

## NON-ACADEMIC DISCIPLINARY PROCEDURE

### 1 General Introduction

- 1.1 This Non-Academic Disciplinary Procedure ('NDP') exists to enable the College to take appropriate measures in cases in which one of its junior members (students) is in breach of his or her non-academic obligations as a member of the College<sup>1</sup>. The Dean exercises disciplinary authority on behalf of the Master and Fellows of Balliol College, reporting directly to the Master and to the Governing Body of the College on matters of non-academic discipline.
- 1.2 Such breaches take various forms and may attract various sanctions. Most are dealt with by the Dean, who is authorised by this policy to impose various penalties falling short of suspension and expulsion. This policy also governs cases in which the breach of obligation is so severe that suspension or expulsion is called for, in which case authority shifts from the Dean to a Disciplinary Panel of the College.
- 1.3 This NDP does not regulate, and is without prejudice to, the power of the Dean to take steps to ensure the peace of the College and the safety of its members even in cases where no penalty is (yet) appropriate, for example by excluding someone from College premises, requiring a student to have no contact with another member of the College, or other safeguarding measures as may be appropriate, including but not limited to those referenced in other [College policies](#). Such measures do not imply that any student on whom measures are imposed has been found to be in breach of any of their obligations in advance of any applicable investigatory process.
- 1.4 It is important to note that the purpose of this NDP is to address breaches of discipline by students, and not to resolve disputes between individuals. Students may only be disciplined where their conduct occurs within a college context in accordance with 2.3 and 2.4 below.
- 1.5 In this procedure, the person making a report is referred to as “the reporter” and the person who is alleged to have breached the College rules is referred to as “the subject”.
- 1.6 *Start of jurisdiction.* Students are subject to this procedure and college rules and policies at the point when they formally accept their admissions offer, begin their course, or arrive in Oxford, whichever is the earliest.

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<sup>1</sup> For a complete view of the College's disciplinary system this procedure must be read in conjunction with the College's Academic Disciplinary Procedure (ADP), as published from time to time in the [College Handbook](#) (2.8 *passim*, referring also to 2.3.1, 2.3.2, 2.5.1, 2.5.7). For non-conduct related required absences, please see the College's Fitness to Study procedure where students may be required to take a leave from study.

- 1.7 *The standard of proof.* The standard of proof used when making determinations under this NDP is the balance of probabilities. This is a legal standard which applies in civil cases. It should be borne in mind that this standard means that the alleged offence must be, on the evidence, more likely than not to have occurred.
- 1.8 *Confidentiality.* Steps in this procedure will be carried out with due regard to the College's policies, the provisions of the Data Protection Act and the University of Oxford's guidelines on confidentiality.
- 1.9 *Student Welfare and Safeguards.* Students who are subject to disciplinary proceedings under this NDP (or indeed any student (reporter) who may have made a report against another student in relation to alleged offences) have a number of sources of support available to them, including those listed below:
- 1.10 The [College student welfare team](#)
- 1.11 The [University Sexual Harassment and Violence Support Service](#)
- 1.12 The [University Student Welfare and Support Services](#), [Oxford SU Advice Service](#)
- 1.13 Wherever practicable and relevant, the Dean will remind those against whom disciplinary proceedings under this NDP are contemplated of these sources of support. College policies may restrict the extent to which the College's welfare team may liaise with the Dean, but such liaison can always be authorised by individual students in their own cases.
- 1.14 If any member of the College has concerns that a student involved in this Procedure is suffering health, welfare or academic study issues as defined in the College's [Fitness to Study Procedure](#) or other difficulties that may be relevant to whether or how the disciplinary procedure should be used, the student should be directed to the welfare team and to the University Student Welfare and Support Services. The member of College should at the same time inform the person responsible for fitness to study procedures in College.
- 1.15 Reasonable adjustments may be made to this Procedure in individual cases in order to enable the subject and any other person affected by application of the Procedure to participate fairly.
- 1.16 Additional discretionary precautionary safeguards may be put in place to protect the individuals concerned or other members of the College in cases involving sexual misconduct in line with the [College's policies](#). The Dean will promptly provide the student and, where appropriate, the reporter/any other relevant member of the College, with written reasons for any precautionary measures imposed. Any student upon whom precautionary measures are imposed may ask the Dean to review them, and, if the request is refused, may apply to the Senior Tutor at any time ([senior.tutor@balliol.ox.ac.uk](mailto:senior.tutor@balliol.ox.ac.uk)) for the precautionary measures to be reviewed.
- 1.17 The Dean may refer a matter to the police or seek guidance from the police or other public safety agencies where the report concerns criminal conduct and/or where there is a significant imminent risk of harm to students or staff. In deciding whether to do so, the Dean should take into account the wishes of the reporter.
- 1.18 *Making a Report.* Reports regarding alleged offences should normally be made in writing, by email to the Dean. If a reporter does not wish to make a written report

in the first instance, they should contact any senior member or appropriate employee of the College who will make a written account of the report which they will invite the reporter to confirm. That report will then be submitted to the Dean. Anonymous reports regarding potential offences will only be considered under this Procedure in exceptional circumstances where there are compelling reasons to do so. While some investigation may be possible in certain cases, it will usually be very difficult to proceed with disciplinary action following an anonymous report, because of the need to allow the subject to respond to the report. Reports concerning harassment, bullying or sexual misconduct should be dealt with in accordance with the relevant principles and safeguards in relevant [College policies](#).

