



Aston University

Disciplinary Board Procedures 2013-14

***Protocol for Meetings of the Senate
Disciplinary Appeals Committee***

***Office of the Independent Adjudicator for
Higher Education (OIA)***

***Approved by the Regulation Sub-
Committee and applicable to all students***

<i>Disciplinary Board Procedures</i>	3
<i>Protocol for Meetings of the Senate Disciplinary Appeals Committee</i>	10
<i>Office of the Independent Adjudicator for Higher Education (OIA)</i>	11

These procedures should be read in conjunction with the Regulations on Student Discipline (REG/13/501).

Procedures for the Operation of the Disciplinary Board referred to in the Regulations on Student Discipline.

1. Disciplinary Board

- 1.1 The membership of the Disciplinary Board shall be:
 - a the Chair, appointed by the Senate
 - b two members of the Academic Staff, nominated by the Senate
 - c two members of the Academic Assembly, nominated by its Standing Committee
 - d two students of the University, nominated by the Students' Union Council annually.
- 1.2 The members for any individual Disciplinary Board will be drawn from a panel of appropriately nominated nominees. The panel shall include an alternative Chair.
- 1.3 The panel of Academic Staff and Academic Assembly nominees for the Disciplinary Board shall be approved by the Senate and members shall be appointed for a two year term of office. Retiring members will be eligible for re-nomination.
- 1.4 Members will be asked to declare that they are free from any conflict of interest in the case to be heard.
- 1.5 If any member of the Board is unable to be present at the hearing, the Secretary of the Disciplinary Board may then fill the place from among the panel of nominees. The student must be notified of any such change in the composition of the Board.
- 1.6 If for any reason it is necessary to appoint additional members, the Vice-Chancellor or Senior Pro-Vice-Chancellor, the Chair of the Academic Assembly, and the President of the Students' Union are authorised to appoint such members from the respective classes on behalf of the appointing bodies.
- 1.7 The quorum for the Board shall be the Chair, plus at least four members, one of whom must be a student member. If a quorum of members is not present at the Board, it shall be reconvened normally not more than fourteen days later.
- 1.8 The Senate shall appoint a person to present the University's case before the Disciplinary Board (the 'University Presenter'), except in cases of academic offences, where the University Presenter shall normally be the Academic Offences Officer who has dealt with the case in the School (see Regulations on Student Discipline, Part C, Academic Matters). The University Presenter shall not be a member of the Board.
- 1.9 The Disciplinary Board shall have the power to adjourn, continue or postpone a hearing. No case may normally be adjourned or postponed for a period of more than fourteen days at any one sitting of the Board.
- 1.10 The Secretary to the Board shall be appointed by the Chief Operating Officer or nominee and shall keep the official and working records of the case.
- 1.11 Confidentiality of Disciplinary Board Proceedings
 - a The decisions taken by the Disciplinary Board may be communicated only by the Director of Registry and Student Planning, Chief Operating Officer or nominee, Authorised Discipline Officer, and the Chair and Secretary of the

Board. Where the case involves someone who has been directly affected by the offence (e.g. assault), that person may be informed of the outcome.

- b In all cases an official record of the proceedings and the decisions reached, including agenda papers, minutes and correspondence with students, shall be kept and retained for six years from the year in which the offence occurs unless the student is expelled or an appeal is lodged in which case such papers shall be retained for ten years. All records of the case, apart from minutes of the Board hearing, will be destroyed immediately if the charge is not found to be proven.
- c All admissions and findings of guilt, together with penalties imposed shall be notified to the Chief Operating Officer, or their nominee, and to the relevant Executive Dean and/or person designated by Senate in the case of a collaborative programme with a partner institution. Admissions and findings of guilt shall be recorded on the student's University and School record. The University record is held in perpetuity. The University will inform outside bodies such as accrediting bodies or partner institutions, where relevant.

