

SOMERVILLE COLLEGE

Behaviour-related Disciplinary Code

- 1.1 As at other universities, a person accepting admission to the College accepts an obligation to abide by the College Rules (set out in paragraph 3.1 below) and those of the University and to pay such fees, dues and charges as the College or University may lawfully determine. All Students sign an undertaking to abide by the College Rules on entering Somerville.
- 1.2 Please note that By-Law 19 (k) requires all Junior Members to keep themselves informed by checking their pigeonholes and their College email daily, checking for notices in the Porters' Lodge, on College noticeboards, and on the College website <http://www.some.ox.ac.uk/>

2. SCOPE

- 2.1 This Disciplinary Code applies to all Students of the College (hereafter referred to as 'Students'). For the purpose of this Code, Students includes any person matriculated by the University on presentation by the College and still studying for their degree, and any visiting Student admitted to and currently studying at the College.
- 2.2 The Code applies to all conduct taking place within a 'College Context'. College Context is defined as Conduct that takes place:
 - (a) on College premises; or
 - (b) in the course of a College event or function, including a College sporting activity; or
 - (c) if it involved the use of College facilities (such as computer networks) or privileges (such as room bookings); or
 - (d) it was committed against any other member, visitor, officer or employee of the College; or
 - (e) it threatens to bring the College into disrepute.
- 2.3 Electronic communications and online activity are within a College Context if they pass through the College's network or use a College email address. It will be determined whether other communications or activity are within a College context having regard to all of the circumstances of the matter, as explained above.

3. COLLEGE RULES

- 3.1 No Student shall intentionally or recklessly:

- (a) Breach the Deans' Regulations as set out in the Student Handbook. The Deans' Regulations are approved by Education Committee;
- (b) Disrupt or attempt to disrupt teaching or study or research or the administrative, sporting, social or other activities of the College, or disrupt or attempt to disrupt the lawful exercise of the freedom of speech by members, Students, and employees of the College or by visiting speakers, or obstruct or attempt to obstruct any employee or agent of the College in the performance of their duties;
- (c) Occupy or use or attempt to occupy or use any property or facilities of the College except as may be authorised by the College authorities concerned;
- (d) Forge or falsify expressly or impliedly any University or College certificate or document or knowingly make false statements concerning standing or results obtained in any examination;
- (e) Engage in any activity likely to cause injury to others or to impair their safety;
- (f) Engage in violent, indecent, disorderly or threatening or offensive behaviour or language;
- (g) Engage in harassment, including sexual harassment, as defined in the College's Policy and Procedure on Harassment, or sexual misconduct, which is defined as "any behaviour of a sexual nature which takes place without consent where the person alleged to have carried out the misconduct has no reasonable belief in consent";
- (h) Decline or refuse to obey any reasonable lawful instruction of an officer or employee of the College;
- (i) Refuse to disclose his or her name and other relevant details to an officer or an employee or agent of the College, University or of any college in circumstances where it is reasonable to require that that information be given;
- (j) Use, offer or sell or give to any person drugs or other substances, the possession or use of which is illegal;
- (k) Engage in any other conduct which threatens to bring the College into disrepute among reputable people.

4. GENERAL

- 4.1 These disciplinary processes will be kept separate from issues of academic progress, monitoring and support.
- 4.2 Any findings of a breach of College Rules, by the Dean, Decanal Officer, Behaviour-Related Disciplinary Panel or Appellate Panel will be based upon the balance of probabilities.