- 1.19 Records will be kept at all stages of the process and will be processed in accordance with the College's [records management and privacy policies](#).
- 1.20 *Meetings and hearings.* Meetings and hearings may take place online at the discretion of the College where this is necessary to avoid undue delay or to protect the welfare of any person.
- 1.21 Students and reporters may be accompanied to meetings, interviews or hearings by another person (a "Supporter"), who should normally be a member or employee of the College or a suitable officer of the Oxford Student Union, so long as the name and position of the supporter is provided in advance and any further procedural requirements set out in the procedure below are met. Requests to be accompanied by a Supporter should be made to the Dean, Investigator and/or NDAC Chair as appropriate as soon as possible in advance of the date of any meeting or hearing. The College may, in its reasonable opinion, require a different Supporter to be nominated if that person is, or is likely to be, subject to a conflict of interest and their participation may prejudice the performance and outcome of this NDP.
- 1.22 *Giving notice.* Where this NDP requires a notice or record to be given in writing, the normal way for this to be done is by email to the recipient's personal ox.ac.uk email address (unless an alternative method of contact has been agreed with the College). The email is regarded as having been delivered to the recipient at the time of sending unless concrete evidence later arises that it could not have possibly been delivered. However, a notice or record written on paper is also valid for the purpose of this NDP and where that method is used, the notice or record is regarded as having been delivered when it is placed in the recipient's pigeonhole in College, or on the second working day after it is posted to the recipient by first class post (as the case may be). The recipient's pigeonhole should only be used where the sender is reasonably satisfied that the recipient is in residence in Oxford at the time of delivery.
- 1.23 *The Library.* The Librarian derives authority from the Dean over library matters but is empowered only to give verbal warnings, apply fines, charge for damaged books, and to require students to rub out marks made in books they have borrowed. This procedure does not cover or regulate routine charges for the repair or replacement of damaged items, nor the non-payment of charges and costs, both of which are dealt with by the Bursary.

## **2 When does the Disciplinary Procedure apply?**

- 2.1 *General scope.* This NDP applies to any current student of Balliol College ('Student'), whether undergraduate or graduate, and whether in residence or out

of residence at the time, who is in a Non-academic Disciplinary Situation (NDS).

- 2.2 *Non-academic Disciplinary Situations.* A Student is in an NDS if and only if, in the opinion of the Dean, it is reasonable to suspect that the Student has committed one or more offences in his or her capacity as a member or prospective member of the College within the terms of 2.3 and 2.4 below.
- 2.3 *Offences.* For the purposes of this NDP, the following non-exhaustive examples constitute offences:
- 2.3.1 any act, omission, or course of conduct which may constitute a criminal offence in the jurisdiction in which it was committed (and/or in England & Wales, if appropriate in any given case);
- 2.3.2 any act, omission, or course of conduct contravening a Statute or Regulation of the University of Oxford, or a local rule of any University site or building, or a regulation promulgated by the Proctors or by the University's Rules Committee<sup>2</sup>;
- 2.3.3 any act, omission, or course of conduct contravening a regulation or code of conduct of the College (including any rules as to neighbourly or collegial conduct that may form part of any license to occupy College accommodation);
- 2.3.4 any act, omission, or course of conduct that is, in the opinion of the Dean, to the reasonable annoyance, discomfort or distress of any person, whether or not that person is a member of the College, and whether or not that person makes a complaint or petition to the Dean;
- 2.3.5 any act, omission, or course of conduct which is in contravention of an order or summons issued by the Dean, or which the offender has been warned in writing by the Dean not to repeat on pain of becoming an offender under this provision;
- 2.3.6 any act or course of conduct prohibited under any other College policy.
- 2.3.7 encouraging, inciting or aiding a non-student (whether guest or not) to do any of the above.
- 2.4 *The capacity to commit an offence.* An offence by the Student under 2.3 above may be the subject of disciplinary steps under this NDP, whether under part 3 or part 4 below, only if the Student committed it in his or her capacity as a member or prospective member of the College (as defined in 1.6). An offence counts as having been committed in that capacity if and only if:
- 2.4.1 it was committed on or near College premises; or
- 2.4.2 it was committed on the premises of another college or on University premises and a reasonable request is received from the Dean or other competent official of that other college, or from the University Proctors or the Head of a University Department or the Chair of a University Faculty Board as the case may be, to deal with the matter as an offence against College discipline; or
- 2.4.3 it was committed during College activities away from College premises; or

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<sup>2</sup> The sources of University rules governing student conduct are set out in the [University Student Handbook](#) (*Proctors' and Assessors' Memorandum*). Clause 2.3(b) above is interpreted in the light of that *Memorandum*.

- 2.4.4 it was committed when studying at a partner organisation; or
- 2.4.5 it was committed on social media against any other member of the College; or
- 2.4.6 it threatens to bring the College into disrepute among reasonable people; or
- 2.4.7 it was committed by the use of College facilities (such as computer networks) or privileges (such as intercollegiate internal mail); or
- 2.4.8 it was committed by the use of University facilities (such as computer networks) or privileges (such as a University Card) and a reasonable request is received from the University Proctors to deal with the matter as an offence against College discipline; or
- 2.4.9 it was committed against the College or any member of the College, including staff.
- 2.5 *Overlap with other College policies and procedures.* Where an NDS also constitutes a proper basis for steps to be taken under another policy or procedure of the College, and steps under this NDP and under that other policy or procedure have been proposed or initiated, the responsible Officers of the College will together determine, in consultation with the Student, whether all steps on the same basis should be consolidated so that they are taken under a single policy or procedure, provided that such a consolidation shall never have the effect of depriving the Student of an avenue of appeal that he or she would otherwise have enjoyed. In the event of disagreement as to the appropriateness of a consolidation, the final determination is to be made by the Master (or in the Master's absence a Vice-Master). The responsible Officer of the College for the purpose of this NDP is the Dean.
- 2.6 *Overlap with Proctors' jurisdiction.* Where an NDS also constitutes a proper basis for disciplinary steps to be taken by the University Proctors, and such steps have been proposed or initiated, any steps proposed or initiated under this NDP will be stayed until the conclusion of Proctorial proceedings. For the avoidance of doubt, disciplinary steps may subsequently be taken under this NDP notwithstanding that Proctorial proceedings were discontinued or that Proctorial charges were dismissed, and no finding of fact by the Proctors or absence of any such finding shall bind the College.
- 2.7 *Overlap with the criminal justice system.* Where this NDP applies and a Student's NDS also constitutes a proper basis for investigation by the police or by any other public authority, or for any other steps to be taken towards prosecution in the criminal courts, and such steps have been proposed or initiated (or their proposal or initiation can reasonably be foreseen), any steps proposed or initiated under this NDP will be stayed until the conclusion or abandonment of the investigation or prosecution. For the avoidance of doubt, disciplinary steps may subsequently be taken under this NDP 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 further steps under this NDP are not taken shall not prevent support being offered to student members. The fact that proceedings under this NDP are stayed pending the outcome of criminal investigation or prosecution shall not prevent the Dean from taking interim measures, which are not regulated by this NDP, to ensure the peace of the College and the safety of its members, which may include the exclusion of the Student from College premises, or from certain College

