ACADEMIC SENATE REVIEW OF ACADEMIC AND NON-ACADEMIC PENALTIES

FINDINGS & RECOMMENDATIONS

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1. The purpose of the penalty regime available to the University Discipline Committee

Guiding principles for imposing penalties upon students found responsible for misconduct:

1.1 Protect rights and welfare of other university members
(By ensuring a student does not gain an unfair academic advantage or expose others to risk or danger)

1.2 Education and development of the student
(To assist the student acknowledge and accept responsibility for their conduct, change behaviour and develop)

With the penalties applied being no more or no less than to promote the above principles.

2. Review the penalties available to the University Discipline Committee

2.1 University Discipline Committee (UDC)
The only reference to the penalties available to the UDC is contained in the Student Misconduct and Discipline Rules (SMDR) being the imposition of ‘penalties in accordance with academic usage’.

This was considered too vague to provide students adequate notice of potential penalties. It gives rise to a clear disconnect between the penalty regimes applied at the Faculty and University levels. Furthermore, an undocumented penalty regime opens penalty decisions to arbitrary re-interpretation at appeal.
The immediate sanctions under the SMDR available to frontline staff (i.e. teaching staff, the librarian, director office of facilities management) were also considered out of date but are outside the penalties imposed by the UDC.

2.2 Faculty Discipline Committee (FDC)

The penalties available to the FDC are contained in the Schedule of Penalties to the Academic Honesty Policy. The FDC impose penalties which may include one or more of the following: applying a fail grade for an examination, assessment task or unit of study; reducing a mark for an assessment task; requiring resubmission with a reduced maximum mark; and issuing a caution.

The FDC’s inability to impose an exclusion upon a student found responsible for misconduct was considered appropriate. Serious offences and multiple offenders are available for referral from the FDC to the UDC should possible exclusion be appropriate.

3. Review the current penalties imposed by the University Discipline Committee
(incl 4. Benchmark with other institutions on penalties applied for academic and general misconduct)

3.1 The relative severity of some MQ penalties

- Two out of every 3 students found responsible for examination misconduct received a UDC penalty of a fail unit and exclusion for at least a session. This compared with the surveyed NSW institutions at which such students would typically receive a penalty of a fail assessment (i.e. the relevant examination) or a fail unit.

From 2013, cases of examination misconduct at MQ are heard by FDCs, which do not have an exclusion penalty available to them. Consequently, it is likely that the standard penalty for a first offence of examination misconduct will be a lesser penalty of a fail unit (with an option to escalate a repeat offender to the UDC for possible exclusion). However, as yet we only have a single semester’s worth of data, which is not enough to draw a clear conclusion about new penalty practices in this regard.

- Four out of every five students found responsible for submitting fraudulent documentation (i.e. fraudulent medical certificates) received a UDC penalty of permanent exclusion. This compared with the surveyed NSW institutions at which such students would typically receive a penalty of a fail unit and disciplinary probation.

- All students found responsible for submitting completed purchased assignments received a UDC penalty of fail unit and exclusion for at least a session. This compared with the surveyed NSW institutions at which such students would typically receive a penalty of a fail unit.

- The MQ penalties appeared more consistent with the surveyed NSW institutions when determining cases of lower level plagiarism (i.e. resubmission of assessment task) and lower level general misconduct (i.e. a warning, disciplinary probation and student apology).
3.2 Handle technical breaches of the Academic Honesty Policy via the disciplinary framework

- Technical breaches of the Academic Honesty Policy are commonly handled as discipline matters rather than as opportunities to educate students about best practice in matters of academic integrity, referencing and so forth. Such technical breaches may include situations where students have referenced all their material in their bibliography or notes but have not properly cited it (through the use of quotation marks or indentation and a mandated referencing style) in the body of their essay. This is technically plagiarism under the University’s definition but in many cases there would appear to be doubt that there is any intent to deceive.

- Students working together to understand problems, formulate solution methodologies, share experiences and opinions, or to proofread each other’s work is universally regarded as a good learning practice. Indeed, contemporary pedagogical research would tend to indicate that student involvement in self-study groups and peer-assisted learning context correlates very strongly with overall academic success. However, such activities can be regarded as ‘deception’ or ‘collusion’ under the current Academic Honesty Policy.

3.3 Community Service penalty

The working party identified a number of significant issues relating to the application of community service penalties.

- From a philosophical perspective, it was felt that the application of service as a punishment stood at odds with the communitarian principles of the flagship PACE program. Given the centrality of this program to the identity of Macquarie’s teaching programs, the University should seek to always frame community engagement as a positive, career-enhancing activity.

- In practical terms, the imposition of community service exposes the University public liability issues, reputational risk and substantial operational complexity.

