

University of Birmingham

**Proposed amendment to Regulation 8.3.5 and the Code of Practice on
Misconduct and Fitness to Practise Committee to enable cross-College
membership on College Misconduct Committees**

Purpose of Paper

1. To consider an amendment to Regulation 8.3.5 and the Code of Practice on Misconduct and Fitness to Practise Committees ("the Code of Practice") to enable cross-College membership on College Misconduct Committees when determining allegations of misconduct involving two or more students registered within two or more Colleges.

Consultation

2. The amendments were requested by Clare McCauley and Jackie Harris (ASA) in consultation with Legal Services.

Proposals/Recommendations

3. That Regulation 8.3.5 be amended by adding the following words:

8.3.5 If the student denies the allegation, or does not wish the matter to be dealt with as a summary offence, or the Investigating Officer deems the offence more serious than a summary offence, the Investigating Officer shall report the alleged offence in writing to the Head of College for consideration by the College Misconduct Committee or College Fitness to Practise Committee. **In relation to alleged offences involving two or more Registered Students registered within two or more Colleges, if the Investigating Officer believes that it would be more appropriate for all the alleged offences to be heard by a single Misconduct Committee, the Investigating Officer may report the alleged offences in writing to the Director of Academic Services who will decide to which College Misconduct Committee the alleged offences should be referred, normally the Misconduct Committee of the College within which the majority of students involved are registered; this shall not apply to a Registered Student following a fitness to practise programme who must in every instance be referred to the Fitness to Practise Committee of the College within which the Registered Student is registered.**

3. That the Code of Practice be amended by adding the following words to paragraph 2.1.4:

2.1.4 The Chair will then appoint two members of staff from the College Misconduct Committee pool. None of the members of the Committee shall have previously been involved with the case(s). **In relation to discipline cases involving two or more Registered Students registered within two or more Colleges which the Director of**

Academic Services has decided should be heard by a single College Misconduct Committee, the Chair of that Committee will in consultation with the Director of Academic Services then appoint two members of Academic Staff from the College Misconduct Committee pools of those Colleges within which the Registered Students involved are registered, to reflect as closely as possible the College membership of those students.

4. That the Code of Practice be amended by adding the following words to paragraph 3.1:
 - 3.1 Where the student has denied the allegation, or does not wish the matter to be dealt with as a summary offence, or the Investigating Officer (as defined by Regulations Section 8, Student Conduct, 3.1) deems the offence more serious than a summary offence, the Investigating Officer shall report the alleged offence in writing to the Head of College for consideration by the College Misconduct Committee or College Fitness to Practise Committee. In relation to alleged offences involving two or more Registered Students registered within two or more Colleges, if the Investigating Officer believes that it would be more appropriate for all the alleged offences to be heard by a single Misconduct Committee, the Investigating Officer may report the alleged offences in writing to the Director of Academic Services who will decide to which College Misconduct Committee the alleged offences should be referred, normally the Misconduct Committee of the College within which the majority of Registered Students involved are registered; this shall not apply to a student following a fitness to practise programme who must in every instance be referred to the Fitness to Practise Committee of the College within which the Registered Student is registered.
5. That the Code of Practice be amended by replacing Appendix A2 with the following:
 - A.2 ~~If a student who is referred to a Misconduct Committee is a Registered Student in a College, the Misconduct Committee shall be that of the College within which the student is registered unless the allegation is made against two or more students registered within more than one College. In those circumstances the Investigating Officer in consultation with the Director of Academic Services may refer all such students to the Misconduct Committee of the College he or she considers to be most appropriate, normally the College within which the majority of students involved in the incident are registered, except that a student following a Fitness to Practise programme must be referred to the Fitness to Practise Committee of the College within which the student is registered.~~ If a Registered Student who is referred to a Misconduct Committee is a Registered Student in a College, the Misconduct Committee shall be that of the College within which the Registered Student is registered, unless the Director of Academic Services has decided that the Registered Student be referred to the Misconduct Committee of another

**College in accordance with Student Conduct Regulation 8.3.5
and paragraph 3.1 above.**

Background

6. Allegations of misconduct are investigated by an Investigating Officer from within Student Conduct and Appeals. In non-summary cases, the Investigating Officer will refer the matter to the appropriate College Misconduct Committee for hearing.
7. Students following fitness to practise programmes must always be referred to the Fitness to Practise Committee of the College within which they are registered. This recognises that misconduct can impair a student's fitness to practise, and so such cases should always be heard by the appropriate Fitness to Practise Committee.
8. In December 2010, an amendment to the Code of Practice was made to enable allegations of misconduct involving two or more students registered within more than one College to be heard by the same Committee to ensure a consistency of approach and sanctions. As a result of this amendment, the Investigating Officer investigating allegations of misconduct involving two or more students registered within two or more Colleges can, following consultation with the Director of Academic Service, refer all those allegations for hearing by a single Misconduct Committee, being the College Misconduct Committee the he or she considers to be most appropriate, normally the College within which the majority of students involved are registered.
9. Following a review of the relevant Regulations and Code of Practice relating to this issue, the above amendments are proposed in order to ensure consistency within University legislation.

Arguments to Support Proposal

10. In cases involving a group of students registered within more than one College, the current position, whereby one College Misconduct Committee considers all allegations, does not enable the membership of that College Misconduct Committee to include members from other Colleges within which one or more of the students involved might be registered. This therefore dilutes the principle embodied in the Code of Practice that allegations of misconduct should be heard by members of academic staff from the student's own College.
11. It is proposed that this would be overcome to a large extent by enabling the Chair of the College Misconduct Committee in consultation with the Director of Academic Services to appoint to the Committee members of staff from other College Misconduct Committee pools to reflect as closely as possible the College membership of the students involved. As with all College

Misconduct Committees, it is proposed that there should be three members of the Committee. It is not proposed that the Committee must include a member from every College within which the students involved are registered; this might lead to a Committee comprising more than three members and such a Committee would be more unwieldy in practice and might be perceived by the student as being more intimidating than other College Misconduct Committees. It is therefore proposed that the Committee continues to comprise three members which would reflect as closely as possible the College membership of the students involved.

Nina Morris
Academic Policy Officer
Academic and Student Administration