Ordinance 40 – Student Discipline

Explanatory Note:

Being a student confers many rights and privileges. Amongst these, students are accorded a great deal of freedom, which arises from membership of an academic, residential and social campus community in which teaching, learning and research, and also tolerance and equality of opportunity, are of the utmost importance. This community can only function if the rights of each individual are carefully balanced against those of other individuals, and where others’ rights to study, to respect for property, home, family etc are respected.

Where this principle is transgressed, there is a liability to disciplinary proceedings in order to protect these other interests. In taking disciplinary action, the University may consider matters such as legal requirements, the protection of national security in a democratic society; public safety; the prevention of disorder or crime; the protection of health or morals, and the protection of the rights and freedoms of others. The University’s disciplinary procedures seek to deal with student discipline clearly, promptly, fairly, in compliance with natural justice, and with the provision of Hearings where specified under Ordinance 40.

Authorised Officers include the Principal, Vice-Principals, Deans, Director of Student Operations or Nominee, Wardens, Librarian, Director of UoDIT, the University Security Manager, and the Fire Safety Adviser (in respect of misconduct in University residences and University buildings in terms of breach of fire safety regulations).

Jurisdiction

1 (1) All students of the University are subject to the disciplinary jurisdiction of the Senatus Academicus in respect of their conduct both on and off University property. The authority of the Senatus in disciplinary matters shall normally be exercised by the Principal, acting on its behalf. In addition, full disciplinary powers are also permanently delegated by the Principal to the Vice-Principal(s).

(2) This Ordinance applies to former students of the University under paragraph 6(6) below.

(3) In general, Authorised Officers where relevant should consider the promotion of good race relations and racial harmony, and the University’s policies on disability, gender, race and other equal opportunities issues.

Authorised Officers

2 (1) The Principal has also delegated full disciplinary authority to all Vice Principals, and equivalents.

(2) The following officers may also exercise disciplinary powers, for which they shall be accountable to the Principal and/or to the Vice-Principal(s):

University Secretary
Director of Policy, Governance & Legal Affairs
Director of Legal Services & University Solicitor
Deans and Associate Deans of Learning (in respect of misconduct by students in their academic areas)

Director of Student Operations or nominees (in respect of misconduct in University Residences)

University Security Manager
The Librarian or Deputy Librarian or Medical Librarian (in respect of breaches of the Library Regulations),

The Director of UoDIT (in respect of breaches of the Regulations for the Use of Computing Facilities),

The President of the Dundee University Students’ Association (DUSA).

(3) The Principal and all others mentioned above exercising disciplinary powers under subsections (1) and (2) shall hereinafter be referred to as ‘Authorised Officers’.
Misconduct

3 (1) All students shall comply with such Statutes, Ordinances, Regulations and Rules as may be prescribed for their conduct as students and with such instructions relating to their conduct as students as they may receive from members of the University staff in the exercise of their duties.

(2) A student shall be guilty of misconduct through:

(i) failure to comply with any Statute, Ordinance, Regulation, Rule or instruction referred to in sub-section (1) or with any Disciplinary Bye-Law of the Students' Association approved for the purposes of this Ordinance by the Senate; or

(ii) improper interference with the functioning or activities of the University, or those who work or study in the University; or

(iii) action which otherwise damages the University.

(3) By way of further definition of the rubric in sub-section (2)(ii) and (iii), but without derogating from their generality, the following shall constitute misconduct:

(i) disruption of, or improper interference with, the academic, administrative, sporting, social or other activities of the University, whether on University premises or elsewhere;

(ii) obstruction of, or improper interference with, the functions, duties or activities of any student, member of staff or other employee of the University or any authorised visitor to the University;

(iii) violent, indecent, disorderly, threatening or offensive behaviour or language whilst on or off University premises or engaged in any University-related activity;

(iv) fraud, theft, deceit, deception or dishonesty in relation to the University or its staff or in connection with holding any office in the University or in relation to being a student of the University;

(v) action likely to cause injury or impair the safety or health of any person or persons, on or off University premises;