- 4.3 Any time limits contained in these disciplinary procedures may be extended at the discretion of the Dean, Decanal Officer, the Behaviour-Related Disciplinary Panel or the Appellate Panel as is appropriate, so long as the Student is informed. 'Day' shall mean a full working day (Monday-Friday) and shall exclude Saturday, Sunday, and public holidays.
- 4.4 The College Statutes state that the Principal is responsible for the discipline of Students, provided that no Student's name shall be removed from the books of the College except by the decision of the Governing Body in a Stated Meeting and that such decision shall be final. It is for this reason that an appeal against a decision to expel a Student must be taken directly to the Conference of Colleges Appeal Tribunal.
- 4.5 In practice the Dean, Decanal Officer and the Junior Deans, normally exercise the Principal's jurisdiction over the discipline of Students. The Dean may delegate any part of the process or aspects of it to other members of the College who are suitably qualified or to an external investigator.
- 4.6 Any reference to the Principal shall also refer to the Principal's delegate.
- 4.7 Compliance with the Deans' Regulations may be monitored by the Porters or by Housekeeping staff, and, if necessary, referred to the Decanal Officer and the Dean.
- 4.8 Anonymous reports will only be considered under this procedure in exceptional circumstances where there are compelling reasons to do so. Malicious or vexatious allegations may result in disciplinary action against the complainant.
- 4.9 Once an allegation has been determined under this process, it will not usually be reconsidered, other than by way of an appeal. However, the Dean may determine that it is appropriate to reconsider an allegation in the event that new evidence emerges which, for good reason, could not have been obtained by the College at the time. In deciding whether it is appropriate to consider an allegation for a second time, the College will consider:
- (a) Whether the outcome of the first process has been called into question, and if so why;
 - (b) The length of time that has elapsed and the effect of this on the reliability of any evidence to be considered;
 - (c) The severity of the alleged offence; and
 - (d) The impact on the Student of undergoing a second disciplinary process.

5. DECISIONS TO INVESTIGATE

- 5.1 The Dean will not usually investigate in the following instances, although she will have the discretion to do so where there are exceptional circumstances:

- (a) reports of conduct which happened more than 6 months previously (and particularly if the subject is no longer a current Student) (subject to specific considerations for cases involving sexual misconduct, as set out in Schedule 3);
 - (b) where another body is better placed to investigate (eg the University);
 - (c) where there are ongoing criminal, regulatory or other proceedings in relation to the same matter;
 - (d) where a report has already been considered under this procedure; and/or
 - (e) reports of the most serious kinds of criminal conduct where a report has not been made to the police (see Schedules 2 and 3 for more information).
- 5.2 When deciding whether it is appropriate to investigate, the Dean will consider all the relevant circumstances including:
- (a) whether the report has been determined by an external body (such as a court), and the relevant burden of proof in that procedure;
 - (b) whether it is proportionate to investigate having regard to factors including the cost to the College, the nature and/or seriousness of the report and/or the available remedies (this may be particularly relevant for reports against former Students);
 - (c) whether the Student is on a course resulting in a professional qualification where the alleged misconduct may be of particular relevance.

6. INVESTIGATION

- 6.1 In the event of an alleged breach, the Deans' Office shall contact the student to provide the student with the details of the allegation. For minor breaches of the Deans' Regulations, which are admitted by the student, the Dean or Decanal Officer will follow the procedure set out in paragraph 7 below. In all other cases, the Deans' Office will write to the students and ask them to attend for interview which will be conducted by the Dean or Decanal Officer in accordance with the procedure below.
- 6.2 In the event allegations relate to conduct which could amount to serious criminal conduct, or sexual harassment or violence, Schedules 2 and/or 3 will also apply.
- 6.3 The Student may be accompanied by a third party to their interview. The Disciplinary Procedures are internal to the College and do not have the same degree of formality as a court of law. It will not be appropriate, in most cases, for any party to be legally represented at any stage of the Disciplinary Procedures. Students may apply for permission to be legally represented in exceptional circumstances. The decision about whether to allow the Student to be represented will be made by the Dean.

- 6.4 Before interviewing a subject, the Dean or Decanal Officer will explain:
- (a) that the subject does not have to answer questions and that any responses or documents provided may be used by the College in evidence against the subject;
 - (b) that, if the reported conduct could constitute a criminal offence, the police might be able to obtain any records from the disciplinary process in a future investigation; and
 - (c) that if the subject refuses to answer questions this may be taken into account.
- 6.5 The Dean or Decanal Officer shall make reasonable efforts to obtain all relevant evidence from the Student and from witnesses, whether orally or in writing, to the exclusion of hearsay.
- 6.6 The interview may be adjourned if either the Dean, Decanal Officer or the Student reasonably require evidence in relation to the alleged breach to be provided by other persons.
- 6.7 If the Student admits the alleged breach, the Dean or Decanal Officer shall elicit all information about the breach relevant to the penalty and allow the Student a reasonable opportunity to present a justification or excuse for the offence, and evidence in mitigation bearing on the penalty.
- 6.8 If the Student denies the alleged breach, the Dean or Decanal Officer shall investigate whether the alleged breach is established.