4. Benchmark with other institutions on penalties applied for academic & general misconduct

(see point 3. Review the current penalties imposed by the University Discipline Committee)

5. Evaluate the severity of Macquarie penalties with domestic and international students

(incl 9. Review the impact penalties may have upon different cohorts of student)

The working party expressed concern that discipline committees, at all levels, had tended to apply penalties in a rigid manner. In particular, it felt that the disproportionate impact of certain penalty types upon specific students and student cohorts had not been adequately accounted for in sentencing decisions. It reiterated the principle that penalties applied to students, not simply to the breaches they committed.

As an example, temporary exclusion (for one or two semesters) is a penalty whose impact is far more profound if the student concerned is living away from home, is funded by family, has visa obligations to meet, or is subject to rigid externally imposed timelines. For these students it is not uncommon for temporary exclusions to completely derail, and effectively terminate, their
academic careers, an impact that is far less than transitory. On the other hand, for students not subject to these concerns, temporary exclusion can act as little more than a minor inconvenience.

The working party also discussed the extent to which a student’s social and cultural background should be taken into account when making penalty decisions. It concluded that these were certainly factors that had an important role to play in attenuating or enhancing the impact of a specific penalty. However, it was reluctant to make any recommendations that might be interpreted as suggesting that the University should operate a culturally differentiated penalty regime. On the other hand, its recommendation is that discipline committees should seek to take cultural contexts into account as part of the penalty determination process and that the University should provide greater support to facilitate this requirement.

The working party was of the view that penalty decisions should primarily be informed by the following considerations:

- The severity and specific circumstances of the breach.
- Any academic risk factors, stressors or external influences that might have adversely affected the student’s judgement at the time of the breach.
- The broader health, social and cultural context of the student.

It was observed that some sentencing decisions, especially in areas such as medical certificate fraud, might have been informed by the view that a lesser penalty could expose the University to accusations of leniency and consequent reputational risk. It was the view of the working party that such factors should not be taken into account in sentencing.

It is the view of the working party that the illegality of an act under state or federal law is not, in and of itself, an adequate reason for applying a more stringent penalty. Any such case should be considered on its merit, relative to the behavioural and academic expectations laid down by the University. Discipline committees are not called upon to determine the legality of actions, and the only course open to a committee in cases of perceived illegality is referral to the appropriate policing authority.

The working party commended the UDC for some recent changes it had made to its sentencing practices. These include a much more restricted and selective use of exclusion and the introduction of a postponed exclusion mechanism. It was also keen to support the UDC in its efforts to ensure that vulnerable students receive adequate support from the University’s wellbeing system during periods of exclusion.

6. **Recommend revised penalties for academic and general misconduct**

The working party recommends the following changes to the penalty regime applied by the UDC:

6.1 **Recommendation: Develop and publish standing orders detailing those factors to be taken into account when determining a penalty.**

These standing orders should be made available to students to assist them in preparing their statements of mitigation. The specific factors considered in each case should be recorded in committee minutes and the operation of these standing orders should be reviewed and benchmarked annually.
The working party proposes that these standing orders should embody consideration of the following sentencing factors:

- The severity and extent of the breach.
- Whether the misconduct was an isolated incident, or part of an ongoing pattern of behaviour.
- Any history of previously penalised misconduct by this individual.
- Recent sentencing precedent as established by University and Faculty Discipline Committees.
- The student’s general health and personal circumstances at the time of the breach.
- Any academic risk factors, stressors or external influences that might have impacted the student’s otherwise sound judgement.
- The extent to which the proposed penalty would have a lasting or irrevocable impact on the student’s future graduation and/or work prospects.
- Any social, cultural, or personal factors that could serve to attenuate or amplify the effect of the proposed penalty.
- Whether the student had (or was) coerced or misled (by) a third party into taking part in misconduct.
- Whether the student could reasonably have understood that his or her actions would breach the expected standard of student conduct.

These standing orders should also detail the extent to which the following factors might apply in mitigation:

- Prompt reporting of misconduct and ready co-operation with any investigation.
- Acknowledgement of responsibility and clear evidence of contrition.
- Steps already taken to prevent such breaches in future.
- Actions taken by the student to remedy or reduce the impact of the breach.

6.2 Recommendation: Adopt and publish a broader and mandatory schedule of penalties.

To avoid any perception that the University’s penalty scheme is open ended or arbitrary, the UDC should adopt and implement a graduated schedule of standard penalties. This should be published to the University community, applied in all sentencing decisions and used to inform any subsequent deliberations of the Standing Committee on Appeals.

All cases that reach the UDC should be more serious in nature. However, it does not follow that the committee should restrict itself only to applying penalties at the more severe end of the spectrum. In particular, the UDC has available, and should make use of, all of the penalties that are available to the FDCs.