(vi) sexual, racial, or disability-related, or any other bullying, harassment or intimidation by any means of any student, member of staff or other employee of the University or any authorised visitor to the University;

(vii) examination offences and offences within the jurisdiction of the Regulations governing Plagiarism and Academic Dishonesty;

(viii) damage to, or defacement of, University property or the property of other members of
the University community caused intentionally or recklessly, and misappropriation of such property;

(ix) misuse or unauthorised use of University premises or items of property, including computer misuse;

(x) conduct which constitutes a criminal offence where that conduct:
   (a) takes place on University premises, or
   (b) affects or concerns other members of the University community, or
   (c) damages the good name of the University, or
   (d) itself constitutes misconduct within the terms of this Ordinance, or
   (e) is an offence of dishonesty, where the student holds an office of responsibility in the University;

(xi) behaviour which may bring the University into disrepute;

(xii) failure to disclose name and other relevant details to an officer or employee of the University in circumstances when it is reasonable to require, or necessary, that such information be given;

(xiii) failure to comply with a previously imposed penalty under this Ordinance.

(xiv) Contravention of a penalty points scheme in University residences, flats, halls or any other University accommodation.

(xv) Any form of bullying, intimidation or harassment which does not fall under any other category.

(xvi) Research misconduct of any description which does not fall under any other disciplinary category.

(xvii) Raising unfounded or unsubstantiated complaints, appeals or disciplinary matters.

(xviii) Infringements of University parking regulations

Situations Requiring Urgent Action

4(1) Any Authorised Officer is permitted to deal with any complaint of misconduct informally, by way of caution or otherwise, where, after careful consideration of the circumstances he or she considers such informal action appropriate.

(2) Where, in the view of any Authorised Officer, urgent action is required for reasons such as emergency circumstances; protection of student(s) and/or staff; health and/or safety-related issues, or any similar reason, however occurring, the Authorised Officer may proceed immediately by applying disciplinary action, either acting alone or co-opting any other member(s) of staff or other person(s) as required. Any or all disciplinary sanctions or penalties available under this Ordinance may be applied. The Authorised Officer(s) should subsequently review the initial decision after receiving representations or a defence by the student and may thereafter amend any disciplinary sanctions or penalty as appropriate. Notwithstanding any appeal subsequently lodged by the student, such a disciplinary decision shall continue to apply pending any appeal’s conclusion.

(3) In circumstances other than those described in para. 4(2) above, if any student admits a breach of disciplinary regulations, the Authorised Officer should advise the student of the consequences of the admission and of the range of disciplinary sanctions and penalties available and should thereafter seek information and representations in mitigation from (or on behalf of) the student(s) before determining the sanction(s) to be imposed. All decisions may be made by the Authorised Officer acting alone or with other member(s) of staff or other person(s) co-opted as required.

(4) Where an Authorised Officer applies disciplinary provision(s) under sections 4(1), 4(2) or 4(3), the student(s) may appeal under the provisions set out in section 7 below. The remaining procedural provisions of Ordinance 40 do not apply in such circumstances.
General Procedures

5 (1) Where, apart from section 4 above, any student denies the misconduct alleged, a Hearing should be held by the Authorised Officer to consider and to determine the matter. The Authorised Officer should decide, in the light of the seriousness of the alleged misconduct and all the circumstances, whether the Hearing should be formal or informal. The disciplinary allegations must be communicated in advance to the student(s), who has/have the right to attend the Hearing and be heard by the decision-makers, to present evidence, to make representations and to present a defence countering the disciplinary case against the student(s).

(2) An Authorised Officer may co-opt any other member(s) of staff and/or other person(s) to assist in determining any case at any stage. The references which follow below to “Authorised Officer” include anyone so co-opted.

(3) A student may be accompanied, assisted or represented at any Hearing by any person.

(4) The Authorised Officer may adjourn or postpone any Hearing at any time, and legal advice may be sought at any stage, on behalf of the University.