facilities or activities or as otherwise appropriate.

- 2.8 *College response to Proctorial or criminal conviction.* Where the Student is found guilty of a criminal offence or a breach of University regulations, the College retains the right subsequently to pursue the same matter under this NDP, and to attach its own penalty or other disciplinary measure to the same offence or breach, making due allowance for any penalty or other measure already imposed by the courts or by the Proctors. The College also retains the right, following any criminal or Proctorial conviction of the Student as well as in any other circumstances, to take steps to ensure the peace of the College and the safety of its members, steps which are not regulated by this NDP.

### **3 The Dean's summary jurisdiction and appeals to the Master**

- 3.1 *Power to summon.* The Dean may summon to appear before him or her any student who is in an NDS ("the Student") and any student of the College who, in his or her opinion, may be able to provide evidence relevant to the investigation or determination of whether any offence contrary to this NDP has been committed. Notice of summons must be given in writing and the minimum period of notice of the date and time of appearance shall be 24 hours unless the Dean and Student both agree, either orally, by text or in writing (including email), to an earlier meeting, and the notice shall state what offence, in substance, is alleged. *Proceedings in absentia.* Final determination of whether any offence has been committed, and the decision of a penalty, may proceed without any appearance before the Dean of the Student, provided that, before proceeding to any determination the Student has been summoned to appear before the Dean at least twice, the second summons to be issued only when the Student did not appear before the Dean in response to the first.
- 3.2 *Dean's determination of jurisdiction by determination of suitable penalty.* Where the Dean is of the opinion that the penalties provided for in 3.4 below provide a sufficient disposal for an offence under his or her investigation, he or she may proceed to determine whether that offence has been committed and to impose a penalty under 3.4 for that offence. For the avoidance of doubt, the Dean may impose multiple penalties for multiple offences arising out of the one and the same NDS, so that the total penalty in respect of that NDS rises beyond any limits set in 3.3 below, so long as the penalties in question are not, in substance, multiple penalties for the same offence.
- 3.3 *Due process.* Before the Dean determines under 3.2 above whether an offence has been committed and before the Dean imposes a penalty under 3.4 below, he or she shall:
- 3.3.1 make reasonable efforts to obtain all relevant evidence from the Student and from others, whether orally or in writing;
- 3.3.2 satisfy himself or herself from that evidence that, on the balance of probabilities (i.e., it is more likely than not), the offence was committed by that Student, and in circumstances warranting a penalty;
- 3.3.3 allow the Student a reasonable opportunity to present a justification or excuse for the offence, and a plea in mitigation bearing on the penalty, whether orally or in writing.
- 3.3.4 Where the Student did not appear in response to a second summons to appear

before the Dean under 3.1 above, he or she is to be regarded as having had a reasonable opportunity for the purposes of 3.3.3 above unless he or she has a reasonable justification or excuse for having failed to respond to both of the two summonses that were issued.

- 3.3.5 *Decanal penalties.* The penalties that may be imposed by the Dean for any offence under this NDP are set out in Appendix 2.
- 3.4 *Notice of decision.* Unless it is agreed at the end of investigation that no offence was committed and no penalty applied, the Dean shall give notice to the Student in writing, within 48 hours of reaching determinations as to what offence was committed and as to the penalty or other disposal (including costs) to be imposed. In the same communication the Dean shall remind the student of his or her right of appeal, appending the words of 3.6, 3.7 and 3.8 below (or a link thereto) and stating their source in this NDP.
- 3.5 *Appeal.* An appeal may be made to the Master (or in the Master's absence the Vicegerent) in respect of any matters which are for the Dean to determine under 3.1 and 3.2 above. In exercising his or her appellate jurisdiction the Master may determine any matter afresh that the Dean had power to determine under *Power to summon*. However, the Master shall not revisit any conclusions of fact drawn by the Dean except to the extent necessary;
- 3.5.1 to satisfy himself or herself that the Dean's conclusions were not such that no reasonable Dean could have drawn them, and
- 3.5.2 to satisfy himself or herself that the Dean's duties under 3.3 were performed.
- 3.6 *Notice of appeal.* Any appeal to the Master under 3.6 above shall be initiated by written notice sent by the Student to the Master within 48 hours of the giving of written notice under 3.5 above by the Dean.
- 3.7 *Outcome of appeal.* The possible outcomes of an appeal to the Master under 3.6 above are:
- 3.7.1 confirmation by the Master of the Dean's determination that an offence has been committed and of the penalty imposed by the Dean for the offence;
- 3.7.2 confirmation by the Master of the Dean's determination that an offence has been committed coupled with a recommendation by the Master to the Dean, for which the Master is to give reasons, that the penalty should be reduced, or varied from one type of penalty to another in such a way that the variation is regarded by the Student as a reduction;
- 3.7.3 a recommendation by the Master to the Dean, for which the Master is to give reasons, that the Dean should reconsider his or her determination that an offence has been committed.
- 3.8 *Notice of outcome of appeal.* The Master shall determine the outcome of the appeal with all reasonable expedition and shall give notice of that outcome, together with reasons if applicable, to the Student and to the Dean within 48 hours of that determination. The Dean shall then proceed with all reasonable expedition to consider, and if appropriate implement, any recommendation made by the Master.

