

Student Non-academic disciplinary procedures

Non-academic misconduct is behaviour which interferes with how we work or action which otherwise damages our reputation. Harassment, bullying, discrimination, hate crimes, physical violence, sexual harassment and violence, and victimisation are unacceptable. We will not tolerate unacceptable behaviour against a student, employee or visitor. Examples of what we consider to be misconduct are included in the appendix to this document.

This document sets out the process we will use if we need to investigate and take disciplinary action against a student for misconduct. We may use this procedure at the same time as a student's House carries out its own disciplinary procedure. However, no part of this procedure can be used to exclude a student from their own House and the Federation's and the House's resulting decisions are not binding on each other.

If you wish to make a formal complaint about the behaviour of another student or a member of staff you can do so by following the relevant complaint procedure that is on our website at www.theofed.cam.ac.uk/policies.

Anyone suspecting misconduct by a Federation student should report it in writing to the COO (coo@theofed.cam.ac.uk). There is a separate academic disciplinary procedure.

Definitions

The following expressions have the meanings shown below in this document.

Excluded – restricting attendance at, or, access to, the Federation or not allowing someone to carry out the duties of any office or committee membership in the Federation. We will confirm the exact details to the individual in writing.

Expelled – permanently excluding someone from the Federation and ending their status as a student or member of the Federation.

Intermit – temporarily leaving your studies in line with our rules.

The Federation (also We/Us) – The Cambridge Theological Federation and its member institutions.

You - a student who is registered and studying on one of the modules and/or courses offered through the Federation's agreements with Anglia Ruskin, Cambridge or Durham universities. Your membership of the Federation will, unless we end it earlier under these rules, end one month after the date of the meeting of the board which confers your final award (or other academic status). If you intermit your studies, in line with our rules, you will still be covered by these procedures.

The circumstances under which we might initiate disciplinary action

We may take disciplinary action in connection with our facilities, services, or student activities. This may include misconduct that:

- interferes with our academic or administrative activities or legal obligations;
- takes place in or near our premises;
- affects our interests and reputation irrespective of where it takes place;
- happens during off-site activities such as placements;
- happens on social media and through any electronic means;
- takes place outside term time as well as during term time.

The behaviour may have affected:

- the Federation;
- one or more of our students or employees;
- others visiting, working, or studying at the Federation; or
- a member of the public.

We may initiate disciplinary procedures if you are removed, dismissed, or rejected from a placement because of your lack of competence, poor behaviour, attendance, or other legitimate concerns.

Core principles when dealing with misconduct

There can be serious consequences for misconduct. We intend these procedures to enable us to undertake a fair and proportionate investigation. We will reach a conclusion based on the evidence we are able to collect.

These are our core principles in dealing with misconduct:

1. We will listen to, acknowledge and address all reports of behaviour promptly and sensitively.
2. We will fully and fairly investigate reports, engaging with reporting parties and respondents through a clearly staged process.
3. We will take steps to protect staff and students from victimisation or retaliation during any investigation.
4. Students who report incidents of misconduct, or are subject to an investigation, will have access to appropriate support.
5. For a student to be found to have engaged in misconduct, the Federation needs satisfaction on the meeting of the civil standard of proof, the balance of probabilities. Where the sanction is more severe, the greater weight is required in terms of the balance of the probability. Responsibility for proving misconduct on the balance of probabilities rests with the Federation.

Referral to the Police

We may refer a matter to the police for investigation.

If the potential criminal offence is against the Federation, we decide whether to report the incident to the police. We do this based on the facts of the case.

If the victim is an individual, we usually allow the victim to decide whether to make a report to the police. If the victim is a member of the Federation community who wishes to make a report, we will support them in the process. If the person decides against reporting to the police we normally respect that decision.

In exceptional circumstances, we may report an alleged crime to the police contrary to the wishes of the victim. The circumstance in which we make a report need justifying. We may make a report to protect the victim (or others) from harm or to prevent a further crime taking place.

The COO, or deputy, takes all decisions on referrals to the police.

If there is a referral to the police, we may suspend our procedures which we would do until the police conclude their enquiries. When a criminal process concludes, the COO considers whether to recommend action under this procedure. This is irrespective of the outcome of the criminal process. Where appropriate, we may take precautionary action.

