

# THE UNIVERSITY OF NOTTINGHAM

## SENATE DISCIPLINARY COMMITTEE - RULES OF PROCEDURE

This procedure should be read in conjunction with the [Code of Discipline for Students Section D, paragraphs 27-30](#).

### 1. Preliminary

In these Rules:

- a. References to the Secretary to the Senate Disciplinary Committee are references to the person nominated by the Registrar to act in that capacity.
- b. References to the University Assessor include, as appropriate, references to the Deputy Assessor and any nominee appointed to act in place of the Assessor or Deputy Assessor.

### 2. Hearing notification, documentation, attendance

- a. The student will be notified in writing by the Secretary to the Senate Disciplinary Committee of the following with at least 10 working days' notice:
  - (i) The substance of the charge(s) to be considered by the Committee;
  - (ii) Copies of any written evidence to be brought against him/her, and the names of any witnesses to be called;
  - (iii) The date, time and place of the hearing;
  - (iv) A copy of these Rules of Procedure;
  - (v) The names and departments of the members of the Senate Disciplinary Committee who will hear the case, selected in accordance with para.30 of the Code of Discipline for Students, and the name of any Legal Adviser to the Committee appointed under para.27b of the Code of Discipline for Students.
  - (vi) That they are entitled to bring a supporter to support them at the hearing. The supporter must be either: an Education Adviser from the SU, a fellow student, a member of staff, or a Union representative (e.g. BMA, RCN).<sup>1</sup> The supporter may take notes on the student's behalf, make representations on the student's behalf and ask questions, but may not answer questions on the student's behalf.
- b. The student will be asked to submit in writing as soon as possible and in any event not later than 48 hours before the time fixed for the hearing:
  - (i) An answer to the question in respect to each charge: "Do you admit or deny the charge?"
  - (ii) Any request he/she wishes to make for an extension of time to prepare for the hearing;
  - (iii) Any request he/she wishes to make that there be no student member of the Committee to hear his/her case;

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<sup>1</sup> The circumstances in which representation by a lawyer may be permitted are set out in *Student Services: Policy on Communications with Third Parties Version for implementation 2017/18 academic session*

- (iv) A detailed statement of any objection he/she wishes to make to any of the members named in (2a)(v) above, giving his/her reasons for supposing that member may not be impartial;
  - (v) A copy of any written evidence, as to fact or as to character, he/she may wish to present;
  - (vi) the name of any supporter;
  - (vii) the names of any witnesses he/she proposes to call.
- c. On receipt of the information requested from the student, the Secretary will:
- (i) Request that the Chair (or Registrar if an objection is made to participation of the Chair at the hearing) rule on the validity of any request made under 2(b)(ii) or (iii) and of any objection made under 2(b)(iv), and inform the student of the decisions made. The Chair's (or Registrar's) decision is final;
  - (ii) Where the student has objected to there being a student member of the committee, or an objection to participation by a particular member is upheld, the Secretary will select a replacement member or members and notify the student of their name and department. The student may object to a replacement member under 2(b)(iv).
  - (iii) Arrange for distribution of copies of the charge(s) and of all written evidence to the selected members of the Committee;
  - (iv) Confirm the time and place of the hearing with the selected members of the Committee;
  - (v) And may decide (if applicable), in consultation with the Chair, where a victim has not been called as a witness, the victim be invited to attend the hearing at the stage governed by paragraph 5.
- d. It will be the responsibility of the University Assessor and of the student concerned respectively to summon their own witnesses to the hearing.

### **3. Order of Proceedings at the Hearing**

- a. The Chair has a discretion to vary the order of these proceedings or adjourn proceedings in any case, provided that the proceedings overall are fair. In cases involving allegations of serious sexual misconduct, the Chair has discretion to order that there shall be special arrangements for the conduct of proceedings<sup>2</sup> provided that proceedings overall are fair. Where a Legal Adviser is appointed, that person may, at the request of the Chair, but only in a case where the defendant is legally represented, assume responsibility for presiding over the conduct of that part of the hearing that comprises the questioning of witnesses
- b. When the members of the Committee (and the Legal Adviser, where one has been appointed) have assembled, the Secretary will inform the Committee whether the University Assessor, the student, his/her supporter (if applicable) and the witnesses are present.
- c. If the student fails to attend, the Committee will decide whether to proceed in his/her absence or to adjourn the hearing:

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<sup>2</sup> See the *Policy on identifying and handling cases of Sexual Misconduct*.