3.9 *Finality and further appeals.* No further appeal within the College lies from the determinations of the Master under 3.6 above. The finality of the Master's determinations is without prejudice to the right of the Student to make appeals or other applications to bodies outside the College, in particular to the Conference of Colleges Appeal Tribunal (CCAT), or to the Office of the Independent Adjudicator (OIA). The Master will issue to the Student a Certificate of Completion of Procedures once all in-College remedies have been exhausted.

#### **4 Proceedings before disciplinary panels**

4.1 *Disciplinary panels.* Where the Dean is of the opinion that the penalties provided for in 3.4 above do not provide a sufficient disposal for an offence under his or her investigation, he or she may refer the NDS to a Disciplinary Panel which operates as an ad hoc committee of the College's Governing Body and makes a recommendation to the Governing Body for an appropriate disposal of the case (whether by disciplinary measures or otherwise). The Governing Body will follow the findings of fact from the investigation and, by convention, the recommendation of a Disciplinary Panel under this NDP. A Student therefore has no right to make further representations to Governing Body in respect of any recommendation of a Disciplinary Panel. Any adjustment of the disposal by Governing Body would, by convention, give the Student good grounds for appeal against the adjusted disposal under part 5 of this NDP. Because of the strength of these conventions, the recommendation of a Disciplinary Panel is referred to in the following provisions as a 'determination'.

4.2 *Notice of panel.* Within 48 hours of referring an NDS to a Disciplinary Panel the Dean shall give notice to the Student in writing that the referral has been made, and the notice shall state what offence or offences, in substance, is or are alleged such as to warrant the referral. The jurisdiction of the Disciplinary Panel is limited to investigating the offence or offences that are identified, in substance, in the notice of referral, and to determining whether that offence was or those offences were committed by the Student, and to attaching a disposal to that offence, or to those offences, in accordance with 4.14 below.

4.3 *Membership and convening of panels.* A Disciplinary Panel will consist of three people appointed by the Master for the purpose of considering the report. Panel members must either be members of the College Governing Body or be people who have been approved by the Governing Body as being suitable Disciplinary Panel members, including from the University's panel of investigators. The Master will appoint one of the members as Chair of the Disciplinary Panel. The convening of Disciplinary Panels and the assignment of cases to them shall be a responsibility of the Master, always to be carried out as expeditiously as possible. A Disciplinary Panel may be convened to consider a single case or a group of cases. Where there is a group of cases involving the same student, a Disciplinary Panel may elect to consolidate these into one case for the purpose of considering that student for disciplinary measures.

4.4 *Timeline.* Without prejudice to the general rule in 4.3 requiring expedition, the Disciplinary Panel will be convened within 14 days, or 21 days if any of the 14 days would be outside full term, of a referral by the Dean.

4.5 *Disqualification.* The following are not eligible to serve on a Disciplinary Panel:

4.5.1 The Master, the Vice-Master, the Senior Tutor, the Dean, or the Chaplain, the Welfare Lead;



- 4.5.2 Any person who has taught (in tutorials or in any other capacity where reporting on individual progress was required or expected), any student whose case is to be considered by the Disciplinary Panel in question;
- 4.5.3 Any person who has organised teaching falling under the description in 4.5.2 the for any student whose case is to be considered by the Disciplinary Panel in question;
- 4.5.4 Any person who has been directly involved, whether under this NDP or otherwise, with any of the events that have brought the case before the Disciplinary Panel in question, where membership of Governing Body does not qualify as direct involvement merely because it involves routine scrutiny of reports from the Dean on disciplinary matters;
- 4.5.5 Any person who has served on a Disciplinary Panel or a Disciplinary Appeal Committee under this NDP, or on any similar panel under another Procedure of the College, in another case involving the same student or students.
- 4.5.6 Any person who would be in breach of the College's [conflict of interest policy](#) or who otherwise should not act because there is a reasonable perception of bias.
- 4.6 *Notice of constitution of panel.* Within 24 hours of a Disciplinary Panel's being convened, each Student in whose case the Panel is intended to make a determination will be given notice by the Master of the identities of its members. The Student will then have 24 hours to draw attention to the ineligibility of any member to serve on the Panel under 4.5.1 to 4.5.6 above (but not to object on any other ground). If satisfied that a member is indeed ineligible to serve, the Master will replace that member within 48 hours. That replacement will count, for the purpose of any deadlines that follow, as the convening of a new Disciplinary Panel.
- 4.7 *Investigator and objections to Investigator.* Within 72 hours of the Disciplinary Panel being convened, the Disciplinary Panel shall appoint an Investigator for that case, who may be an officer of the College or a suitable individual from outside the College, including from the University's panel of investigators. Within 48 hours of the Investigator's appointment, the Student will be given notice by the Master of the identity of the Investigator, and will have 24 hours from the time of being given that notice to object to the appointment, stating the grounds for doing so (which are not restricted to ineligibility under 4.5 above). The Disciplinary Panel dealing with the case will appoint an alternative Investigator in the same manner described above within 72 hours of the objection being made if, in the view of the Disciplinary Panel, the Student's grounds for objecting are reasonable ones.
- 4.8 *Conduct of investigation.* With all possible speed consistent with a careful investigation, the Investigator is to obtain a note from the Dean of how the case progressed to the point at which a Disciplinary Panel was convened, including a note of any evidence already obtained (and how and when and from whom) and of the identities of any persons who might, in the opinion of the Dean, provide further evidence bearing on the disposal of the case.
- 4.9 *Representations to Investigator.* The Investigator must offer to the Student an opportunity to make representations as to the disciplinary measures or other disposals to be applied. Before such representations are made, the Investigator must outline the case against the Student under this NDP and provide the note and opinion on the conduct of the investigation, as obtained under clause 4.8 above. Representations may include, but are not limited to, representations

regarding any justification or excuse for the offence or offences under investigation, and any plea in mitigation that may bear on disposal of the case, or general comments on the case. These representations may be made orally, whether in person or via teleconference, or in writing (including email). Representations are normally heard at a private meeting in person between the Student (accompanied by a Supporter if they wish) and the Investigator. The Investigator should take notes of the Student's representations.