(5) If after the Hearing the Authorised Officer is satisfied, by finding the complaint substantiated (after balancing both sides of the case) or due to an admission by the student(s) involved, that the student(s) did breach disciplinary regulations, the Authorised Officer should provide an opportunity if possible to seek information and representations in mitigation from, or on behalf of, the student(s) before determining the disciplinary sanction(s) (if any) to be imposed, unless the same considerations apply as in para. 4(2) in which case an immediate sanction may be applied.

(6) If the conduct is more serious than anticipated, the case may be referred by the Authorised Officer at any stage, for any purpose related to this Ordinance, to another Authorised Officer or to the Principal, who is also authorised in this eventuality to co-opt any other member(s) of staff and/or other person(s) to assist in determining any case at any stage.

(7) If any Authorised Officer or any other co-opted person considers there to be a conflict of interest or significant prior involvement in a case, this should be declared and an alternate person included.

(8) Any Authorised Officer may deal under Ordinance 40 with any case referred from the disciplinary authorities at DUSA.

(9) A letter confirming the outcome of the Hearing with a summary of reasons for the decision and a note of any disciplinary sanctions/penalties imposed should be written to the student(s) as soon as possible after the completion of any Hearing other than an adjourned or postponed one.

Penalties

6 (1) Disciplinary sanctions applied should generally be proportionate to the misconduct involved. These may be imposed by the Principal, who has permanently delegated powers under Statute 18 and this Ordinance to the Vice-Principal(s) and to all other Authorised Officer(s) to apply all available disciplinary sanctions, whether acting alone or jointly with any persons co-opted to act with an Authorised Officer. A referral may be made to a more senior Authorised Officer for consideration and, if appropriate, application of any sanction. The delegated power to the DUSA President to apply any penalty only applies where he/she is acting as part of a Disciplinary Panel and does not extend to a power to act alone.
Penalties and sanctions may be temporary or permanent and include: expulsion, exclusion or suspension from the whole University, and/or from any academic or other course(s), and/or from the use of any or all IT facilities, and/or from participation in any or all University activities, and/or from any or all other privileges, and/or from any or all part(s) of the University’s precinct or premises, and/or from visiting, and/or residence in, and/or prevention from future application to, any or all University residences, flats, halls or any other University accommodation; a fine; a requirement to make good the cost of any damage or reimburse losses, a reprimand, a University Community service requirement; or the writing of an essay and/or any other penalty or sanction of any type which is appropriate in the circumstances. These penalties and sanctions apply whether or not any student has entered into a contract with the University for accommodation or for anything else.

This Ordinance does not affect the operation of Statute 5, of which it is independent.

All penalties or sanctions applied shall take immediate effect even if a student appeals.

Schemes of penalty points may lead to exclusion from, or the imposition of any other penalty or sanction in connection with, any or all University residences, flats, halls or any other University accommodation including barring from residing there.

Available penalties include the provision in the University Charter (clause 3(g)) that the University is authorised, "...[O]n what the Court and Senatus Academicus of the University shall act after due enquiry deem to be good cause, to deprive any person of any degree, diploma, certificate or other academic award granted to him by the University."

**Appeals**

**7** (1) Appeals shall only be considered if they are based upon:

(i) substantive new evidence that has come to light since the original hearing of the case; or

(ii) allegations of procedural irregularities (including administrative error) such as might give rise to reasonable doubt as to whether the Authorised Officer(s) would have reached the same decision had they not occurred; or

(iii) allegations of prejudice or bias on the part of the Authorised Officer; or

(iv) submission that the penalty imposed is unduly harsh.

(2) A student who wishes to appeal against the decision of an Authorised Officer in his or her case, or against the penalty or sanction imposed, must within seven days of the decision, deliver to the Authorised Officer a notice in writing setting out the nature of the appeal (that is, whether it is an appeal against decision or against penalty, or both) and the ground(s) of the appeal. The student(s) must also deliver a copy of the notice to the Secretary of the University.