Precautionary action

We may take precautionary action against a student subject to allegations of misconduct. This is before the disciplinary investigation. The COO or nominated deputy may propose precautionary action which a Board member will need to approve, except in an emergency when immediate action will be taken.

The purpose of precautionary action is to:

1. protect staff, other students, and visitors; and/ or
2. allow a full investigation by either a Federation investigator or as part of a criminal process.

Precautionary action is not a penalty or sanction. This means we do not assume a student is engaged in misconduct or misconduct that may constitute a criminal offence. Only an investigator decides if this is the case.

We ensure precautionary action is reasonable and proportionate. It may include:

1. imposing conditions on the reported student. We may require the student not to contact a reporting student and/or witnesses.
2. We may decide on the exclusion of the reported student.

Before taking precautionary action, we undertake a risk assessment. This is so we can identify the nature and extent of the required precautionary action.

If a reported student does not comply with precautionary action, we review the risk assessment. This may result in further action.

The student can ask for a review of the decision if it has been in place for a continuous period of four weeks or longer. The COO or another member of the Senior Management Team undertakes the review.

Informal resolution

The first stage in the process is to consider if informal resolution is possible. An Informal Lead (IL) appointed by the COO undertakes the informal resolution process by discussing the allegations with the student in person or remotely.

The student will be given, in writing, details of the allegation, any evidence and information about how their behaviour is considered to have breached expected standards.

Following the meeting, the IL will write and recommend one or more of the following:

1. That there is no case to answer
2. Enter a written warning and/or advice on the student's record. This is removable after twelve months provided there are no further instances of misconduct.
3. Require the student to give an undertaking in relation to future conduct. This is removable after twelve months provided there are no further instances of misconduct.
4. Require the student to pay for any damage caused.

If the student accepts the outcome the procedure will then complete.

Alternatively if the IL suspects a case of serious or repeated misconduct, if the student refuses to engage in the informal process, or if the student does not accept the outcome, the formal process will commence.

Formal investigation

If there is a need for a formal investigation, the COO appoints an investigator who has had no previous involvement in the case. The COO informs the student in writing of the alleged misconduct.

If the allegations include more than one student, the same investigator normally conducts the investigation for all the students.

Before undertaking the investigation, the investigator tells the student of:

1. the right for a friend or representative to accompany the student to any meeting
2. the right to provide a written personal statement
3. the arrangements for undertaking the investigation
4. this procedure, and where to find a copy.

The investigator decides, considering the evidence, whether there was misconduct on the balance of probability.

The aim is to complete the investigation within twenty working days of the investigator's appointment. The exception when the appointment is outside the published term dates for the course. In these circumstances, the aim is to complete the investigation within forty working days of the appointment.

The investigation meeting

The investigator provides a copy of the received written evidence to the student.

Before meeting the student, the investigator considers any personal written statement made by the student. The student can ask their representative to provide support in writing the statement and preparing supporting evidence.

If an investigator upholds the student's position based on the student's written case, there is no requirement to meet the student. The student needs to agree this outcome. The student can ask their representative to agree this outcome.

If the case requires further investigation, the investigator arranges to meet the student. This can be in a face-to-face meeting or remotely.

When attending in person, a friend or a representative may accompany the student. In all cases, the friend or representative may speak on the student's behalf.

If a student declines to meet the investigator, the investigation continues the investigation based on the evidence collected. Non-attendance at a meeting does not affect any right of appeal.

Potential outcomes from a formal investigation

If the investigator finds the student engaged in misconduct, the investigator decides on penalties.

The investigator will decide one or more of the following:

1. to take no further action;
2. to issue a written warning to the student indicating the consequences of future misconduct. The warning appears on the student's record. It is removable at any specified period up to three months after the completion of the course;
3. to require the student to pay for any damage;
4. to require the student to provide an appropriate apology for any offence or harm caused to the individuals concerned. This can include members of the outside community;
5. to restrict access to any part of the Federation's premises;
6. to restrict access to any of the Federation's services;
7. to recommend exclusion or expulsion of the student with immediate effect.