The working party recommends that these standing orders should incorporate the following, graded schedule of penalties:

**Level 1**

- Formal warning or caution.
- Written apology by the student to individual(s) and/or entities as directed by the Committee.
- Resubmission of an assessment task with a reduced maximum mark
- Mark reduction in an assessment task.
Level 2
- Fail in an assessment task, with a mark of 0.
- Compulsory Academic Integrity Training provided by MQ Learning Skills.

Level 3
- Fail grade in a unit or units of study (with a mark of zero).
- Restitution order to pay for any associated damage to University property.
- Delayed graduation or disciplinary probation for a specified period and/or subject to specified conditions.
- Suspended penalty a penalty, typically an exclusion, whose application is suspended for a specified period. The committee may choose to apply a suspended sentence at any time while it is still current, usually in response to a suspected case of further misconduct. If the specified period lapses without further incident, the penalty is regarded as expired.
- Remedial activities during the period of a suspended penalty or disciplinary probation, focused upon the student’s education and development. Failure to complete the activities within that period can result in the extension of the period of probation or the application of a suspended penalty.

Level 4
- Temporary exclusion from entering any part or all of University premises; attending any classes, meetings or other University activities; or using any facilities or services or the University. Unless the student in question poses an immediate threat to others or to University property, such exclusions should be postponed to commence at the start of the next session. Readmission to the university after the exclusion period is automatic unless otherwise determined by the committee.
- Record of penalty on external transcript these are usually only recorded on a student’s internal transcript and are expunged at graduation, however the committee may decide to make a record permanent and to have it shown on the external transcript.
- Exclusion from certain units or programs of study especially in disciplines such as law, medicine and education where proven acts of dishonesty may result in professional disqualification.

Level 5
- Permanent Exclusion from entering any part or all of University premises; attending any classes, meetings or other University activities; or using any facilities or services or the University. This is the most severe penalty the University can apply, since it excludes students from completing their studies and graduating.

This schedule extends, and is consistent with, that in the schedule of penalties of the current Academic Honesty Procedure. Discipline committees may take the level of any previous penalties into account when determining the level of at which a student should be penalised for later misconduct.
6.3 **Recommendation: End the community service penalty**

For the reasons outlined in section 3.3 above, it is recommended that the Discipline Committee end the current community service penalty.

6.4 **Recommendation: Revise the Academic Honesty Policy and supporting documentation**

In particular, the definition of the term ‘plagiarism’ should be refined to take account of the issues discussed in section 3.2 above. Further and clearer guidance provided to Unit Convenors / Heads of Department to facilitate minor, inadvertent academic honesty breaches being handled under the learning / assessment framework and not escalated by default into the disciplinary process.

7. **Recommended mechanisms to support vulnerable students**

7.1 **Recommendation: Equity & Diversity representation on the University Discipline Committee**

- The membership of the University Discipline Committee be extended to include an Equity & Diversity Officer or similar role. This individual would provide specialist advice on any social and cultural issues and upon the specific impact that a disciplinary decision could be expected to have in each individual case.

7.2 **Recommendation: Students to undertake remedial activities on disciplinary probation**

- The University should make available a broad remedial ‘ethics / self-development’ based activity which could be undertaken by a student on disciplinary probation or suspended penalty order.

The Discipline Committee would direct a student to undertake the remedial activity during the period of disciplinary probation. Although part of the penalty imposed, such a remedial activity is focused upon the student’s education and personal development.

The student would subsequently provide evidence of their completion, with failure to complete the activities being evidence of misconduct during the disciplinary period.

Such a remedial activity (in seminar or workshop format) may be provided by MQ affiliates (such as the MQ Centre for Agency, Value and Ethics [http://cave.mq.edu.au/home/](http://cave.mq.edu.au/home/)) or external consultants (such as the St James Ethics Centre [http://www.ethics.org.au/content/ethics-programs-open-public](http://www.ethics.org.au/content/ethics-programs-open-public)) and could run up to three times a year on-campus (estimated cost $10,000 per annum).

- A student responsible for a breach of the Academic Honesty Policy may also be directed to attend an appropriate learning workshop operated by the MQ Learning Skills.

The Discipline Committee would direct a student to undertake the appropriate workshop during the period of disciplinary probation. Although part of the penalty imposed, such a remedial activity is focused upon the student’s education and development.
The student would subsequently provide evidence of their completion with failure to complete the activities being evidence of misconduct during the disciplinary period.

7.3 **Recommendation: Limit the current application of Permanent Exclusion**

- The harshest penalty available to the University Discipline Committee (permanent exclusion) should only be reserved for a small number of the most serious cases of student misconduct. Its application should be restricted to cases where:
  - the student’s continued presence exposes others to risk or danger, or
  - the student engages in systemic misconduct, for example supplying fraudulent medical certificates rather than simply submitting one, or
  - the student has previously been penalised by the UDC or an FDC at level 3 or above.