(3) The Secretary or his/her nominee shall, after due enquiry, determine whether the grounds of appeal fall within the provisions of sub-section (1) above. If they do not satisfy these provisions, the Secretary or his/her nominee shall notify the appellant accordingly.

(4) The Secretary or his/her nominee shall also consider whether a prima facie case for appeal has been made out by the student, and if not, shall notify the student in writing within a reasonable time. Where a prima facie case has been made out, the Secretary or his/her nominee may determine after due consideration and in all the circumstances that the appeal be dealt with informally. Otherwise, the Secretary shall send to the student by recorded delivery or registered or equivalent post, a written invitation to attend the hearing of the appeal. Where an appeal hearing is called, the procedure detailed in section 5 above shall apply, subject to the changes set out in this section and/or any other changes which are in the opinion of the Secretary or his/her nominee, acting reasonably, necessary for the appeal to be considered.

(5) The appeal hearing shall be considered by a member of the University Court or Senate or University Administration, who for this purpose is hereby designated by the Principal as an Authorised Officer under this Ordinance, provided that such a person shall not have had any significant involvement in the case previously. Such an Authorised Officer may in their discretion also co-opt any other member(s) of staff and/or other person(s) to constitute a committee to determine any appeal at any stage. A representative of the student body should be included within such a committee if available. The references which follow below to ‘Authorised Officer’ include any persons so co-opted.
The Authorised Officer or Committee may seek legal advice at any stage or sit with a legal adviser if appropriate.

The Authorised Officer initially dealing with the case may be called to attend for all or part of any hearing or to report, and the Authorised Officer or Committee may also call for any other witnesses or other evidence which appears to be necessary to resolve questions raised by the appeal. Both sides of the appeal shall be considered by the Authorised Officer or Committee, and appropriate evidence invited from both sides, whether the appeal is dealt with informally or by hearing.

The appeal may be adjourned or postponed as the Authorised Officer or Committee considers necessary.

At the conclusion of the consideration of the appeal, the initial disciplinary decision may be confirmed or set aside, in whole or in part, or it may be upheld, and/or alternative penalty(ies) and/or sanction(s), whether greater or lesser than the initial ones, may be substituted following the appeal.

If the matter is being considered by a Committee, it may arrive at its decision by a majority vote of its members.

The Authorised Officer or the Committee shall inform the student in writing as soon as possible after the decision of a summary of the reasons for the decision of the appeal.

The Authorised Officer, or Committee’s, decision on the appeal shall be final and no further representations may be made by the student in relation to the case.

The Authorised Officer or Committee shall report the result of the appeal, including the reasons for the decision made, to the Court and to the Senatus, or alternatively to a committee monitoring such matters, at the next appropriate meeting.

If the student fails without reasonable excuse to appear on the day appointed for dealing with the matter or the hearing, and the Authorised Officer or Committee is satisfied that he or she has been duly notified of the hearing or other process for dealing with the matter, the appeal may be considered in the absence of the student(s) involved and any sanction imposed as would have been the case if the student had attended.

**Criminal Proceedings**

A finding of guilt or an acquittal in a criminal court shall not preclude proceedings under this Ordinance in respect of the same incident, provided that in the case of an acquittal no such proceedings shall be taken on specific allegations already considered and rejected in a criminal court.

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

(i) Where the potential offence under the criminal law is considered to be not serious (which, as a general but not immutable rule, may be taken to mean an offence that is unlikely to attract a custodial sentence on conviction), action under this Ordinance may continue, but such action may be deferred pending any police investigation or prosecution.

(ii) Without prejudice to the powers conferred on the Principal by Statute 5 or those in section 4 above, in the case of all other potential offences under the criminal law, no action may be taken under this Ordinance unless the matter has been reported to the police and either prosecuted or a decision not to prosecute has been intimated to the University, at which time the Principal or other Authorised Officer may decide whether disciplinary action under this Ordinance should continue or be taken.

(iii) Where a finding of misconduct is made and the student has also been sentenced by a criminal court in respect of the same facts, the court’s penalty shall be taken into consideration in determining the penalty made under this Ordinance.