On completing the investigation, the investigator sends the student, as soon as practicable and within five working days, a written notice:

1. summarising the alleged facts leading to the disciplinary action,
2. setting out the outcome of the investigation,
3. explaining the reasons for that outcome, and
4. detailing any penalty imposed.

If the outcome does not include exclusion or expulsion, the notice explains the right and method of appealing to the Board (see "Appealing a Decision" below). The student is to appeal within twenty working days of the date of the written notice.

If the decision leads to recommending exclusion or expulsion, the investigator provides a written report of the reasons to the Student Discipline Committee and the student. If the student accepts

the recommendation the Committee will not meet and the process ends. If the student contests the decision a meeting will be held.

Student Discipline Committee

In all cases, the Student Discipline Committee includes

1. A board member, who acts as Chair
2. The COO
3. A member of staff from outside the student's House
4. At the Chair's discretion, a student representative.

At least fifteen working days before the Student Discipline Committee meeting, the student and investigator will be given a copy of this procedure and written notice of:

1. the date, time, and place of the committee hearing, including the student being able to request the meeting be held remotely in whole or in part;
2. the committee members;
3. the student's right to be heard;
4. the student's right to make representations on the penalty imposed;
5. the student's right to be accompanied by a friend or a representative;
6. the right to provide a written statement or written evidence for the panel to consider at least seven working days before the hearing;
7. the party's responsibility to let witnesses know about the hearing and to make sure they attend; and
8. the party's responsibility to let the COO know, as soon as possible and at least two working days before the hearing, the names of the witnesses the parties plan to call;

At least five working days before the panel, the student and the investigator will be given a copy of any documents available to the panel.

Anyone involved in the meeting may attend remotely, provided warning has been given at least 24 hours in advance (or less with everyone's consent).

Conduct of the meeting

Evidence and representations are taken in the following order:

- From the investigator;
- From witnesses called by the investigator;
- From the student (or friend or representative);
- From the student's witnesses.
- The student and the investigator have the right to be present when evidence is taken.

The Committee may question anyone making an oral presentation. The student and the investigator may put questions to the witnesses and to each other.

After the presentation of evidence and representations, final statements are made first by the investigator and then by the student (which the friend or representative can make).

If a student declines to appear at the hearing, the Committee reaches a decision based on the available evidence.

The Committee may adjourn proceedings if necessary. The Committee is to put in writing the reason and the expected timescale for completing the proceedings.

Decision making by the Committee

The Committee, sitting in private to make its decision, considers the evidence presented and bases the outcome on that evidence. The standard of proof is that of the balance of probability. The burden of proof is on the Federation.

A student's previous disciplinary record will not normally be relevant to whether they have committed an offence but is likely to be relevant to decisions about the penalty.

The Committee has the power to decide one or more of the following:

1. to take no further action;
2. to issue a written warning to the student indicating the consequences of future misconduct. The warning appears on the student's record. It is removable at any specified period up to three months after the completion of the course;
3. to require the student to pay for any damage;
4. to require the student to provide an appropriate apology for any offence or harm caused to the individuals concerned. This can include members of the outside community;
5. to restrict access to any part of the Federation's premises;
6. to restrict access to any of the Federation's services;
7. to expel the student from the Federation.

Students should have the opportunity to present any mitigating circumstances. These are not normally relevant to deciding whether they are guilty of an offence but should normally be taken into account when deciding on a penalty. Mitigating factors might include; being a first offence, admitting the offence at the earliest opportunity, expressing remorse, being a minor example of a serious offence, or there being compelling personal circumstances that affected their judgement.

The student will be informed in writing of the Committee's decision within five working days and will be notified of the right to appeal within twenty working days of the date of the Committee's decision.

Appealing a decision

The student may appeal a decision made under the formal process to the Board by emailing the COO within twenty working days of the date of the written notice.

The request for review shall specify the grounds for review which may be one or more of:

- that there was material procedural irregularity in the consideration of the student's case;
- that there was bias or prejudice on the part of the panel;
- that the decision reached was perverse in that it was one which no reasonable panel could have reached on the available evidence; and/or
- that fresh material evidence is available, which was not available and/or presented for good reason at the time of the original meeting.

The request should be accompanied by supporting documentation.

