

**TECHNICAL REVIEW OF THE STATUTES, AND ORDINANCES:
CONSULTATION PAPER 6: DISCIPLINE AND THE UNIVERSITY
COURTS (STATUTE B, VI AND STATUTE U (PART): NEW STATUTE D)**

30 June 2011

DISCIPLINE AND THE UNIVERSITY COURTS

This paper is issued as part of the process of technical review of the Statutes, and Ordinances, authorised by Grace 10 of 21 July 2010, following the Report of the University Council dated 14 June 2010 (*Reporter*, 2009–10, p. 992). The paper has been considered and approved by the Technical Advisory Group chaired by Professor David Yates.

Summary

This paper makes suggestions about the new Statute D and related matters. An exposure draft of suggested amendments to Statutes and some Ordinances is set out later in the paper. The new Statute incorporates some provision for the University Tribunal and the Septemviri at present contained in Statute U.

Comments

Comments are welcome and should be sent to the Administrative Secretary at the University Offices, The Old Schools, Cambridge (email: Alan.Clark@admin.cam.ac.uk) if possible by 14 November 2011. All comments will be considered and a draft Report of the Council to the University will then be prepared for Discussion and eventual submission for approval in principle, through the ordinary University processes.

Explanation of the changes suggested

This paper brings together the statutory provisions for the University courts, at present principally divided between Statute B and Statute U (“academic staff”). No change of principle is suggested, but the opportunity has been taken to simplify some provisions, to conflate provisions applying to some or all courts, and to transfer some provisions (mainly about prosecution) to Special Ordinances. New provision has also been made for supplementary practice directions (section 7), and for the standard of proof (section 22), which is still the criminal standard (proof beyond reasonable doubt) rather than the civil standard (balance of probabilities). Provision is also made for the Summary Court, which is at present established under Statute B by Ordinance.

Suggested explanatory note to appear with the revised Statute if approved

(This note does not form part of the Statute)

Chapter I states the traditional obligation of the University to make disciplinary regulations (section 1) and states that these regulations apply to all members of the University and to some other persons who should be included.

Chapter II makes detailed provision for the structure and constitution of and proceedings before four University courts. Section 1 identifies the courts and establishes their jurisdiction. Section 3 make additional provisions, including provision for the University Tribunal to deal with charges of gross misconduct. Section 4 states the powers of the Tribunal and the Court of Discipline to impose penalties, and related provisions. Sections 5 and 6 make provision for appeal to the Septemviri from these two Courts.

Sections 10–13 deal with the composition of the Courts. Sections 7–9, 14–15 and 17–22 deal with various aspects of the functioning of the Courts.

Section 16 states the limited jurisdiction available to the Summary Court.

Section 22 provides that the standard of proof in the Courts is that of beyond reasonable doubt.

Suggested draft revised Statute, and Ordinances

STATUTE D

DISCIPLINE AND THE UNIVERSITY COURTS

Chapter I

Discipline

1. For the due maintenance of good order and discipline within the University, the University must prescribe such regulations as may be thought expedient about the wearing of academical dress, rendering of assistance and obedience to all persons in authority in the University, and the definition and determination of offences and penalties.

2. These regulations apply to all matriculated members of the University, to persons resident in the University with a view to matriculation, to all University officers, and to holders of titles of degrees.

Chapter II

The University Courts

1. There shall be the following University Courts, with jurisdiction as stated:

(a) **Septemviri**: an appeal court in respect of first instance decisions of the University Tribunal and the Court of Discipline;

(b) **University Tribunal**: a court of first instance in respect of proceedings brought against University officers, other members of the University not *in statu pupillari*, and holders of titles of degrees;

(c) **Court of Discipline**: a court of first instance in respect of proceedings brought against members of the University *in statu pupillari*, and persons resident in the University with a view to matriculation; and an appeal court in respect of first instance decisions of the Summary Court;

(d) **Summary Court**: a court of first instance in respect of persons under the jurisdiction of the Court of Discipline in categories of cases determined by Ordinance.

2. The University courts have no jurisdiction over the Chancellor, the High Steward, the Deputy High Steward, or the Commissary.

3. The University Tribunal must adjudicate when a person under its jurisdiction is charged with an offence against the discipline of the University, or with grave misconduct. The Court of Discipline must adjudicate when a person under its jurisdiction is charged with an offence against the discipline of the University.