7. SUMMARY PROCESS

- 7.1 The Dean can, on a summary basis, impose the following any of the following penalties including in combination; the Decanal Officer can, on a summary basis, impose (a), (b) or (c):
- (a) A formal warning to remain on the Student's College record for a defined period;
 - (b) A fine of up to £500;
 - (c) Community service or mandatory training related to the nature of the offence (e.g. cleaning cigarette ends if the offence was related to smoking);
 - (d) Suspension from some College privileges, to include social and recreational facilities and premises (e.g. bar, gym, common rooms, guest nights), but nothing which will affect the Student's academic work (e.g. library, tutorials, although in some circumstances it may be necessary to exclude Students from use of computing facilities) or access to welfare provision;
 - (e) Being denied the privilege of living in College in subsequent years. In the case of Finalists, this sanction may take the form of being denied the privilege of staying up beyond the last day of their written examinations.

- 7.2 The summary process is unlikely to be appropriate for cases of serious misconduct as set out below.
- 7.3 Before imposing a penalty the Dean or the Decanal Officer must be satisfied from the evidence that, on the balance of probabilities, the offence was committed by that Student, and in circumstances warranting a penalty; and allow the Student a reasonable opportunity to present a justification or excuse for the offence, and a plea in mitigation bearing on the penalty.

8. BEHAVIOUR-RELATED DISCIPLINARY PANEL (“PANEL”)

- 8.1 The Dean will normally refer a case to a Panel if the Dean considers an offence to be serious misconduct, such as (but not limited to):
- (a) violent or threatening behaviour;
 - (b) sexual, racial or other forms of harassment;
 - (c) procuring, possessing, using or supplying illegal drugs or other substances in a manner likely to cause danger to self or others; or
 - (d) wilful interference with or serious disregard of College Rules or equipment relating to fire prevention or other health and safety matters; or infringement of the University’s or the College’s Rules on computer use.
- 8.2 In the event allegations relate to conduct which could amount to serious criminal conduct, or sexual harassment or violence, Schedules 2 and/or 3 will also apply.
- 8.3 The referral shall state the details of the alleged breach of the College Rules, including, wherever possible, the time and the names of any complainants or other witnesses.
- 8.4 The Panel shall be comprised of three members of Governing Body and chaired by the most senior member. None of the Panel members shall have been a tutor or supervisor of the Student referred to it nor previously connected with the case. In exceptional cases, the Dean may determine that one member of the Panel may be external to College.
- 8.5 The Chair is responsible for ensuring arrangements for a note-taker and distribution of papers are made via the Academic Office.
- 8.6 If possible, within five days of the referral the Panel shall write to the Student and require them to attend for a hearing, to be held in private at a time and place stipulated. The Student will usually be provided with five days’ notice. In the event the case is particularly complicated the Student may request an extension of this notice period. Factors that could warrant an extension include but are not limited to the case involving a large volume of evidence or the questioning of witnesses.

- 8.7 The Student is entitled to have copies of all documents given to the Panel. The Student is also permitted to recommend witnesses and to submit evidence. If the Student wishes to submit any written evidence, it must be provided to the Panel at least three days before the date of the Hearing.
- 8.8 If any person required to attend such a hearing before the Panel fails to make an appearance, the Committee may, at its discretion, adjourn the proceedings and in particular, if the Student concerned fails to appear, may deal with the case in their absence, if satisfied that proper notice has been given.
- 8.9 The Panel shall permit the Student to be accompanied by a third party. The Disciplinary Procedures are internal to the College and do not have the same degree of formality as a court of law. It will not be appropriate, in most cases, for any party to be legally represented at any stage of the Disciplinary Procedures. Students may apply for permission to be legally represented in exceptional circumstances. The decision about whether to allow the Student to be represented will be made by the Panel.
- 8.10 The Chair shall explain the procedures to be followed at the hearing and shall read out the allegations in the referral.
- 8.11 The Panel, through the Chair, may ask questions of the Student and the Dean and may call witnesses as appropriate. The Chair may ask questions of the witnesses further to requests by the Dean.
- 8.12 The Student may make a statement, call witnesses, and ask questions of the witnesses through the Chair. Witnesses shall not be cross examined directly.
- 8.13 The Student and their supporter will withdraw before the Panel reaches a decision.
- 8.14 The Panel shall determine, taking into account any representations made by or on behalf of the Student, whether any breach of the College Rules has been established.
- 8.15 At the conclusion of the hearing, if a breach has been found, the Panel shall determine the appropriate penalty (if any) taking into account any representation made by or on behalf of the Student. The Panel shall have the full range of sanctions available to them, including those set out in paragraph 7.1 above; fines exceeding £500; suspension; and making a recommendation that the Student is expelled. Any penalties imposed will be in proportion to the gravity of the offence. A decision to expel the Student must be confirmed by Governing Body. A list of indicative sanctions can be found at **Schedule 1**.
- 8.16 The Panel shall normally inform the Student in writing of its determination within five days. If there is a delay in determination, the Student will be informed.