The review will be held by a Federation Board member who has not been involved in the process and is not a member of the student's House.

The reviewer will consider the request for review, the documentation available to the committee, and the procedure of the panel.

The reviewer, at their discretion, may hold a hearing and regulate arrangements for the conduct of the hearing.

The reviewer will issue an adjudication in writing as soon as possible, which shall normally be within one month of the receipt of the request for review or (if a hearing is held) within 14 days of the hearing. The reviewer shall have power to confirm, quash, or amend the decision of a panel or refer it back to the same panel or to a new panel.

The reviewer's adjudication is the final point of decision within the Federation.

On completion of our internal procedures, the student may complain to the Office of the Independent Adjudicator for Higher Education (OIA) within 12 months. The COO issues a Completion of Procedures letter within twenty working days of the date of the letter.

Extending time scales

The timescale for any stage may be adjusted by mutual agreement. If necessary, the Federation may extend a stage for good cause but must inform the student in writing of the reason for, and the length of, the extension.

Record keeping

The outcome, together with the Committee papers, remains on file for one year after the end of the student's registration at the Federation.

This procedure applies to disciplinary cases opened after 1st June 2020.

May 2020

Appendix: What we consider to be misconduct

In this appendix, we provide examples of misconduct that may be subject to disciplinary action.

Disruption of the work of the Federation

We need to organise our work for the benefit of all our students, staff, and visitors. We may need to initiate disciplinary action against a student because of misconduct that prevents this from happening. These are examples where we might have to act against you:

1. If you disrupt, or interfere with, our academic, administrative or other activities, whether on Federation premises or elsewhere.
2. If you obstruct, or interfere with, the work, duties or activities of other students, members of staff or visitors.
3. If you act fraudulently, deceptively, or dishonestly towards us, our staff, or other students. This includes taking property without proper authorisation.
4. If you break our code of practice on the freedom of speech or any of our rules or regulations.
5. If you are dishonest in any way in academic assessments and examinations.
6. If you deliberately or recklessly damage our property or the property of other students, members of staff or visitors.
7. If you misuse our premises or items of property, including computers.
8. If you do anything which adversely affects our reputation.
9. If you fail to give your name and other relevant details to us if it is reasonable for us to ask for that information.
10. If you fail to keep to a previously-imposed penalty under the Student Disciplinary Procedure.

Allegations of criminal behaviour

We may initiate the disciplinary procedures if there are allegations of criminal behaviour that:

1. takes place on our premises, or at an event we control; and/or
2. affects or concerns other members of our community; and/or
3. adversely affects our reputation; and/or
4. is treated as misconduct under the terms of this procedure.

Acts of bullying

Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power, position or knowledge. Bullying is intentional and can make a person feel humiliated, threatened, undermined and vulnerable. Victims may not always recognise what is happening and so may feel trapped, isolated or powerless.

Bullying tends to happen persistently, often without witnesses, over time. It can involve one individual against another or involve groups of people. Bullying can take the form of physical, verbal, and non-verbal conduct and so can include social media communications, telephone communications, filming or taking pictures of people and/or using these without their knowledge or consent.

This is not an exhaustive list, but examples of bullying may include:

- being shouted at, being sarcastic towards, ridiculing or demeaning others;
- deliberately excluding or ignoring an individual;
- physical or psychological threats;
- unfair or excessive supervision or monitoring;
- unfair blaming for mistakes or unwarranted fault finding;
- singling out or treating an individual unfairly.

It is important to make the distinction between bullying and firm management. Bullying is unfair and can undermine a person's best efforts to perform well. Legitimate, reasonable, and constructive criticism of performance or behaviour, or reasonable instructions given to staff during their employment will not amount to bullying on their own.

Acts of discrimination

Discrimination is contrary to the Equality Act 2010 and takes place when an individual or a group of people is treated less favourably than others based on one of the nine protected characteristics:

- age
- disability
- gender
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity (we will also consider the same for paternity leave, parental leave or shared parental leave)
- race
- religion or belief (including lack of belief)
- sexual orientation Discrimination can be direct or indirect.

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have, or because they associate with someone who has a protected characteristic.

