

Is banning all dishonesty wise? Should chanting
at a lawful police-approved march be a
disciplinary offence? And other questions
University Council has taken a year to fail to
answer. 18 June 2025.

Under new Statutes and Regulations, you could
be—

- urgently banned from buildings when it
isn't urgent, and from Outlook 'pending a
determination'—whatever that means,
- punished for lying about your sexuality,
- prevented from appealing by enactments
made without notice, vote, or debate,

[secretary@]wellingtonsquarewatch.org

1 **In summary.**

Under Statutes and Regulations to come into force on 1 September—

- ‘precautionary’ bans from university facilities may be imposed, even when no need for immediate action arises;
- bans from IT facilities may be imposed ‘pending a determination’, which is not explained at all, and presumably could include even the most preliminary stages in an investigation—who may impose the ban, for how long, for what reason, and subject to what right of appeal isn’t stated;
- all dishonesty is banned, including lying about one’s sexuality to avoid outing oneself and satire;
- any form of disruption or obstruction of the university’s activities, no matter how unforeseeable or accidental, is prohibited, including e.g. chanting at a lawful protest organised by a trade union; and
- Council may change disciplinary proceedings’ format without notice, vote, or debate.

Justifications range from absent to risible.

- Intention and recklessness, we are told, are such legalistic concepts that we couldn’t possibly understand them.
- All dishonesty must be banned because of a ‘real risk’, whatever that amounts to.
- No explanation of what ‘pending a determination’ has been offered.

2 **Two simple problems.**

2.1 **Banned from buildings urgently, when it isn’t urgent.**

Under the old text, students could be banned from university facilities when ‘a need for immediate action’ arose (section 50(2)). These bans can now be imposed as a ‘precautionary measure’, even when no need for immediate action arises (section 25(3)).

The new statute therefore prohibits precautionary bans from facilities that *not* needed.

2.2 **Your Outlook locked whilst the proctors choose a café.**

Council proposes to allow bans from IT facilities ‘pending a determination’; there is no indication as to what sort of determination is meant, who may make such a decision, for how long the ban should last, and what right of appeal should follow.

University regulations at present provide that access to IT facilities

may be withdrawn *under section 48 or 49 of Statute XI* pending a determination, or may be made subject to such conditions as the Proctors or the Registrar or other decision-maker (as the case may be) shall think proper in the circumstances.¹

The emphasised part restricts these bans to temporary punishments for disorderly behaviour during disciplinary proceedings in certain, clearly defined circumstances.

Under the new Regulation, the emphasised part is removed. The section simply reads that access

may be withdrawn pending a determination...²

By whom? For how long? Pending just what kind of determination—a new spot for the proctors' morning coffee? Subject to what sort of appeal? We don't know, and nor, perhaps, does Council.

But there is already provision for such measures.

25. (1) The Proctors shall have power to impose 'precautionary measures' on any student member or members where there are reasonable grounds for the imposition of such measures, in accordance with the Student Disciplinary Procedures.

These, however, are subject to appeal unlike the new Regulation—only decisions made by the proctors would be appealable (Statute XI, section 26).

3 Disciplinary procedures amendable sans notice/vote/debate.

3.1 Summary.

3.1.1 The working group's proposed text delegates numerous powers to Council at section 10 in granting it authority to specify the Student Disciplinary Procedures.

3.1.2 The Procedures can be modified without notice, vote, or debate.

3.1.3 There is no requirement that the Procedures should accord with any requirement of natural justice.

3.2 The relevant provisions.

3.2.1 *Documents and regulations.* Sections 10(1) and (2) refer to 'document[s]' published by Council or 'the University'. There is no requirement that

1. s 15(2), IT Regulations 1 of 2002
unamended [link].

2. *Ibid.*

these documents should be brought to the notice of or approved by Congregation.

We submit that both requirements are important. It would be odd, in our view, to permit Council to unilaterally amend the disciplinary procedures without Congregation's involvement. And it would be especially odd to do so if the requirement to draw Congregation's attention to those amendments by notice in the *Gazette* were omitted. By contrast,

- Regulations must be published fifteen days before their entry into force in the *Gazette*,
- and Congregation may annul or amend them.³

3.2.2 *Existing safeguards in Statute XI to be removed.* The proposed text of Statute XI omits the following safeguards in the present text.

s 8(1) Members of the Student Disciplinary Panel serve for at least three years. This prevents their arbitrary removal during that period.

s 8(2) The chair and vice chairs of the Student Disciplinary Panel must be 'barristers or solicitors of at least five years' or 'have experience which makes them suitable for appointment'.

s 9(2) Delays in the Student Disciplinary Panel's proceedings are somewhat restricted: no complaint may be heard 'more than six months after the date of the first interview' except in the discretion of the Chair or Vice-Chair.

s 13 If the Student Disciplinary Panel hears a case in the first instance, a student has the right of appeal (to the Student Appeal Panel).

s 14(1) The High Steward appoints the Student Appeal Panel from 'individuals who hold a legal qualification *and* have experience which makes them suitable for appointment *and* shall not be members of Congregation'.

s 14(2) The Student Appeal Panel may appoint assessors 'in the interest of justice and fairness'.

s 33 Any 'student member who is the subject of the disciplinary action' may appeal a decision of the Proctors to the Student Disciplinary Panel.