- (i) If the student chooses not to attend, they may elect to have an SU Education Adviser attend on their behalf. Only SU Education Advisers may attend in lieu of the student. Otherwise the hearing will take place in the student's absence and the Chair will have a duty to ensure that the members of the panel are fully aware of all the facts including the points made in the student's statement.
  - (ii) If the student has indicated their intention to attend but is prevented from doing so for good reason and contacts the Secretary before the meeting to that effect, the Chair will agree to defer consideration of the case and to agree alternative arrangements for the hearing. The Chair will have discretion as to what constitutes 'good reason'.
  - (iii) If the student has indicated their intention to attend, but fails to attend, the Committee will decide whether to proceed in his/her absence, the test is whether it is fair to do so. Where the Committee proceeds in the absence of the student, it may decide to come to a provisional decision, subject to confirmation by the Committee in the light of any written representations the student wishes to make in response to the provisional decision.
- d. The Secretary will invite the student and his/her supporter and the University Assessor into the room.
  - e. The Chair will establish whether the student or his/her supporter will present the case for the defence. Where the student is present but the supporter is not or any of the witnesses is not present, the Committee will decide, taking account of any representations by the University Assessor and the student, whether to proceed in their absence. The test is whether it is fair to do so.
  - f. The Chair will check that the student, the University Assessor and the members of the Committee have received copies of these Rules of Procedure and understand the order of proceedings to be followed.
  - g. The Chair will check that the student has received written notices of the charge(s) and copies of the supporting evidence.
  - h. The charge or charge(s) will be read to the student, who will be asked whether he/she admits or denies each charge.
  - i. In relation to each charge, if the student admits the charge, the University Assessor will outline the facts of the case. The Chair will then proceed as in 5 below. If the student admits the charge but does not accept the facts as stated by the Assessor, the Chair will follow the procedure in 4 below in order to enable the Committee to determine the facts of the case.

**4. If the student denies the charge:**

- a. The University Assessor will, if he/she wishes, outline the case to be considered;
- b. Any witnesses against the student will be called in turn. Each witness will be asked by the Chair to make a statement concerning the events he/she witnessed, during or after which he/she may be questioned by:
  - (i) the University Assessor;
  - (ii) the person presenting the case for the defence;
  - (iii) the Committee.

- (iv) The Legal Adviser to the Committee (where one has been appointed).
- c. The student (or his/her supporter) will, if he/she wishes, make a statement on his/her case;
- d. Any witnesses on behalf of the student (including the student) will be called in turn. Each witness will be asked by the Chair to make a statement concerning the events he/she witnessed, during which he/she may be questioned by:
  - (i) the person presenting the case for the defence;
  - (ii) the University Assessor;
  - (iii) the Committee;
  - (iv) the Legal Advisor to the Committee (where one has been appointed).
- e. The Committee may require such other witnesses as it thinks fit to be summoned, or such other evidence as it considers relevant to be produced.
- f. Once a witness has given his/her evidence, he/she will be invited to leave the room.
- g. The ruling of the Chair, as to whether any question or evidence is or is not permissible shall be final.
- h. The University Assessor may make a final statement.
- i. The person presenting the defence may make a final statement.
- j. The members of the Committee will consider, in private, in relation to each charge whether the charge is proved. The Committee may not find a charge proved unless at least two of the members present so vote. Where a Legal Adviser has been appointed, he or she may be present during the Committee's deliberations and may advise the Committee on legal matters.
- k. The Chair will inform the student of the Committee's decision whether or not the charge or charges are found proven. Where the charge is admitted but the facts alleged by the Assessor are denied, the Chair will inform the student of the Committee's findings of fact.

**5. In relation to each charge, if the student has admitted the charge, or the charge is found proved:**

- a. the University Assessor may draw any matters of fact relevant to the penalty to the attention of the Committee and may call witnesses as to those matters;
- b. the student or his/her supporter may make a statement in mitigation, and may call and question witnesses in mitigation. The witnesses (including the student where he/she has given evidence in mitigation) may be questioned by the University Assessor, by members of the Committee and by the Legal Adviser;
- c. the Committee will invite a victim of the offence (if present) to make a statement if he/she wishes;
- d. the University Assessor may make a final statement as to the potential penalty;
- e. the student may make a final statement as to the potential penalty;

- f. the members of the Committee will consider, in private, what penalty, if any, should be imposed in respect of each charge. In cases where the student has also been sentenced by a criminal court or given a penalty notice or caution in respect of the same matter, that shall be taken into consideration in determining the penalty under the Code of Discipline;
- g. the Chair will inform the student of the penalty imposed.

**6. After the Hearing:**

- a. The Secretary will, within 48 hours of the end of the hearing, send the student written confirmation of the decisions, and of the reasons for them, and details of any penalty.
- b. If appropriate, the Secretary will at the same time inform the student, that:
  - (i) a recommendation for the penalty of expulsion is subject to confirmation by the University Council;
  - (ii) he/she has the right of appeal within seven days of receiving written confirmation of any conviction or penalty in accordance with Section D, paragraph 35 of the Code of Discipline.
- c. The Secretary will inform the Senate of the facts of any decisions of the Senate Disciplinary Committee and of any penalty imposed.