2 Cases Referred to the Disciplinary Board

- 2.1 A student whose case is to be heard by the Disciplinary Board shall be sent a written summons by the Secretary at least twenty-one days before the date of the hearing. This summons shall call the student to appear before the Disciplinary Board and give a brief but clear specification of the charge. The written summons is normally a letter sent by email to the student's Aston University email address.
- 2.2 If the student does not appear on the date appointed and the Disciplinary Board is satisfied that notice of the hearing was properly served, the Disciplinary Board may proceed to deal with the charge and, if necessary, impose the appropriate penalties in the student's absence.
- 2.3 In addition to the written summons and a weblink to the Regulations on Student Discipline and any appropriate Code of Practice, including these Disciplinary Board Procedures, the student must be notified:
 - a of the requirement to answer the charge in writing at least ten days before the date fixed for the hearing by either admitting, denying or challenging it as not being properly brought (see paragraph 2.4 below);
 - b of the membership of the Disciplinary Board
 - c that if the student believes any member of the Disciplinary Board may have a conflict of interest, this must be lodged in writing with the Secretary at least ten days before the date of the hearing;
 - d that if the student wishes to deny the charge, they may call witnesses in their defence. Witnesses may be called by either the student or the University and their names and statements shall be submitted to the Secretary at least ten days before the date of the hearing. Statements shall be made available to all parties at least seven days before the date of the hearing;
 - e that if the student wishes to deny the charge, they may submit written material in their defence and that a copy of this written material must be submitted to the Secretary at least ten days before the date of the hearing. The written material shall be made available to all parties at least seven days before the date of the hearing;
 - f that the student is expected to attend the hearing in person, may choose to be represented by another person and may in addition be accompanied by a

friend. The names should be submitted to the Secretary at least ten days before the date of the hearing;

- g that the student may approach a personal tutor, other members of the University or the Advice and Representation Centre in the Students' Union for advice as to procedure and the action which may be taken.

- 2.4 If the student wishes to challenge the charge as not being properly brought, this must be done in writing to the Secretary at least ten days before the date fixed for the hearing, and the question shall be decided by the Board at the date fixed for the hearing. If the charge is found by the Disciplinary Board to be properly brought, the Disciplinary Board shall proceed directly to hear the charge.
- 2.5 Where the student has identified a possible conflict of interest in the membership of the Board the student will be required to give the Secretary the grounds of the objections. The Chief Operating Officer or nominee or the Director of Registry and Student Planning will then decide in their absolute discretion on the validity of these grounds and any decision regarding membership will be final and binding on the student.
- 2.6 The Disciplinary Board may, in its entire discretion, admit new evidence submitted or hear witnesses not previously notified or in respect of which witness statements have not been submitted in accordance with paragraph 2.3d. The party wishing to admit such evidence or call such witnesses shall make a submission to the Board at the commencement of the hearing as to why the evidence should be admitted or why the witness should be heard.
- 2.7 The Board will take into account any mitigation raised by the student, together with documentary evidence, where this can be provided (e.g. medical evidence, bank statements, etc).
- 2.8 If the student fails to respond to the charge without good reason, a Board shall be arranged in the student's absence, and the hearing shall proceed on the basis that the student has pleaded not guilty to the charge. If the Disciplinary Board finds the charge to be proven it may proceed to impose whatever penalty it thinks fit in the student's absence in accordance with the relevant section of the Regulations on Student Discipline.
- 2.9 If the student wishes to admit the charge, the student is then required to appear before the Board to hear its decision on the penalty. If the student does not appear to hear the penalty, the Board may nevertheless impose a penalty which will be notified to the student in writing.
- 2.10 Where the student admits an offence which has had a direct effect on another person (e.g. assault) that person may be invited to submit an 'impact statement'.
- 2.11 If the student wishes to deny the charge the University's case shall be presented by the University Presenter.
- 2.12 Members of the Disciplinary Board, the University Presenter, the student, and any person representing the student will have the following information available:
 - a the detailed wording of the charge and any relevant supporting documents, including a summary of the University Discipline Officer's investigations, and, where applicable, copies of witness statements;
 - b the student's response to the charge;
 - c the names of any witnesses to be called by the University Presenter in support of the charge and copies of their statements;