3.2.3 *Risks to procedural fairness.* The importance of the provisions of the replacement Student Disciplinary Procedures is therefore clear. If they

3. Statute VI, s 19(1).

are not properly elaborated, the procedures will unfairly limit the rights of the accused.

- The value of appeals, prompt hearings, and qualified members of disciplinary bodies is obvious.
- Appointment for three years avoids improperly motivated removal by Council. Across the Atlantic, there is at least a widespread perception that university discipline has been moulded to serve political ends in view of protests for or against Israel, Palestine, or groups identified with either. It is surely unwise to allow e.g. the perception that Council, influenced by donors, could seek to influence individual cases through appointments that would be irregular on the present scheme. Not only must justice be seen to be done, but those charged with upholding it will work more effectively when it is.
- The High Steward is a figure independent of Council; their authority to appoint the Student Appeal Panel is an important sign of independence.

3.2.4 *The extent of powers delegated to Council in drafting the Student Disciplinary Procedures.* The proposed text of Statute XI, at section 10, provides that Council, by the procedures, may—

- (1)...specify the procedure under which a Proctor, the Student Disciplinary Panel and/or the Student Appeal Panel shall hear and determine referrals of student members who are alleged to have breached section 3 or 4 of this statute... [or] (2)...committed Academic Misconduct.

The scope of the Student Disciplinary Procedures extends, in practice, to nearly the entirety of the disciplinary process, including—

- s 2 disciplinary action in respect of conduct not in a university context, ‘exceptionally’;
- s 12 powers and penalties following breaches of the Code of Discipline;
- s 13 the procedures and appointment and removal of members of the Student Disciplinary and Appeal Panels;
- s 14 the hearing of evidence;
- s 19 ‘[f]urther rules relating to the constitution, powers, duties, and procedures relating to the Proctors (including at a Proctor’s Disciplinary Hearing), the Student Disciplinary Panel, the Student Appeal Panel, and the Appeal Court, and the powers, duties, and procedures of the Proctors in relation to matters covered by [Statute XI.]’;
- s 21 ‘the procedure to be followed in the imposition of immediate fines, the amount of the fine, and a student member’s right of appeal’; and

s 25(1) ‘precautionary measures...where there are reasonable grounds for the[ir] imposition’.

There are some provisions that partially provide similar reassurances, but we do not think them adequate.

s 16 Provisions for the Appeal Court are maintained.

But this is not satisfactory in respect of the Student Disciplinary and Appeal Panels.

s 19 ‘Further rules’ elaborated in the procedures under this section must ‘comply with the principles of natural justice’.

But there is no requirement that the procedures *as a whole* should comply with the principles of natural justice. This includes all the other matters provided for by other sections, including appointment and removal of members, the hearing of evidence, powers and punishments, and so on.

s 26 Precautionary measures imposed by the Proctors are subject to appeal.

But there is no general provision for the appeal of other proctorial decisions. And even where there is a right of appeal, there is no time limit, which could lead to unfair outcomes (e.g. in cases where funding is time-limited).

3.3 **Unanswered questions.**

3.3.1 Does Council understand the difference between a document (that can be amended without notice, vote, or debate) and a Regulation?

3.3.2 If so, why has it chosen the form of a document?

4 **‘Intention’ and ‘recklessness’ too complicated for students.**

4.1 **Summary.**

The new text prohibits unobjectionable conduct, including—

- accidental and minor disruptions of university activities, e.g. by chanting at a lawful and orderly protest, or singing at a college concert;
- knowingly remaining in one’s college room after an order to leave because of an injury; and
- proper participation in dangerous activities (e.g. dangerous sports).

The justification is that intention and recklessness are overly ‘legalistic’ concepts—unlike other concepts in the statute, such as the ‘lawful exercise of freedom of speech’, which of course is comprehensible to toddlers.

4.2 Relevant proposals.

4.2.1 *'Intentionally or recklessly' removed.* The prohibitions included the old text of Statute XI are listed under the following provision.

2. (1) No member of the university shall in a university context *intentionally or recklessly*...

The equivalent provision in the new text reads.

3. (2) No member of the University or student member shall (or shall attempt to)...

The removal of the qualification that prohibited behaviour must be intentional or reckless dramatically changes the scope of the prohibition.