4.10 *Meeting.* Any meeting between the Student and the Investigator for the purpose of hearing representations under 4.9 above should be held in private, except as follows:

4.10.1 if in the Investigator's opinion, taking into account the opinions of the parties, it is necessary to have another member of the College or of its staff, or an appropriate individual from outside the College, present for the purpose of taking notes, then one such person may be present at the invitation of the Investigator; and

4.10.2 if the Student wishes to be accompanied by another member of the College or of its staff, who may assist with the making of representations as well as giving support to the Student, then one such person may be present at the invitation of the Student.<sup>3</sup>

Notice of at least 24 hours is to be given of the fact that another person will be present or has been invited to be present under 4.10.1 or 4.10.2 above, and of their identity if under the latter.

4.11 *Report and determination.* On completion of his or her investigation, the Investigator will make a written report to the Disciplinary Panel containing a recommended verdict on the question of whether the offence was committed, and, if so, recommendations as to the disposal of the case. The report will be considered by the Disciplinary Panel at a meeting, at which the verdict and the disposal of the case will be determined by simple majority voting. It is normally expected that, where the Student co-operates fully in the process, this process will be completed within 21 days of referral of the case to the Master by the Dean.

4.12 *Due process.* Before the Disciplinary Panel determines whether an offence has been committed pursuant to clause 4.11 and before it makes a disposal under 4.14 below, it shall:

4.12.1 satisfy itself that reasonable efforts have been made to obtain all relevant evidence from the Student and from others, whether orally or in writing, to the exclusion of hearsay;

4.12.2 satisfy itself from that evidence obtained that, on the balance of probabilities, the offence was committed by that student, and in circumstances warranting the proposed disposal;

4.12.3 satisfy itself that the Student has had a reasonable opportunity to present their position and/or a justification or excuse for the alleged offence, whether orally or in writing, and, if appropriate in the circumstances may hold a further meeting with

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<sup>3</sup> The JCR and MCR may make available a list of people from among their memberships who have indicated a willingness to be approached to assist with representations and support for the purpose of this NDP. Members of the College welfare team may also be approached if required. These are optional facilities. The Student may bring any appropriate and non-conflicted Supporter, or nobody at all if preferred. The College reserves the right to require the Student to bring an alternative Supporter to ensure the fairness and impartiality of the process,

the Student and/or adduce such further evidence or witnesses as it considers appropriate for the proper disposal of the matter.

4.13 *Plea in mitigation.* If the Disciplinary Panel determines that an offence has been committed, it shall notify the Student promptly of that determination (in writing and with reasons) and shall give the Student an opportunity to make representations to the Panel as a whole, within 7 days of notification of the determination, regarding the appropriate disposal. Such representations may be made, at the Student's discretion, either orally or in writing, and either by the Student personally or by the member of the College or its staff (if any) who accompanied the Student under 4.10.2 above.

4.14 *Possible disposals.* A Disciplinary Panel constituted under this NDP has the power to make the following disposals:

4.14.1 expulsion from the College; or

4.14.2 suspension from the College for a period of up to one academic year, with or without conditions that need be satisfied before return to College; or

4.14.3 expulsion from the College unless certain conditions are satisfied; or

4.14.4 suspension from the College for a period of up to one academic year unless certain conditions are satisfied, with or without further conditions that need to be satisfied before return to College; or

4.14.5 a referral back to the Dean for the imposition of a penalty for the offence, the penalty to be in the Dean's discretion but limited to those that the Dean could have imposed under 3.4 above in the exercise of his or her original summary jurisdiction;

4.14.6 a conditional discharge, whereby no disciplinary measures under 4.14.1, 4.14.2, 4.14.3, 4.14.4 or 4.14.5 will be applied to the Student so long as certain conditions are satisfied; or

4.14.7 an absolute discharge.

Disposals 4.14.1 to 4.14.4 qualify as disciplinary measures for the purpose of grounding a right to appeal under part 5 of this NDP. Disposal 4.14.5 puts the Student in the same position, with regard to an appeal, as if the matter had been dealt with by the Dean under part 3 of this NDP. Disposals 4.14.6 and 4.14.7 qualify as non-disciplinary measures and do not give rise to a right of appeal under this NDP.

In cases involving sexual misconduct 4.14 should be considered in conjunction with Appendix 1.

4.15 *Consequences of failure to meet condition.* For the avoidance of doubt, the coming into effect of an expulsion or suspension by virtue of the Student's failure to meet any condition imposed under 4.14.2, 4.14.3, or 4.14.4 is an automatic process and does not itself qualify as a further disposal for the purposes of this NDP. The effect is that, where a condition as to return to College set under 4.14.2 or 4.14.4 is not satisfied, the suspension automatically becomes an expulsion without further intervention by a Disciplinary Panel or by the College's Governing Body.