Indirect discrimination can happen when there is a condition, rule, policy or practice that applies to everyone but particularly disadvantages people who share a protected characteristic. However, it

isn't classed as indirect discrimination if it can be shown that the condition, rule, policy or practice is reasonable.

Acts of harassment

Harassment is unwanted behaviour which violates a person's dignity, or creates an intimidating, hostile, degrading, humiliating or offensive environment. Harassment is against the law when the unwanted behaviour occurs because of, or connected to, one or more of the following protected characteristics:

- age
- disability
- gender
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief (including lack of belief)
- sexual orientation

Harassment is often persistent, although a single incident may be serious enough to constitute it. Harassment can be deliberate or unintentional, however the effect on the victim is the main factor to be considered in claims of harassment, not the intention behind it.

Harassment can take the form of physical, verbal and non-verbal conduct and so can include social media communications, telephone communications, filming or taking pictures of people and/or using these without their knowledge or consent.

This is not an exhaustive list, but examples of harassment may include:

- unwanted physical conduct or 'horseplay' including touching pinching, pushing, grabbing, brushing past someone, invading their personal space and more serious forms of physical or sexual assault;
- offensive or intimidating comments or gestures, or insensitive jokes or pranks;
- mocking, mimicking, or belittling a person's disability;
- racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about an ethnic or religious group or gender;
- outing or threatening to out someone as gay, lesbian, bisexual or trans;
- ignoring or shunning someone, for example, by deliberately excluding them from a conversation or a social activity.

Hate crime

'Hate incidents' and 'hate crimes' are terms used to describe acts of violence or hostility directed at people, which appear to the victim or anyone else to be, because of who they are or who someone thinks they are. They are motivated by hostility or prejudice based on one or more of the following:

- disability
- race
- religion
- sexual orientation
- transgender identity

Hate incidents can be against a person or against property and includes materials posted online. This is not an exhaustive list, but some examples of hate incidents may include:

- abusive phone calls
- bullying
- graffiti
- harassment
- intimidation
- abuse through the means of any form of electronic media
- threats of violence
- verbal abuse

When hate incidents become criminal offences they are known as hate crimes. A criminal offence is something that breaks the law. This is not an exhaustive list, but some examples of hate crimes may include:

- assault
- burglary
- criminal damage
- fraud
- harassment
- hate mail
- murder
- sexual assault
- theft

Physical misconduct

Physical misconduct is unwanted physical contact which has the purpose of violating a person's dignity or causing them distress or harm, whether or not there is personal injury.

This is not an exhaustive list, but examples of physical misconduct may include:

- punching
- kicking
- slapping
- pulling hair
- biting
- pushing
- shoving

Sexual misconduct

Sexual misconduct is unwanted conduct of a sexual nature which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. You don't need to have previously objected to someone's behaviour for it to be considered unwanted.

This is not an exhaustive list, but examples of sexual misconduct may include:

- sexual intercourse or engaging in a sexual act without consent;
- attempting to engage in sexual intercourse or engaging in a sexual act without consent;
- sharing private sexual materials of another person without consent;
- kissing without consent;
- touching inappropriately through clothes without consent;
- inappropriately showing sexual organs to another person;
- repeatedly following another person without good reason;
- making unwanted remarks of a sexual nature.

A person must have the capacity to give free agreement (consent) to sexual activity. A person consents if he/she agrees by choice and has the freedom and capacity to make that choice. Capacity is based on the person:

- being the right age
- being sober
- having the mental and physical ability to agree freely
- not being threatened or afraid of harm
- not being detained against their will

The Federation may investigate allegations of sexual misconduct. However, we need sufficient evidence to show the alleged misconduct took place and the accused was responsible.

Sexual assault is a criminal offence and is committed if another person intentionally touches someone, the touching is sexual, and the person does not consent. It is often more appropriate for the police to investigate given their greater powers of investigation.

We usually allow the victim to decide whether to make a report to the police. If the victim is a member of the Federation community who wishes to make a report, we will support them in the process. We will work with the police in such matters. In fairness, we would also provide support for a student who is the subject of the complaint.

Acts of victimisation

Victimisation is when a person is punished or treated unfairly because they have made a complaint; they are believed to have made a complaint; they have supported someone who has made a complaint; or it is suspected that they might make a complaint.