4.2.2 *Conduct to which the proviso formerly applied* includes—

(a) disrupt[ion] or obstruct[ion of] any of the... activities of the University[;]

(b) deface[ment], damage, or destr[uction of] any property of the University or any college or any other person, including by its unauthorised occupation [; and]

(c) action which is likely to cause injury or to impair safety[.]

These are subject to university discipline either when in a 'university context', which is to say 'on university or college premises; [or] in the course of university activity within or outside Oxford whether academic, sporting, social, cultural, or other.'

4.3 What the proposals would prohibit.

4.3.1 *Unobjectionable disruptions or obstructions prohibited.* We agree that some disruption or obstruction should be a matter of university discipline, but not all. As we have observed repeatedly, all sorts of seemingly legitimate activity could disrupt or obstruct university activities, e.g. through noise or the impediment of pedestrian and vehicular traffic:

- eucharistic processions marking the Feast of Corpus Christi involve the singing of hymns;
- lawful and orderly political processions often involve chanting; and
- when Oxford United was promoted to the premiership, a victory procession was organised.

Indeed, some activities organised by the university or colleges could also disrupt other university activities: college concerts could lead to noise pollution. Sometimes, simply walking about can inadvertently cause disruption!

- 4.3.2 *'University context' does not exclude the relevant examples.* Clause 2 does restrict these prohibitions, except in exceptional cases provided for by the Student Disciplinary Procedures, to university contexts. (The latter proviso, we think, makes all the more pressing the difficulties we point out in § 3.) But much of the unobjectionable activity mentioned above could happen on college or university land, given the scope of university and college holdings in Oxford. Consider e.g. the plaza outside the Weston Library.

Moreover, many of the following examples may amount to 'university activities' in that they may be organised by societies or other bodies of the university.

- 4.3.3 *Misappropriation, intention, and recklessness.* A similar difficulty arises at the end of clause 3(2)(b):

No member of the University or student member shall (or shall attempt to)...knowingly misappropriate such property, including by its unauthorised occupation.

The text after 'including' is inserted. We think that it is possible that the omission of the requirement that there should be intention or recklessness could, in certain circumstances, materially affect the construction of the clause. Suppose, for example, that a student is ordered to leave a room in an unreasonably short period of time (an hour, let us say). For various reasons (e.g. a broken limb) this cannot be effected. This clearly amounts to unauthorised occupation, and therefore is classified as misappropriation. It may also be entirely knowing—the student may know perfectly well that they have been ordered to leave. It would not, however, be intentional or reckless.

But without the proviso after 'including...'; it might be thought that to linger due to a broken limb is not misappropriation.

This is a clear case in which, one would hope, no body of the university would seek to institute disciplinary proceedings; but it still paints a large grey area between it and conduct that clearly is legitimately a matter of university discipline entirely black.

- 4.3.4 *The scope of 'knowingly'.* There is also a scope ambiguity in this case: does 'knowingly' apply to unauthorised occupation too? That is not clear.
- 4.3.5 *Properly carried out forms of dangerous activity.* A similar problem applies to clause 3(2)(c). Not all action likely to cause injury is wrong, let alone legitimately a matter of university discipline. Many sports are 'likely to cause injury' or 'impair safety'. Some first aid is too. The difference is that proper participation in them is not *intentionally or recklessly* action likely to cause injury, if the proper precautions are observed and so on.

4.4 The working group's comments.

4.4.1 According to the working group,

'intentionally or recklessly'...was felt to be too legalistic because it aligned too closely with concepts derived from the criminal justice system.

4.4.2 This view is risible, and scarcely intelligible. Both concepts are perfectly intelligible to ordinary competent speakers of English who lack legal training. Although there are specifically legal understandings of both, that is true of many terms—including terms that remain in the new text, such as 'disruption' and 'obstruction'. The new text also refers to 'the lawful exercise of freedom of speech', which is irreducibly 'legalistic', and whose boundaries are far more difficult to determine for the legally untrained than those of intention or recklessness.

4.4.3 The working group and Council have presented no evidence that students are unable to understand intention or recklessness. Nor have they shown that the new text, which avoids the issue by banning *all* conduct concerned, is preferable, either in principle, or to students.

4.4.4 The working group proposes to include provision 'to take into account a person's state of mind' in the Student Disciplinary Procedures. The working group mentions the Procedures only when it offers a thin excuse for their poor drafting, but has failed to address more substantive problems with the Procedures, such as the lack of any requirement to give notice of amendments to them (§ 3.2.1).

4.4.5 '*University context*'. The working group further observes that

disciplinary action can only be instigated in relation to conduct occurring in a University context (see section 2 of the Statute).

We first observe that it may also be taken otherwise, 'exceptionally, as otherwise indicated in the Student Disciplinary Procedures'—and that Council can lay down these Procedures without notice, vote, or debate.