- d the names of any witnesses to be called by the student and copies of their statements;
 - e a copy of any written material submitted by the student in his or her defence;
 - f the name of any person(s) accompanying and/or representing the student;
 - g a copy of any impact statement submitted by the victim of the offence;
 - h a copy of the Regulations on Student Discipline and any appropriate Code of Practice.
- 2.13 In addition, any record of the student's previous misconduct will be made available to the Board if and when the question of penalty is being debated.
- 2.14 Witnesses may, for good cause, be granted anonymity by the Chief Operating Officer or nominee, or the Director of Registry and Student Planning or nominee and may, at the discretion of the Chair, be accompanied for moral support by a person designated by the Chair.
- 2.15 Witnesses cannot be compelled to attend disciplinary hearings. If a student's defence is prepared on the understanding, from the agenda papers, that they will have the opportunity to question a witness and the witness fails to attend the hearing, the Chair may offer the student an adjournment to allow the case to be prepared on the basis that the witness may not attend the future hearing date.
- 2.16 The University will aim to accurately convey the status of witnesses to be called (e.g. written statement only, expected to attend). It is the student's responsibility to arrange for the witnesses they intend to call to submit written statements by the specified deadline and to attend the hearing.
- 2.17 The case against a student is presented as follows:
- a the Chair shall outline the process to be followed, as detailed below;
 - b the charge will be read out and the student will reply to it;
 - c in the event of the student denying the charge, the University Presenter details the case against the student, and any witnesses for the University's case are heard;
 - d members of the Board may ask questions, through the Chair, of the University Presenter and/or their witness(es) at any time;
 - e if the student denies the charge, the evidence and witnesses on behalf of the student are heard;
 - f where attending witnesses are called, they may be examined, cross-examined and re-examined. If a student has chosen to be represented at a hearing, the questioning of witnesses will be undertaken by the representative. Witnesses shall leave the hearing once they have given their evidence;
 - g members of the Board may ask questions, through the Chair, of the student and/or representative and/or their witness(es) at any time;
 - h both the student, or the student's representative, and the University Presenter shall be allowed to make a final address, the student or their representative being allowed to make the final statement;
 - i the student, the student's representative and/or friend and the University Presenter shall withdraw while the Board considers its decision;
 - j in considering the evidence, the Board should consider the balance of probabilities. The burden of proof required is not as in a criminal court, where

a case has to be 'beyond reasonable doubt'. A student shall not be found guilty of an offence unless a majority of the voting members of the Board present so decide. The Chair of the Board normally shall not be a voting member but will have a casting vote. Penalties shall be decided by the same voting procedure.

- 2.18 The student is permitted to admit the charge or any part of it at any stage in the proceedings.
- 2.19 The student, any person accompanying and/or representing the student and the University Presenter will return to hear the verdict. If the Board finds the charge to be proven, or if the student has admitted the charge, the student shall have the opportunity to be heard in mitigation either personally or through their representative before any penalty is determined. The student, any representative and/or friend and the University Presenter will then withdraw whilst the Board considers the penalty.
- 2.20 When determining penalties, the Board shall take into account any material mitigation submitted by the student. Where the Board concludes that these circumstances are relevant to the case, this shall normally be taken into account when assessing the severity of the offence. In determining whether circumstances should be taken into account, the Board shall consider whether those circumstances have previously been disclosed in a timely manner. The Board is unlikely to accept mitigation when considering a repeat offence of plagiarism, collusion or cheating (Regulations on Student Discipline D1.6).
- 2.21 In determining the penalty, the Board may also take into account any record of previous misconduct presented by the University, whether or not it occurred on University premises and regardless of whether the student was a member of the University at the time. The Board should also take into account the degree of premeditation, whether the offence was repeated or continuous, and the extent of the impact upon staff, students, the environment or the standing of the University.
- 2.22 The penalties the Disciplinary Board may impose are detailed in Regulations D1.4 and D1.5 of the Regulations on Student Discipline.
- 2.23 Where relevant the Disciplinary Board must state whether the result imposed is condonable or not and, in the case of a research student whether resubmission is permitted.
- 2.24 The outcome of the hearing will be confirmed to the student in writing within seven working days.
- 2.25 All exclusions or expulsions shall be reported through the Chief Operating Officer or nominee to Senate.
- 2.26 Penalties other than reparation for damage and injury to property can be suspended, conditional on the good behaviour of the student, for a specified period.
- 2.27 The student, any person accompanying or representing the student and, if s/he wishes, the University Presenter, will return to hear the penalty. The student will be advised of the right of appeal (procedures for which are set out in Section 4 below).
- 2.28 Penalties, apart from exclusion and expulsion, shall not be imposed until the ten-day period for appeal has expired. If an appeal is lodged, the penalty, apart from that of exclusion or expulsion which are effective immediately, shall be suspended until the appeal has been determined by the Senate Disciplinary Appeals Committee.