- 4.16 *Conditions attached to disposals.* The conditions that may be attached by a Disciplinary Panel to a disposal under 4.14.2, 4.14.3, 4.14.4 or 4.14.6 above include, at the Panel's discretion,
- 4.16.1 that the Student is to commit no offence under this NDP of any type or of any specified type for a specified period or indefinitely;
- 4.16.2 that the Student is to report to the Dean at such intervals and for such period as the Disciplinary Panel may determine with a view to keeping the Student's conduct under review, whether offences are committed or otherwise, and for the purposes of which review the Student's assent to a conduct agreement may be required;
- 4.16.3 that the Student is to take some other reasonable step or steps specified in the disposal, the step or steps to be taken before a specified date, provided that the step shall not be one designed to penalise the student.
- 4.17 *Academic condition as to return.* Whether or not a Disciplinary Panel sets a condition as to return under 4.14.2 or 4.14.4, the College reserves the right to set a separate academic condition as to return for any student who goes out of residence for any period, whether by way of disciplinary measure or otherwise. Such an academic condition will be set by the College and communicated to the Student by the Senior Tutor. The Senior Tutor will also determine, in due course, whether it has been satisfied by the Student. The rules governing the setting and communication of academic conditions, and appeals in relation to them, are those applicable in Academic Disciplinary cases.<sup>4</sup>
- 4.18 *Communication of determination.* Subject to the completion of the procedure in 4.13 above, the Panel is to report its determination and disposal to the Master with all due speed, supported by a copy of the Investigator's report on the case. If the Panel's determination departs from the Investigator's recommendation, then a further report is to be included explaining the departure. Notice of the Panel's determination and disposal will be given in writing to the Student by the Master within 72 hours of its having been reported, supported by a copy of the Investigator's report and a copy of any other report submitted by the Panel in support of its determination and disposal.
- 4.19 *Failure to meet conditions.* If conditions are attached to the disposal under 4.14.2, 4.14.3, 4.14.4, or 4.14.6 above and, in the opinion of the Dean, the Student fails to meet those conditions, then notice of that failure, and of the consequences as determined by the terms of the disposal, will be given in writing to the Student by the Dean within 72 hours of the failure's having come to the attention of the Dean. In case of dispute about whether the conditions specified in a disciplinary measure have been met by the Student, the appeal procedure under 5.2 below applies.

## **5 Appeals following Disciplinary Panel proceedings**

- 5.1 *Appeal against determination of Disciplinary Panel.* The Student has a right of appeal against any determination of a Disciplinary Panel that involves the imposition of a disciplinary measure, and against any disciplinary measure imposed. The Student exercises the right of appeal under this provision by giving notice of appeal in writing to the Master within 7 days of the Student's being given notice under 4.18 above of the Disciplinary Panel's determination and disposal. In most cases, the appeal process will be limited to a review of the relevant process

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<sup>4</sup> See Academic Disciplinary Procedure, *College Handbook* Section 2.8.

with reference to the grounds of appeal, rather than a re-hearing or re-opening of factual findings.

5.2 *Appeal against coming into effect of consequences.* The Student also has a right of appeal against the coming into effect of the consequences of his or her failure to meet any condition specified in any disciplinary measure, but only on one or both of the following grounds:

5.2.1 that the Dean was mistaken in his or her opinion under 4.19 above that the Student failed to meet the condition; or

5.2.2 that the Student's failure to meet the condition was excusable.

For the avoidance of doubt, it is not a ground of appeal under this provision that the condition should not have been imposed. The Student exercises the right of appeal under this provision by giving notice of appeal in writing to the Master within 7 days of the Student's being given notice under 4.18 above of his or her failure to meet the condition.

5.3 *Constitution of Non-academic Disciplinary Appeal Committee.* An appeal under 5.1 or 5.2 above is to be heard by a Non-academic Disciplinary Appeal Committee (NDAC) constituted by the Master specifically to hear the appeal. Any disciplinary measures appealed against are stayed pending determination of the appeal, save that it is still possible for a student to meet any conditions specified in the disciplinary measure, and hence to terminate the measure, while the appeal is pending.

5.4 *Membership.* An NDAC will comprise:

5.4.1 one Fellow of the College of suitable seniority and experience, who is a Member of Governing Body holding an academic post, and who will chair the NDAC; and

5.4.2 any two of the following in any combination:

5.4.2.1 senior members of the College who hold academic posts (but who need not be members of the Governing Body);

5.4.2.2 senior members of the College who are members of the Governing Body (but who need not hold academic posts).

5.4.2.3 any other person who has been approved for this purpose by the Governing Body.

5.5 *Disqualification.* The following shall not be eligible to serve on an NDAC:

5.5.1 The Master, the Senior Tutor, the Dean, or the Chaplain;

5.5.2 Any person who has taught (in tutorials or in any other capacity where reporting on individual progress was required or expected) any student whose case is to be considered by the NDAC;

5.5.3 Any person who has been directly involved, whether under this NDP or otherwise, with any of the events that have brought the case before the NDAC, where membership of Governing Body does not qualify as direct involvement merely because it involves routine scrutiny of reports from the Dean on disciplinary matters, or merely because Governing Body has already received a report of a

Disciplinary Panel in the same case;

5.5.4 Any person who has served on a Disciplinary Panel or an NDAC under this NDP, or on any similar panel under another Procedure of the College, in another case involving the same student or students.

5.5.5 Any person who would be in breach of the [College's conflict of interest policy](#) or who otherwise should not act because there is a reasonable perception of bias.

If sufficient NDAC members not disqualified under these headings cannot be found from within the College then the Master shall have the option of substituting one or more members from another College or other Colleges of the University of Oxford who do meet these conditions, and who (apart from the fact that they are members of another College, not of Balliol) fall under the descriptions in 5.4 above.

5.6 *Secretary of NDAC.* The NDAC shall be assisted by a senior administrative employee of the College enlisted by the Master who will act as Secretary to the NDAC ('the Secretary').

5.7 *Objections to membership.* Within 48 hours of the constitution of the NDAC, the Student will be given notice by the Secretary of the identities of its members, and will have 24 hours from the time of being given that notice to object to the appointment of one or more of them, stating the grounds for doing so. The Master will appoint an alternative member or members of the NDAC within 72 hours of the objection being made if, in the Master's view, the Student's grounds for objecting are reasonable ones.