4. The University Tribunal and the Court of Discipline can impose any of the following sentences either singly or in combination:

(a) deprivation or suspension of membership of the University;

(b) deprivation or suspension of degree or title of degree, or postponement of, or disqualification from, admission to degree; and (in the case of the Court of Discipline only) exclusion from matriculation;

(c) deprivation or suspension of the status of Master or Bachelor of Arts;

(d) rustication, which is sending out of residence in the Precincts of the University (in the case of the Court of Discipline only);

(e) a fine;

(f) an order to pay compensation;

(g) deprivation or suspension of the right to use University premises or facilities;

(h) any sentence considered by the court to be lighter;

or can, notwithstanding that a person charged has been found to have committed an offence, resolve not to impose any sentence. Any person who is deprived of membership of the University or whose membership of the University is suspended is also deprived of or suspended from degrees and titles of degrees during the continuance of such deprivation or suspension. If a charge of misconduct in an examination has been brought against any person before a University court and if such person's qualification for the award of a degree, diploma, or certificate is or includes success in that examination, he or she cannot be admitted to the degree, or receive the diploma or certificate, until the charge has been finally disposed, notwithstanding that he or she may have done all that is required by Statute or Ordinance for the award of the degree, diploma, or certificate. If the Court finds that a person so charged has committed an offence, it can advise the Vice-Chancellor to issue a notice amending the class-list for the examination or other list of approved candidates, or to issue an amended list superseding the original list; and, if no appeal is made to the Septemviri, the Vice-Chancellor must act in accordance with that advice or, if an appeal is made to the Septemviri, in accordance with its decision.

5. Any person sentenced by the University Tribunal or the Court of Discipline can appeal to the Septemviri within twenty-eight days after notice of the court's decision, subject to such conditions as are determined by Special Ordinance.

6. The Septemviri must hear and determine appeals in accordance with the provisions of this Statute. It can quash a finding or vary a sentence within the limits of the power of the original court.

7. The University courts can make rules of procedure for the conduct of proceedings, subject to the provisions of the Statutes and Ordinances. If any question of law or of interpretation or application of any of the rules of procedure arises during the course of a hearing, or if a question of procedure arises which cannot be resolved by reference to those rules, the matter must be decided by the Chairman, whose decision, for the case which is being heard, is final. The Chairman of the Septemviri can issue supplementary practice directions in respect of the Septemviri or any other University court, and the chairman of each other court may issue supplementary practice directions in respect of that court.

8. Every finding or sentence of a University court and every determination of an appeal by the Septemviri requires the concurrence of a majority of the members present.

9. The procedure for the initiation of proceedings before the University courts must be prescribed by Ordinance.

10. The Septemviri is to consist of a legally qualified member of the University appointed by Grace as chairman and six members of the Regent House, each appointed by Grace. Detailed provision for these appointments must be made by Special Ordinance.

11. The University Tribunal is to consist of a legally qualified member of the University as chairman and four members of the Regent House, each appointed by Grace. Provision for the appointment of the Chairman and members must be made by Special Ordinance.

12. The Court of Discipline is to consist of a chairman who is legally qualified or has had experience of acting in a judicial capacity, and four members of the University, not more than two of whom can be *in statu pupillari*. Provision for the appointment of the Chairman and members must be made by Special Ordinance.

13. The Summary Court is to consist of a legally qualified member of the University as chairman, one member of the Regent House and one member *in statu pupillari*. Provision for the appointment of the Chairman and members must be made by Special Ordinance.

14. The Registrary or a deputy appointed by the Registrary must be Clerk of each Court.

15. Notice of a meeting of a University court shall be given to the Head of the College, if any, of which the person charged or making an appeal is a member.

16. The Summary Court can award the following sentences either singly or in combination:

- (a) a fine not exceeding a sum determined by Ordinance;
- (b) an order to pay compensation not exceeding a sum determined by Ordinance;
- (c) deprivation or suspension of the right to use University premises or facilities;
- (d) any sentence considered by the Court to be lighter;

or can, notwithstanding that a person has been found to have committed an offence or such an act, resolve not to impose any sentence.

17. Any person whose case is being heard or adjudicated upon by a University court

- (a) must be given a reasonable opportunity of being heard by such court; and
- (b) has the right to call witnesses and to question witnesses upon whose evidence the case against him or her is based; but in the case of an appeal neither party to the case can recall witnesses examined at first instance or introduce additional evidence except with the leave of the Chairman of the court, which shall be given only if the Chairman is satisfied that to do so is necessary or expedient in the interests of justice.

18. A University court, notwithstanding the provisions of section 17, can conduct the whole or part of its proceedings on the basis of written statements submitted by the parties if it appears to the Chairman to be impracticable or inexpedient to conduct an oral hearing.

19. If any person intentionally or recklessly disrupts or impedes the proceedings of a court, the Chairman can, either singly or in combination:

- (a) impose a fine not exceeding a sum as determined from time to time by Ordinance,

(b) exclude such person from the court.

20. Subject to any limitations that may be imposed by Ordinance, the fact that any person has been or is liable to be prosecuted in a court of law in respect of an act or conduct which is the subject of the proceedings before them does not affect the jurisdiction and powers of the aforesaid courts under this Statute.

21. The University courts may treat as evidence of any matter to which it may be relevant the previous decision, ruling or finding or any other court or tribunal, giving it such weight (if any) as it thinks appropriate

22. The standard of proof in the University courts is that of proof beyond reasonable doubt.