9. PRECAUTIONARY MEASURES

- 9.1 The Principal may suspend rights of access to all or any specified College premises and facilities as necessary (even in a non-disciplinary situation) to protect the College or any of its members, or as an interim measure pending further investigation or disciplinary proceedings. Any restrictions placed on a Student in this manner are a neutral act and shall have no bearing on any later decision.
- 9.2 Precautionary measures should aim to cause the minimum restriction necessary to protect the individuals concerned or other members of the College or University from an identified risk, or to protect an investigation under this procedure, and should take into account safeguarding considerations where relevant.
- 9.3 Precautionary measures are particularly likely to be appropriate in cases involving a risk to any individual's mental or physical health, issues of a highly sensitive or confidential nature and/or where there is a threat of serious disruption to College activities.
- 9.4 The College may also determine that it is appropriate to refer a matter to the police or seek guidance from the police where the report relates to serious criminal conduct and/or where there is a significant imminent risk of harm to Students or staff.

10. APPEAL

- 10.1 The Student shall have the right to appeal to the Principal against a finding of breach and/or the penalty imposed by the Dean or the Panel.
- 10.2 In the event that a penalty other than suspension or expulsion is imposed, the appeal may be considered by the Appellate Panel as below.
- 10.3 In cases of suspension or expulsion the Student must appeal directly to the Conference of Colleges Appeal Tribunal as explained in paragraph 10.9 below.
- 10.4 An appeal to the Appellate Panel can only be made on the following grounds:
 - (a) That the procedures were not followed properly;
 - (b) That the decision maker(s) reached an irrational decision;
 - (c) That the Student has new material evidence that they were unable, for valid reasons, to provide earlier in the process;
 - (d) That there is bias or reasonable perception of bias during the procedure;

- (e) That the penalty imposed was clearly disproportionate, or not permitted under the procedures.
- 10.5 The Student shall notify the Dean in writing of their intention to appeal within two days of the receipt of the Panel's or the Dean's determination and has a further ten days to provide their written representations
- 10.6 The appeal will be considered by an Appellate Panel comprised of three members of Governing Body and chaired by the Principal. None of the Panel members shall have been a tutor or supervisor of the Student referred to it nor previously connected with the case. In exceptional cases, the Principal may determine that one member of the Panel may be external to College.
- 10.7 The Appellate Panel may, after taking into account any representations which the Student may wish to make in writing, accept, modify, or reject the ruling of the Panel.
- 10.8 The Appellate Panel shall inform the Student in writing, as soon as practicable of its determination.
- 10.9 If a Student has been expelled or suspended, Conference of Colleges Appeal Tribunal (CCAT) will consider an appeal against a decision to impose a substantial penalty. The CCAT process can be found [here](#).
- 10.10 If the Student remains dissatisfied, the [Office of the Independent Adjudicator](#) for Higher Education will consider complaints from Students about their institution.

11. ILL-HEALTH

- 11.1 If in the course of applying the College's procedures in a particular case either the Student concerned or the Dean believes that the Student's medical health at the time was, or has become, a material consideration the procedures shall be adjourned for medical advice.
- 11.2 Such advice should preferably be sought from the College Doctor after obtaining an appropriate waiver of confidentiality from the Student. With the agreement of the Dean, but with the same waiver, the opinion may be sought from the Student's own doctor or one of their choosing.
- 11.3 If in the light of this advice the Dean is of the opinion that a further opinion would be materially helpful, they may recommend that the Student has an independent specialist medical examination at the expense of the College if the Student is willing to waive confidentiality.
- 11.4 If the Student refuses to cooperate with the Dean or the College by waiving confidentiality, or to attend for the purposes of an independent medical examination; and if their conduct gives rise to a need for urgent action they may be suspended for up to two weeks.