Second, as we observed above, we do not think that the restriction to a university context is sufficient; much conduct that should not be prohibited and is perfectly reasonable indeed happens on university or college premisses, or in the course of university activities.

4.4.6 The Working Group proposed the current carve-out for certain obstructive or disruptive protests pursuant to the Code of Practice on Freedom of Speech approved by the proctors.

- The new text substitutes the intention/recklessness test for the judgement of the Proctors. It makes no provision for cases where the Proctors incorrectly apply the Code of Practice on Freedom of Speech.

Even in a case where the Proctors manifestly misapply the Code of Practice in prohibiting a protest—and, indeed, may be found to have done so by a court of law or appellate university instances—an offence would still be committed in holding a protest.

- The new text continues to prohibit a wide swathe of conduct that is manifestly reasonable, may nevertheless incidentally and unintentionally be relevantly disruptive or obstructive, and is not protest activity. This was straightforwardly accounted for with the proviso that the relevant disruption or obstruction should be reckless or intentional. We fail to understand why the Working Group insists on substituting for the plain meaning and precision of ‘intentionally or recklessly’ a mind-reading exercise.
- The Working Group continues to fail to appreciate that it is not only *intentional* disruption or obstruction that may occur in the course of protest activities, but also incidental and unintended disruption e.g. from chanting or walking in traffic.
- The new text fails to account for participation in lawful non-university protests in proximity to university facilities.

4.5 Unanswered questions.

- 4.5.1 Why did the working group think students too dim-witted to understand the words ‘intentional’ and ‘reckless’, but not the phrase ‘lawful exercise of freedom of speech’?
- 4.5.2 Is there the slightest evidence that those terms are ‘too legalistic’?
- 4.5.3 Does Council agree?
- 4.5.4 Is the change intended to change what is actually prohibited? If so, what exactly is intended to be newly prohibited?

5 All dishonesty stands banned.

5.1 Summary.

The proposed text would prohibit all dishonesty on college and university premisses, which would prohibit some perfectly reasonable conduct (e.g. not outing oneself as gay) and some conduct that, although unreasonable, should not be a matter of university discipline (e.g. cheating at cards in a college bar).

5.2 Relevant proposals.

Section 5(2)(e) prohibits

engage[ment] in any dishonest behaviour[.]

5.3 What the proposals would prohibit.

5.3.1 *Prima facie*, dishonest behaviour includes—

- cheating at cards, or on one's partner; and
- lying of any kind, including about one's sexuality when not out, and white lies.

Suppose, for example, that a gay student is worried (whether rightly or wrongly) that a certain social group is homophobic; one of their number asks whether they are gay, in response to which they issue a denial. This is clearly dishonest; but it is also clearly reasonable. There is no good argument that this should be a matter of university discipline.

We do not wish to take any particularly adventurous view on sexual morality, but it is also hard to see why infidelity should be a matter of university discipline. And cheating at cards, especially if it is not for money, is surely wrong—but hardly something with which to trouble the proctors.

The difficulty is that the plain meaning of clause 3(2)(e) prohibits all of these.

5.3.2 *Dishonesty in a university context*. It is true that clause 2 provides that, except in exceptional circumstances, the relevant conduct must occur in a 'university context'. But, as drafted, that would include conduct—

- on a social trip organised by a university society;
- in a college bar or room; and
- in a common room in university departments.

We do not think that cheating at cards should be a matter of university discipline simply because it happens in a university department, or that cheating should become a matter of university discipline simply because it happens in a college rather than privately rented room. But it is difficult to see any other construction of clause 3(2)(e).

In connexion with freedom of expression, we also observe that much political speech happens in the course of activities of registered university societies, which may fall under the ambit of 'university activity within or outside Oxford whether academic, social, sporting, social, cultural, or other' (clause 1(g)(i)) and is not therefore excluded by clause 2.

Contents

1	In summary.	1
2	Two simple problems.	1
	2.1 <i>Banned from buildings urgently, when it isn't urgent.</i>	1
	2.2 <i>Your Outlook locked whilst the proctors choose a café.</i>	1
3	Disciplinary procedures amendable sans notice/vote/debate.	2
	3.1 <i>Summary.</i>	2
	3.2 <i>The relevant provisions.</i>	2
	3.3 <i>Unanswered questions.</i>	5
4	'Intention' and 'recklessness' too complicated for students.	5
	4.1 <i>Summary.</i>	5
	4.2 <i>Relevant proposals.</i>	6
	4.3 <i>What the proposals would prohibit.</i>	6
	4.4 <i>The working group's comments.</i>	8
	4.5 <i>Unanswered questions.</i>	9
5	All dishonesty stands banned.	9
	5.1 <i>Summary.</i>	9
	5.2 <i>Relevant proposals.</i>	9
	5.3 <i>What the proposals would prohibit.</i>	10