5.8 *Representation of the College before NDAC.* Within 4 days of the constitution of the ADAC (or of its reconstitution if required under 5.7 above) the Master is to nominate a person ("the College Representative") to make a case, before the NDAC, in favour of the implementation of the disciplinary measure. The College Representative is to be, at the Master's discretion, either the Dean or a member of the Disciplinary Panel that determined the measure, or if none of these are available to act then another senior member of the College selected by the Master.

5.9 *Date of hearing.* Within 7 days of the constitution of the NDAC (or of its reconstitution if required under 5.7 above), the Secretary shall fix a date for an NDAC hearing. The hearing is to take place no later than one calendar month after the constitution (or reconstitution) of the NDAC. Subject to that one month limit, the date should be fixed in consultation with the Student, the College Representative, and the members of the Panel.

5.10 *Hearing details.* At least 7 days before the hearing the Secretary will:

5.10.1 write to the NDAC members, the Student and the College Representative to confirm the date, time and location of the hearing;

5.10.2 provide the NDAC members, the Student, and the College Representative with a bundle containing copies of:

5.10.2.1 the notice of referral by the Dean to the Disciplinary Panel;

5.10.2.2 the Investigator's report;

5.10.2.3 any report by the Disciplinary Panel explaining its departure from the Investigator's

recommendations;

- 5.10.2.4 the letter from the Master giving the Student notice of the Disciplinary Panel disposal;
- 5.10.2.5 the letter from the Dean giving the Student notice of his or her failure to meet the conditions in the disposal (if applicable);
- 5.10.2.6 the letter from the Student giving notice of appeal; and
- 5.10.2.7 any other relevant documents.

5.11 *Assistance and representation.* The Student shall also be informed by the Secretary that he or she is entitled to either be accompanied at the NDAC hearing by one other person in line with the general right to be accompanied outlined at 1.16 above, or alternatively to be represented by one other person (both options subject to the College's right to require an alternative companion in cases of a conflict of interest as set out in 4.10.2 above). Except with the special leave of the Chair of the NDAC, this person ("the Friend") must be a member of the College or of its staff<sup>5</sup>. Cases for the granting of special leave include but are not limited to those in which no suitable member of the College or of its staff is available to assist, or in which the Student has reasonable grounds to wish his or her situation to remain unknown to those members of the College or of its staff who are available to assist. However, an NDAC will not - except in exceptional circumstances - allow legal or other professional representation for the Student. At least 72 hours before the hearing the Student shall inform the Secretary of the identity his or her Friend, if any, indicating whether the Friend will be a representing or merely an accompanying Friend. It is the responsibility of the Student to inform his or her Friend, if any, of the arrangements for the hearing. If a Friend is speaking on behalf of the Student, the Student will surrender the right to speak on his or her own behalf, except as a witness. Unless the Chair of the NDAC agrees that exceptional circumstances prevent it, the Student must attend the hearing for the appeal to be heard, and must be ready to appear as a witness at the NDAC's request. This is so even if the Student has asked a Friend to speak on his or her behalf.

5.12 *Additional documentation.* If the Student or the College Representative wishes the NDAC to take account of any additional documentation or written submissions, copies must be provided to the Secretary at least 5 days before the hearing. The Secretary will then ensure that it is circulated to the NDAC and the other party as soon as possible. Any documentation submitted after this deadline will not be considered by the NDAC unless the Chair of the NDAC decides that exceptional circumstances warrant its inclusion.

5.13 *Identity of witnesses.* Not less than 5 days before the hearing, the Student and the College Representative shall inform the Secretary of any witnesses they wish to call at the hearing. The Chair of the NDAC shall also inform the Secretary of any the witnesses that the NDAC itself intends to call if they are not called by the parties. The Secretary will in advance of the hearing provide a list of all these witnesses to the Student, the College Representative and the NDAC members. Save where additional safeguards are appropriate, witnesses will normally be

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<sup>5</sup> The JCR and MCR may make available a list of people from among their memberships who have indicated a willingness to be approached to assist with representations and support for the purpose of this NDP. Members of the College welfare team may also be approached if required. These are optional facilities. The Student may bring any member of the College or of its staff who is willing to assist, or nobody at all if preferred.

required to give evidence in person at the hearing, and will be expected to answer questions from NDAC members and from either party as allowed under 5.15 below. It is the responsibility of the person calling the witness to ensure that he or she attends.

- 5.14 *Written testimony.* Where the Student and the College Representative agree that a witness need not attend, or where it is impracticable for a witness to attend, or where in the opinion of the Chair of the NDAC it would not be appropriate for a witness to attend, the NDAC may accept evidence given in a written statement. Any written statements should be submitted to the Secretary at least three working days before the hearing. The Secretary to the NDAC will then circulate them to the other parties and the members of the NDAC as soon as possible.
- 5.15 *Order of speaking and adducing evidence.* The Student (either in person or through his or her Friend) and the College Representative will have the opportunity to address the NDAC at the hearing. The NDAC may also hear witnesses in any order and in any manner that to it seems appropriate, having regard to the requirements of natural justice. Questions will be asked of witnesses in the first instance by the members of the NDAC. The Student will not be permitted to ask questions directly, but will be provided with the opportunity to put questions to witnesses through the Chair. Where the reporter attends the hearing, the Chair will ensure that the reporter and the Student have an appropriate opportunity to comment on any evidence the other has provided. Any witness of whom questions are asked by the calling party will also be subject to cross-examination by the other party. The College Representative and the Student also have the right to make closing speeches, in that order.
- 5.16 Additional safeguards may apply as appropriate in line with other College policies. For example, if the Chair decides that it would be appropriate to invite witnesses to give evidence in person, he or she will consider whether any particular arrangements are required to safeguard the interests of the witnesses. Such arrangements may be put in place at the discretion of the Chair but may include: separate waiting areas for the reporter and the Student; the reporter bringing a Supporter to sit with them while addressing the NDAC and answering questions; the reporter addressing the NDAC from behind a screen; the reporter responding to questions via online-link from a different location. Such measures are likely to be required in sexual misconduct cases.
- 5.17 *Regulation of procedure.* Subject to the above, the NDAC has the power (having regard to the requirements of natural justice) to regulate the procedures governing preparations for the hearing, and the hearing itself, so as to ensure that the process is fair and reasonable and, so far as possible in view of the seriousness of the case, informal and flexible.
- 5.18 *Making of decision by NDAC.* When the NDAC members consider their findings and recommendations, each shall be given the opportunity to present and discuss his or her impressions and conclusions regarding the issues and the hearing. The NDAC will attempt to reach a unanimous conclusion regarding its findings and recommendations. If a unanimous conclusion cannot be reached, a motion for a decision may be made by any NDAC member other than the Chair. The success or failure of any motion shall be determined by simple majority vote. The NDAC will not take account of any information or documents which were not available to the Student or which were not available to the College Representative at or before the hearing.