- 11.5 Having considered the medical evidence, or in the event the Student has refused to co-operate and concerns relating to their health are ongoing, the Dean may, after taking into account any representation that the Student may wish to make in writing or in person or through an accompanying friend or adviser, decide:
- (a) that the Student is not in fact suffering from a serious problem relating to ill health — in which case the adjourned disciplinary procedures may be resumed.
 - (b) that the health problem is considered serious and relevant to the alleged breach of the Disciplinary Code, and refer the Student to the University Fitness to Study Panel;
 - (c) to discharge the Student, whether absolutely, or subject to conditions;
 - (d) that despite the Student's ill-health disciplinary proceedings should be resumed.
- 11.6 In cases where ill-health could be a factor, the College will supply the Student with information regarding welfare resources available to them.

12. UNIVERSITY OFFENCES

- 12.1 If a Student is expelled by the University it would become impossible for them to complete the course that brought them here. They would therefore be deemed to be expelled by the College.
- 12.2 If a Student is suspended or rusticated by the University the College will, subject to a right of representation by the Student, do likewise.

13. CONFIDENTIALITY AND DATA PROTECTION

- 13.1 It is essential that those involved in disciplinary procedures (including Complainants) observe the strictest confidentiality consistent with operating the procedures. Accusations of theft and harassment, for example, are potentially defamatory.
- 13.2 Further to the conclusion of a disciplinary process other members of College staff may need to be told the outcome. This could include senior members of staff such as the Senior Tutor, as well as the Student's Subject Tutor or Graduate Supervisor, and College Staff. If relevant, Departmental Staff may also need to be notified. All documentation regarding the disciplinary procedures must be kept securely and not shared with unauthorised parties. Disciplinary records are retained in line with the Data Protection Act 2018.

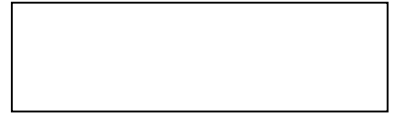
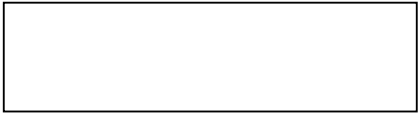
SCHEDULE 1 - INDICATIVE SANCTIONS

This Schedules sets out a non-exhaustive list of types of misconduct and the sorts of sanctions that might be appropriate to address that conduct. It is not intended to be an exhaustive list of types of misconduct, nor is it intended to fetter the discretion of the Dean, Decanal Officer, or the Panel when considering the particular circumstances of the cases that come before them. In cases where there are aggravating or mitigating factors to consider, the Decanal Officer, Dean or the Panel may depart from the sanctions indicated below. When determining the sanction the Dean, Decanal Officer, or Panel may have regard to any warnings that have previously been given in respect of the student's past conduct.

Breach of the Deans' Regulations	Damaging property with graffiti Breaching the provisions relating to noise	Fine Warning Fine
Disrupt or attempt to disrupt teaching or study or research or the administrative, sporting, social or other activities of the College	Stopping a tutorial through disruptive behaviour	Fine
Disrupt or attempt to disrupt the lawful exercise of the freedom of speech by members, Students, and employees of the College or by visiting speakers	Heckling at an event Being a member of a group action which prevents an event proceeding	Formal warning Fine Suspension
Obstruct or attempt to obstruct any employee or agent of the College in the performance of their duties	Ignoring the instructions regarding a College event	Formal warning Fine
Occupy or use or attempt to occupy or use any property or facilities of the College except as may be authorised by the College authorities concerned	Short term occupation (up to 1 day) Long term occupation	Formal warning Fine Suspension
Forge or falsify expressly or impliedly any University or	Lying about examination results	Formal warning