7.4 **Recommendation: Extend the availability of the University support services**

- University support services should be made available to students receiving an exclusion penalty from the University as follows:
  - Should the student receive a permanent exclusion, the University could inform the student (via the penalty outcome letter) that the University support services (i.e. counselling & welfare) are available to the student for a 3 month period to assist the student in their transition.
  - Should the student receive a specified exclusion period (i.e. one or two sessions), the University could inform the student (via the penalty outcome letter) that the University support services (i.e. counselling & welfare) are available to the student for the exclusion period.

8. **Review the means by which the University Discipline Committee can be assured of consistency in its imposition of penalties**

8.1 **Committee Secretariat**

- The MQ Governance Services area has provided a focussed and on-going secretariat service to the University Discipline Committee since July 2012 which can allow a corporate memory and facilitate consistency in the imposition of penalties.

- The MQ Governance Services area developed and maintains a precedents database, recording decisions of all discipline committees, available to members of the University Discipline Committee at meetings as required.

- The MQ Governance Services area conducts annual audits of determinations by the University Discipline Committee. In early 2013, the determinations of 2012 were analysed and there was a strong consistency in penalty determinations by allegation type.

  When determinations differed within allegation types, the difference was clearly explained by the differing circumstances involved (i.e. the student’s personal circumstances at the time of the conduct).
8.2 **Consistency with Faculty Discipline Committee decisions**

While the mechanisms described in 8.1 have maintained consistency within the UDC’s own penalty making regime, the working party found that substantial inconsistencies still existed between the decisions made by the UDC and those made by and amongst the various FDCs. At this stage it does not have any specific recommendations to make in this regard. It felt, however, that this issue should be addressed as part of the current review of the misconduct and discipline rules.

9. **Review the impact penalties may have upon different cohorts of student**
   *(see point 5. Evaluate the severity of Macquarie penalties with domestic and international students)*

10. **Review the adequacy of penalty information provided to the University community**

   Current penalty information is provided to the University Community via:

   10.1 **MQ Website**

   - The MQ Governance Services area developed and maintains a Student Conduct section on the students section of the MQ website. This site outlines the range of penalty options available to the University Discipline Committee and sample penalties previously imposed upon students by allegation type.
     

   10.2 **Orientation**

   - In early 2013, the MQ Governance Services area updated the presentation given to students at orientation to include information on Student Conduct matters. This information included the range of penalty options available to the University Discipline Committee and sample penalties previously imposed upon students by allegation type.

   10.3 **MQ City Campus**

   - The MQ Governance Services area met with representatives from MQ City Campus and regularly communicates regarding procedures, student conduct matters and the penalty outcomes.

   10.4 **MQ Faculties**

   - The MQ Governance Services provide penalty outcomes to the student’s originating faculty and faculty staff with an interest in the particular misconduct matter.
10.5 **DVC (Students & Registrar)**

- The MQ Governance Services provides an annual report to the DVC (Students and Registrar) on the number of student conduct matters and penalty outcomes by allegation type.

10.6 **Communication of discipline matters**

These provisions notwithstanding, the working party found that students were largely unaware of the University’s discipline process. In particular, they were often surprised that actions, such as the tendering of a false medical certificate, could result in the imposition of a penalty as severe as permanent exclusion. This tends to limit the deterrent effect of these penalties.

It also found that staff were not well versed in the operation of the discipline process, either at Faculty or at University level. In particular, they were often very unsure about whether suspected cases should be escalated for consideration at FDC or UDC and when they should be handled as an assessment or pedagogical matter locally.

It did note that the University’s Academic Integrity working party had developed two modules on academic integrity and misconduct matters, one directed at staff and one at students (Academic Integrity Module for Students, created by Learning Skills). The second of these is due for rollout to unit convenors and students for Session 3 2013.

It is the view of the working party that the University should take a much more proactive approach to communicating with staff and students on matters of academic integrity, misconduct and discipline, research integrity and so forth. Academic Senate might also consider measures to ensure that all students received some form of assessed academic integrity and social awareness training during their first semester at the University.

10.7 **Recommendation: Improve communication of discipline matters**

a) The University should develop and implement a communication plan with the purpose of better informing students and staff about matters of academic integrity, good conduct and discipline.

b) Academic Senate should consider the possibility of introducing some form of mandatory academic integrity training and assessment for all students.

c) Academic Senate should develop a social contract or statement of good conduct, to complement the recently adopted code of conduct, for distribution to students at enrolment. This should be a positive aspirational statement which would outline the rights and responsibilities of students as members of the University community.

Professor Dominic Verity
Chair, Academic Senate
7th November 2013