- 5.19 *Notification of decision by NDAC.* The decision of the NDAC is announced by notice in writing to the Master, the Student, and the College Representative. The decision will not be announced until at least the next working day after the hearing. The NDAC may however take up to 5 days after the hearing to reach and to announce a decision. Within 10 days of the hearing, the NDAC will produce a written report setting out their findings and recommendations, and the reasons for them. In case of a majority decision, the decision and the reasons shall be those of the majority. No dissenting opinion will be presented.
- 5.20 *Possible disposals by NDAC.* The NDAC may, at its discretion, uphold the implementation of the disciplinary measure or vary the conditions of its implementation or require those conditions to be satisfied afresh or override the whole measure and substitute any alternative disposal which it was open to the Disciplinary Panel to have imposed in place of the disposal, having regard to the same principles and purposes to which the Disciplinary Panel was required, under this NDP, to have regard.
- 5.21 *Finality and further appeals.* The decision of the NDAC is final and not open to further appeal within the College. The Governing Body of the College does not interfere with it. The finality of the NDAC's determination is without prejudice to the right of the Student to make appeals or other applications to bodies outside the College, in particular to the Conference of Colleges Appeal Tribunal (CCAT), or to the Office of the Independent Adjudicator (OIA). The Master will issue to the Student a Certificate of Completion of Procedures once all in-College remedies have been exhausted.

January 2024

## Appendix 1

The below provides an indication of the sanctions which might apply in instances of sexual misconduct depending on the nature of the offence. This is non-exhaustive in scope and subject to the particular circumstances in any given case:

<b>OFFENCE</b>	<b>INDICATIVE SANCTION</b>
Sexual Intercourse without consent or engaging in a sexual act without consent	Expulsion
Attempting to engage in sexual intercourse or a sexual act without consent	Any sanction(s) as provided for under the NDP up to and including Expulsion
Sharing private sexual materials of another person without consent	Any sanction(s) as provided for under the NDP up to and including Expulsion
Kissing without consent	Any sanction(s) as provided for under the NDP up to and including Expulsion
Touching inappropriately through clothes without consent	Any sanction(s) as provided for under the NDP up to and including Expulsion
Inappropriately showing sexual organs to another person	Any sanction(s) as provided for under the NDP up to and including Expulsion

## Appendix 2

Penalties that may be imposed by the Dean for any offence under this NADP

- a fine of up to £500<sup>6</sup> to be added to the Student's College battels; or
- community service of up to 12 hours on College premises or an order to attend a relevant workshop or training, so scheduled as to give priority to the Student's academic work; or
- a ban from any specified College location, facility, or service, not including the student's own College-provided living accommodation or the route to it, special regard to be had to any impact that the ban may have on the Student's ability to progress with his or her academic work during the period of the ban;
- a ban of a specified duration from the Lindsay Bar, or from the JCR, or from Jowett Walk, or from any or all parts of Holywell Manor, or from the College boathouse, or from the College sports ground, or from any specified College location, facility, or service which, for the Student, serves an exclusively or almost exclusively recreational function;
- moving the Student from their current College-provided living accommodation to a different room in or out of the College but provided by the College without an increase in rent;
- the removal from their control of electrical equipment or other property belonging to a student which causes risk or disturbance to members of the College;
- a requirement to make a personal apology to a person against whom the offence was committed, whether or not they are a member of College;
- any combination of penalties under 3.4.1 to 3.4.7 or a combination of a penalty under any of 3.4.1 to 3.4.7 with a conditional discharge under 3.5.1.

*Decanal disposals other than penalties.* The following non-penal disposals are also available to the Dean in respect of any offence under this NDP:

- a conditional discharge, whereby penalties or further penalties will not be applied to the Student, so long as certain conditions are satisfied; or
- an absolute discharge.

Conditions to be satisfied for the purposes of 3.5.1 may be set out in a conduct agreement, where assent to the agreement is itself a condition of the discharge.

*Cases involving sexual misconduct.* In cases involving sexual misconduct, 3.5 and 3.6 above should be considered in conjunction with Appendix 1.

*Provision for passing on of costs.* Irrespective of the penalty or other disposal imposed for an offence under this NDP, it is always open to the Dean to pass on to the Student who has committed an offence under this NDP, in addition, any reasonable costs that have been borne by the College in direct consequence of the offence, for instance the removal of graffiti from

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<sup>6</sup> £500 at October 2015. The College may periodically revise this maximum in line with RPI.

College property, but not including any cost attributable only to the time spent on the detection, investigation or determination of the Student's case by any Officer of the College, including the Dean and Junior Deans.