College certificate or document	Forging part of a University form	Fine Suspension
	Forging a University certificate	Expulsion
Knowingly make false statements concerning standing or results obtained in any examination	Lying during the admissions process	Expulsion
Engage in any activity likely to cause injury to others or to impair their safety	Act/omission that did cause or could have caused a health and safety concern on College premises (for example, smoking cigarettes in non-designated areas, violating lab health and safety rules)	Formal warning Ban from particular premises
	Act/omission that did cause or could have caused serious harm (e.g, failing to follow public health advice or instructions; disabling fire extinguishers, blocking fire exits)	Formal warning Fine Suspension
Engage in violent, indecent, disorderly or threatening or offensive behaviour or language	Violent and aggressive conduct e.g. e.g. - pulling hair, pushing, shoving	Formal warning Fine
	Acting in an intimidating or hostile manner	Formal warning Fine
Engage in harassment, including sexual harassment, as defined in the College's Policy and Procedure on Harassment, or sexual misconduct, which is defined as "any behaviour of a sexual nature which takes place without consent where the person alleged to have carried out the misconduct has no reasonable belief in consent"	Abusive comments relating to an individual's sex, sexual orientation, religion or belief, race, pregnancy/maternity, marriage/civil partnership, gender reassignment, disability or age	Formal warning Compensation Suspension
	Repeatedly following another person without good reason	No contact order
	Repeatedly contacting another person against their wishes	No contact order
	Making unwanted remarks of a sexual nature Formal warning	No contact order
	Kissing without consent	Formal warning No contact order Suspension

	<p>Inappropriately showing sexual organs to another person</p> <p>Sharing private sexual materials of another person without consent</p> <p>Attempting to engage in sexual intercourse or engaging in a sexual act without consent</p> <p>Touching inappropriately through clothes without consent</p> <p>Sexual intercourse or engaging in a sexual act without consent</p>	<p>No contact order Suspension</p> <p>Suspension</p> <p>Suspension Expulsion</p> <p>Suspension</p> <p>Expulsion</p>
Decline or refuse to obey any reasonable lawful instruction of an officer or employee of the College	Refuse to comply with public health instructions	Formal warning Suspension
Refuse to disclose his or her name and other relevant details to an officer or an employee or agent of the College in circumstances where it is reasonable to require that that information be given	Failing to identify yourself on request to a Porter	Formal warning
Use, offer or sell or give to any person drugs or other substances, the possession or use of which is illegal	<p>Possession Class C</p> <p>Possession Class A</p> <p>Dealing</p>	<p>Fine</p> <p>Suspension Expulsion</p> <p>Expulsion</p>
Engage in any other conduct which threatens to bring the College into disrepute among reputable people	<p>Publishing offensive or threatening material on an online forum</p> <p>Being found guilty of a criminal offence</p>	<p>Depending on the seriousness of the conduct (for all):</p> <p>Warning Fine Suspension Expulsion</p>



Organising an event contrary to
public health instructions

SCHEDULE 2 - SERIOUS CRIMINAL CONDUCT

1. Additional considerations will be taken into account where the conduct reported under this Procedure could constitute a serious criminal offence if prosecuted in the criminal courts. This type of conduct requires additional considerations because of the seriousness of the allegations.
2. The Dean will decide whether conduct falls within this definition, taking account of the details in the report. The below table provides guidance as to the sorts of conduct that would usually, or might be considered serious criminal conduct:

Examples of conduct that would usually be considered serious criminal conduct	Examples of conduct that might be considered serious criminal conduct
Conduct resulting in death Conduct resulting in serious injury The most serious sexual offences including rape and attempted rape Stealing involving violence or threat of violence Supply of Class A drugs Criminal damage that endangers life Blackmail	Conduct resulting in less serious injury Other sexual offences Other sexual offences Harassment Damage to property Stalking Possession of drugs and supply of Class C drugs Stealing Fraud Other offences involving dishonesty

3. Owing to its seriousness and the possible criminal sanctions, the investigation of such conduct should be first and foremost a matter for the police and it should usually be reported to the police in the first instance. Any investigation by the College is not an alternative to police investigation, not least because it could prejudice any subsequent police investigation.
4. As such, unless the Dean is satisfied there are strong reasons for investigating having regard to all of the relevant circumstances, the College will usually only carry out an investigation when:
 - (a) the police decide to take no further action; or
 - (b) the Crown Prosecution Service (CPS) decides not to prosecute;
5. Circumstances which may be relevant could include:
 - (a) the seriousness of the conduct complained about;