3 The Role of the University Presenter

- 3.1 Paragraph 2.11 above states that, in the instance of a student denying an allegation, and it being referred to the Disciplinary Board, the University's case, shall be presented by the University Presenter.
- 3.2 In cases of alleged academic offences the University Presenter shall be the Academic Offences Officer for the School or programme concerned (see Regulations on Student Discipline, Part C Academic Matters).
- 3.3 The University Discipline Officer will give the University Presenter details of the case. The University Presenter should decide whether the case will be orally presented (the usual practice) or in writing only. The University Discipline Officer and the University Presenter will decide what evidence will be submitted to the Disciplinary Board and which, if any, witnesses, will be called for the University.
- 3.4 The University Presenter should present the case in such a way as to draw attention to any issues which need to be explored further and which could have a bearing on the outcome of the hearing.

4 Appeals

4.1 Against a Penalty Imposed by Summary Jurisdiction

- 4.1.1 A student may appeal to the Disciplinary Board against the penalty imposed by an Authorised Discipline Officer or an Academic Offences Officer. The student must give notice in writing of the grounds for appeal, including a summary of their case, to the University Discipline Officer within ten days of the decision being notified to the student.
- 4.1.2 The grounds for appeal are detailed in Regulations D2.1 and D3.3 of the Regulations on Student Discipline.
- 4.1.3 If the student does not appear on the date appointed and the Disciplinary Board is satisfied that notice of the hearing was properly served, the Disciplinary Board may proceed to deal with the appeal and, if necessary, set aside, vary (including increasing or decreasing the severity of the original penalties) or confirm the penalty in the student's absence, the penalties available to the Board being those set out in Regulations D1.4 and D1.5 of the Regulations on Student Discipline.
- 4.1.4 In addition to the written summons (normally sent by email to the student's Aston University email address) and a weblink to the Regulations on Student Discipline and these Disciplinary Board Procedures, the student must be notified:
- a of the membership of the Disciplinary Board and the names of any witnesses to be called by the Board in support of the penalty;
 - b that if the student believes any member of the Disciplinary Board may have a conflict of interest, this must be lodged in writing with the Secretary at least ten days before the date of the hearing;
 - c that the student may call witnesses in support of their appeal, and that the student must inform the Secretary of the names of these witnesses and provide copies of witness statements at least ten days before the date of the hearing;
 - d that the student may submit written material in support of their appeal and this must be submitted to the Secretary at least ten days before the date of the hearing;

- e that the student is expected to attend the hearing in person, may choose to be represented by another person and may in addition be accompanied by a friend whose name(s) should be submitted to the Secretary at least ten days before the date of the hearing. If the student does not attend, procedures shall be as specified in paragraph 4.1.3 of these Procedures;
 - f that the student may approach a personal tutor, other members of the University or the Advice and Representation Centre in the Students' Union for advice as to procedure and the action which may be taken.
- 4.1.5 The Secretary shall obtain from the Authorised Discipline Officer or Academic Offences Officer concerned a brief written report of the circumstances of the case. This report shall also be submitted to the student in advance of the hearing.
- 4.1.6 The appellant shall be allowed to call or present fresh evidence.
The Disciplinary Board has the power to call any witness who has given evidence before the Authorised Discipline Officer concerned, or to call before it additional witnesses and to admit fresh evidence.
- 4.1.7 Witnesses cannot be compelled to attend appeal hearings. If a student's appeal is prepared on the understanding, from the agenda papers, that they will have the opportunity to question a witness and the witness fails to attend the hearing, the Chair may offer the student an adjournment to allow the appeal to be prepared on the basis that the witness may not attend the future hearing date.
- 4.1.8 The University will aim to accurately convey the status of witnesses to be called (e.g. written statement only, expected to attend). It is the student's responsibility to arrange for the witnesses they intend to call to submit written statements by the specified deadline and to attend the hearing.
- 4.1.9 The appeal is heard as follows:
- a the grounds for the appeal are presented by the student or his/her representative; the Disciplinary Board may admit any witnesses it judges relevant to the grounds of the appeal;
 - b the Authorised Discipline Officer or Academic Offences Officer details the case against the student; the Disciplinary Board may admit any witnesses it judges relevant to the University's case;
 - c where witnesses attend, they may be examined, cross-examined and re-examined;
 - d members of the Disciplinary Board may ask questions of witnesses, the appellant, the Authorised Discipline/Academic Offences Officer, or other participants only at the end of each stage of the hearing, and then through the Chair;
 - e both the student, or the student's representative, and the Authorised Discipline/Academic Offences Officer shall be allowed to make a final address, the student or their representative being allowed to make the final statement;
 - f the appellant, any person accompanying or representing the appellant, the Authorised Discipline/ Academic Offences Officer, and all witnesses shall withdraw while the Board considers its decision.

