharged, which means that although the student may be technically guilty of the misconduct alleged, no blame should be attached to his or her actions

b. Admonished

c. Cautioned, which means that no penalty is imposed, but if the student is found guilty of misconduct on a subsequent occasion in the following twelve months, or some other specified period, he or she will then be dealt with for both offences

d. Conditionally discharged, which means that no penalty is imposed, subject to the student fulfilling certain stipulated conditions including future good behaviour over the following twelve months or some other specified period. If the conditions are not met, a penalty may be imposed following a further hearing

e. Required to pay a fine or a reasonable sum by way of compensation for identified and quantified loss.

f. Required to perform unpaid services for the University community to a maximum of 40 hours

g. Excluded from the University for a fixed period of time, up to a maximum of twelve months. A student who is excluded from the University has restricted rights to enter University premises and to participate in University activities. The terms of the exclusion will be notified to the student in writing. An order of exclusion may include a requirement that the student shall have no contact with a named person or persons

h. Suspended from the University for a fixed period of time, up to a maximum of twelve months. A student who is suspended is prohibited from entering University premises, and from participating in University activities. Suspension may be subject to qualification, such as permission to take an examination. The terms of the suspension will be notified to the student in writing. An order of suspension may include a requirement that the student shall have no contact with a named person or persons

i. Expelled from the University, which means that the student ceases to be a member of the University, and loses all rights and privileges of membership.

7.4 Where misconduct relates to examinations or other assessed work, a recommendation may be made to the appropriate Board of Examiners that it should:

a) Award the student lower marks than those which he or she would otherwise have been awarded, or award no marks, for the examination or assessed work in which the student committed the offence

b) Award the student lower marks than those which he or she would otherwise have been awarded, or award no marks, for the unit of which the examination or assessed work was part

c) Award the student a lower class of degree or other academic award than that which he or she would otherwise have been awarded.

d) Exclude the student from the award of a degree or other academic award. This may be either permanent or for a stated period, and may be absolute or subject to compliance with stipulated requirements.

7.5 Where an allegation of misconduct is upheld against a student on a health care programme that requires professional registration, that student may be referred to a Fitness to Practice Panel. The University Secretary will consult with the Dean of School and advise accordingly.

8 Mental illness

If it appears to those considering an allegation of misconduct that the student in question is suffering from mental illness or mental instability, the proceedings may be adjourned for the preparation of a medical report.

If there is medical evidence that the student is suffering from mental illness or mental instability, those dealing with the case may suspend or terminate the proceedings, if it is felt appropriate to do so. It may be made a condition of suspension or termination of the proceedings that the student seeks medical treatment.

9 Appeals

9.1 A student may appeal against a finding of guilt. The appeal must be made to the University Secretary within twenty-eight days of the conclusion of the proceedings, which includes the imposition of a penalty. The student must set out in writing the grounds on which the appeal is based.

9.2 There will be no entitlement to a rehearing of the case, which will be allowed only in exceptional circumstances.

9.3 The appeal will be submitted to the Principal, who will judge whether or not a prima facie case exists on the basis that:

- there has been demonstrably an irregularity in the disciplinary procedure;
- evidence has become available that it was not reasonable to present during the original hearing.

9.4 In the event that a re-hearing is judged appropriate by the Principal, a panel will be convened.

9.5 An appeals committee will be constituted as described in Section 6.1 above. The Legal Adviser will act as technical adviser to the Panel and the University Secretary will nominate a clerk to the committee. The student may be accompanied by a friend or representative at this meeting.

9.6 The committee hearing the appeal may overturn the finding of guilt where they consider it just to do so. In particular, a finding may be overturned in the light of new evidence; or where it is considered that the original hearing was not conducted fairly; or where the finding of guilt was unreasonable in the light of the findings of fact. The student may present the appeal in person or in writing as he or she chooses, and may be accompanied by an adviser, friend or other representative.

9.7 A student may appeal against a penalty imposed following a finding of guilt. The appeal must be made to the University Secretary within twenty-eight days of the conclusion of the proceedings. The student must set out in writing the grounds on which the appeal is based.

9.8 The committee hearing an appeal against penalty may impose a lesser or greater penalty, having considered whether the original penalty imposed was fair and reasonable in the light of all the circumstances of the case, and the student's means and general personal circumstances.

10 Independent review

10.1 The University's internal procedures having been exhausted, a student may seek review of his/her complaint by an independent person, the Scottish Public Services Ombudsman [SPSO].

10.2 The Ombudsman is independent and her staff will advise whether or not the complaint is one that they can investigate. Normally the student will have to tell the Ombudsman about his/her complaint within 12 months of first knowing about the problem about which they are complaining, although the Ombudsman

may look at complaints outside this limit if she thinks there is good reason to do so.

10.3 There are some restrictions on what the Ombudsman can investigate. For example she cannot consider the subject matter of complaints about personnel matters or matters of academic judgement. However she may be able to investigate the manner in which the complaint was handled. If the complaint is appropriate to her office and is investigated, the Ombudsman's staff will send details of how this will be done.

10.4 The complaint should be submitted in writing to the Ombudsman, and should include any relevant documents including correspondence with the University and the University's response to the complaint. This can be sent to the Ombudsman without cost at the freepost address given below. A student may discuss the complaint with an Investigator at the SPSO before deciding to submit.

10.5 The Scottish Public Services Ombudsman has an online complaint form accessible through the website although papers in support of the complaint would still have to be supplied to the Ombudsman by post or other means. The Scottish Public Services Ombudsman can also supply paper complaint forms direct to complainants.

10.6 Further information may be accessed through the Scottish Public Services Ombudsman website or by calling her office for advice. Contact details are:

Scottish Public Services Ombudsman
4 Melville Street, Edinburgh, EH3 7NS

Freepost address
Scottish Public Services Ombudsman
Freepost EH641, Edinburgh, EH3 0BR

Phone 0800 377 7330
Fax 0800 377 7331
website www.scottishombudsman.org.uk
e-mail enquiries to ask@spso.org.uk
Text: 0790 049 4372

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