- (b) the practicability of carrying out an investigation including the length of time since the matters complained about;
 - (c) the risk of prejudicing any future criminal investigation;
 - (d) the complainant's reasons for not going to the police; and
 - (e) the potential impact on the Student who is the subject of the complaint.
 - (f) the Dean obtains permission from the police to investigate in parallel to the police investigation; or
 - (g) the respondent is found not guilty in a criminal court. This is because of the different burden of proof that applies in criminal cases as opposed to civil cases or internal investigations, which are "beyond reasonable doubt" and "balance of probabilities" respectively.
6. Allegations of this nature are not appropriate for determination under the Dean's summary process.
 7. While the interviewer or investigator will provide the subject with the usual warning it would not usually be appropriate to draw negative inferences from a subject exercising the right to silence in cases where the conduct complained of could constitute a criminal offence.
 8. Having carried out an investigation, the Dean will then decide whether or not to refer the case to a Panel, having regard to the following two questions:
 - (a) Is there a case to answer (i.e. is there sufficiently strong evidence)?
 - (b) Is it fair and reasonable in all the circumstances for the matter to be referred to the Panel?
 9. If the Dean decides to refer the matter to the Panel they will record their decision and their reasons in the referral document.
 10. If the Dean decides not to refer the matter to the Panel they will write to the complainant setting out the reasons for their decision and appropriate avenues of support

SCHEDULE 3 - ADDITIONAL CONSIDERATIONS IN REPORTS INVOLVING HARASSMENT, SEXUAL HARASSMENT, SEXUAL MISCONDUCT AND/OR VIOLENCE

1. PROCESS

- 1.1 In most cases of harassment or sexual misconduct and/or violence (but excluding certain cases of serious conduct as explained in the College's Policy and Procedure on Harassment) Students will be encouraged to follow the Harassment Policy before the matter is referred under this Disciplinary Procedure.

2. SUPPORT

- 2.1 All University Students, including Somerville Students, can access support from the University's Sexual Harassment and Violence Support Service. The Sexual Harassment and Violence Support Service provides free, impartial, confidential support and advice to any Students who have been affected by sexual harassment or violence.

3. INVESTIGATION

- 3.1 As set out at paragraph 4.5 above, the Dean may delegate the investigation or aspects of it to other members of the College who are suitably qualified or to an external investigator. Whilst delegation is acceptable in all cases, it may be considered particularly appropriate in cases falling within this category so that the complainant and the Student who is subject to investigation can be interviewed by a specially trained interviewer or investigator.
- 3.2 The College follows the University's definition of consent that: *"Consent is the free agreement by choice to participate in a sexual act where the individual has both the freedom and the capacity to make that choice. Consent cannot be assumed on the basis of a previous sexual experience or previously given consent, or from the absence of objection. Consent may be withdrawn at any time."*
- 3.3 All those involved with the procedure should be mindful that:
- (a) Reports of sexual misconduct and/or violence are more likely to exceed the 6 month timeframe, than other types of misconduct.
 - (b) Delays in reporting, or reluctance to involve the Police, should have no bearing on determining the veracity of the Report.
 - (c) The College does not have the legal investigatory powers of the Police and cannot make a determination on criminal guilt.
 - (d) A College investigation determines only whether a breach of the College Rules has occurred.
- 3.4 Where a Report is made more than 6 months after the events under consideration, the investigator will have discretion to extend the timeframe and will have regard to the additional considerations identified in this Appendix.

- 3.5 Any investigator considering allegations of lack of consent should enquire as to the steps taken to obtain consent, including how the subject knew or believed the complainant was (a) consenting to the sexual behaviour and (b) continued to consent.

4. BEHAVIOUR-RELATED DISCIPLINARY PANEL

- 4.1 In cases of alleged harassment, sexual harassment, sexual misconduct and/or violence, the Panel will be chaired by an individual with appropriate training, and if necessary an individual who is external to the College.
- 4.2 The Panel should consider practical arrangements to safeguard the witnesses at the hearing. This could include:
- (a) separate waiting areas;
 - (b) allowing witnesses to be supported by a third party;
 - (c) whilst the Procedure requires all questions to be asked through the Chair, it may be appropriate to allow evidence to be given from behind a screen or via video link from a different location;
 - (d) ensuring appropriate welfare support is provided to the Students.

Approved by Education Committee 21 October 2020