- 4.1.10 The Board will consider the evidence that has been heard, and may at this stage choose to reconvene the hearing to a later date in order to obtain further evidence or advice from other parties. Should this be the case, all parties will be invited to attend the reconvened meeting.
- 4.1.11 The Board may accept or reject the appeal in whole or in part.
- 4.1.12 The Board may set aside, vary (including increasing or decreasing the severity of the original penalties) or confirm the penalty imposed by the Authorised Discipline Officer or Academic Offences Officer, and in doing so, may take into account any record of previous misconduct, whether or not occurring on University premises and regardless of whether the student was a member of the University at the time, the penalties available to the Board being those set out in Regulations D1.4 and D1.5 of the Regulations on Student Discipline.
- 4.1.13 The Chair of the Board normally shall not be a voting member but will have a casting vote. Penalties shall be decided by the same voting procedure.
- 4.1.14 The Chair will announce the Committee's decision, either by calling the parties together or in writing. The outcome of the hearing will be confirmed in writing within seven working days.
- 4.1.15 The decision of the Disciplinary Board shall be final and no further appeal shall be permitted within the University.

4.2 Protocol for Meetings of the Senate Disciplinary Appeals Committee

- 4.2.1 The quorum of the Committee shall be at least two thirds of the membership, including the Chair. The Chair confirms that no members of the Committee have any conflicts of interest.
- 4.2.2 The Chair outlines the procedures for the hearing to both parties.
- 4.2.3 The Chair asks the appellant (or representative) to present their case in support of the appeal. The Committee may admit any witnesses it judges relevant to the case. The witnesses may be examined by the appellant or their representative, cross-examined by the University Presenter and re-examined by the appellant or their representative.
- 4.2.4 Members of the Committee may ask questions, through the Chair, of the student and/or representative and/or their witness(es) at any time.
- 4.2.5 The Chair asks the University Presenter to respond to the appeal, and to introduce any witness(es) in support of the response. The witnesses may be examined by the University Presenter, cross-examined by the appellant or their representative and re-examined by the University Presenter.
- 4.2.6 Members of the Committee may ask questions, through the Chair, of the University Presenter and/or their witness(es) at any time.
- 4.2.7 The Chair will ask the University Presenter to summarise their case.
- 4.2.8 The Chair will ask the appellant (or representative) to summarise their case.
- 4.2.9 The parties will be asked to leave the meeting and the Committee will consider the evidence that has been heard, and may at this stage choose to reconvene the hearing to a later date in order to obtain further evidence or advice from other parties. Should this be the case, all parties will be invited to attend the reconvened meeting.

- 4.2.10 The Chair of the Disciplinary Board shall be in attendance, but may speak only when requested by the Chair of the Appeals Committee. The Chair of the Disciplinary Board shall be requested to leave the hearing once any points requiring clarification have been resolved.
- 4.2.11 The Chair of the Appeals Committee normally shall not be a voting member but will have a casting vote. Penalties shall be decided by the same voting procedure.
- 4.2.12 The Chair will announce the Committee's decision, either by calling the parties together or in writing. The outcome of the hearing will be confirmed in writing within seven working days.

4.3 Office of the Independent Adjudicator for Higher Education (OIA)

If a student is not satisfied with the way that the University has considered their appeal they may apply to the Office of the Independent Adjudicator (OIA) for an independent review of the case.

The OIA operates an independent student complaints scheme pursuant to the Higher Education Act 2004. The OIA will normally review a case only if all internal University procedures have been exhausted.

Complainants who are considering an application to the OIA are therefore advised to contact the Director of Registry and Student Planning to confirm that this is the case and to obtain a 'completion of procedures letter', if this has not already been provided. If you require assistance in submitting a complaint you may wish to contact the Advice and Representation Centre in the Students' Union.

Aston, like all Universities, is required to comply with the rules of the OIA's scheme.

The service provided by the OIA is free to students.