



**Manchester  
Metropolitan  
University**

**Regulations for Undergraduate and Taught  
Postgraduate Programmes of Study**

**Academic Division**

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**- 16 -**

**Guidance Notes on Cheating and other forms of  
Academic Misconduct**

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**IMPORTANT NOTICE TO ALL STUDENTS**

**All students should access their University e-mail account on a regular basis, as this will be used to mail them important information regarding their course, tuition fees, award ceremonies and other matters**

## **16.0 Guidance Notes on Cheating and other forms of Academic Misconduct**

- 16.1 The University's regulations give Boards of Examiners the authority to impose penalties against students who are found to have cheated, plagiarised, attempted to gain an unfair advantage or found to be guilty of misconduct in an examination or in breach of examination regulations. The penalties available to a Board include failing the student in part or all of his/her Stage assessments and determining whether or not the student shall be permitted to be reassessed. Additionally, such a student may be recommended for expulsion under the regulations for the expulsion of students for academic reasons.
- 16.2 A student's guilt or otherwise of misconduct in assessment or examination must be separately investigated and determined by an Examinations Disciplinary Committee. It is not for Boards of Examiners to decide whether or not a student is guilty of misconduct.
- 16.3 Once a case has been decided by an Examination Disciplinary Committee it is for the Board of Examiners to decide on the penalty to be applied, having regard for whatever recommendation the disciplinary committee might make and having taken into account any evidence of mitigation placed before and accepted by the disciplinary committee. It is incumbent on a Board of Examiners to take into account any material which is available and which might be in the student's favour.
- 16.4 In the High Court case of *R v The Manchester Metropolitan University ex parte Nolan* (1993), the court considered the penalty applied (failure with no resit opportunity):
- “...on any view, a surprising one, suggesting that something material in the applicant's favour might well have been overlooked.”
- And in referring the case back to the Board of Examiners, the High Court noted that there had been:
- “...a material failure by the board... to take into account matters which were incumbent on it to take into account, namely the evidence in mitigation placed before and accepted by the disciplinary committee.”
- 16.5 In the Nolan case, the student was found guilty of being in possession of unauthorised material during an examination. The disciplinary committee concluded that there was inconclusive evidence as to whether or not the material had been used and having regard for the mitigating evidence placed before it relating to the mental state of the student determined that he was not guilty of cheating but of a separate offence of 'attempting to gain an unfair advantage by bringing unauthorised material into the examination room where it was maintained on his desk and available for use by the student if he so wished'.

- 16.6 The student could have been found guilty of cheating by mere fact of being in possession of unauthorised material in his exams. However, the determining of fact was a matter for the disciplinary committee which because of the inconclusive evidence before it and the mitigating circumstances relating to the mental state of the student, determined that he was guilty of a separate and different offence.
- 16.7 The Nolan case serves to illustrate that there is a distinction to be made between 'cheating' and 'attempting to gain an unfair advantage'. The latter does not necessarily involve cheating but clearly cheating (like plagiarism) does involve 'attempting to gain an unfair advantage'. Under the University's regulations the two are separate and distinct offences.
- 16.8 The University's regulations do not restrict unduly the nature of offences which may be considered by an examinations disciplinary committee. Cheating, plagiarism, attempting to gain an unfair advantage, failure to observe examination regulations, misconduct in an examination are all cited in the regulations as offences which can be referred to such disciplinary committees. These should not be viewed as an exhaustive list of possible offences. **Guide lists of possible examples of misconduct, cheating, plagiarism and attempting to gain an unfair advantage are included in section 16.22 - 16.25 of this note.**
- 16.9 Boards of Examiners have the discretion to fail students found guilty of any of the offences listed above (but are not restricted to doing so only in these specific cases) and to determine whether or not the student shall be permitted to be reassessed. Additionally, they have the power to recommend a student found guilty of an offence for expulsion for academic reasons from the University and it is this procedure which should be applied in cases where the Board wishes to impose a penalty of expulsion or one having the same effect (e.g failing a student and not permitting reassessment).
- 16.10 The expulsion procedures should be used in cases where it is the intention of the Board of Examiners (or other body) to exclude a student on academic grounds from his/her course at a stage prior to completion of it and/or prior to gaining the award(s) for which he/she was registered. This might be as a result of the application of a penalty for cheating or other academic misconduct or as a result of the Board considering there to be some other valid academic reasons for not permitting the student to continue with his/her course.
- 16.11 Examination disciplinary committees have the power to recommend the expulsion of students directly to the relevant Head of Department without reference to a Board of Examiners. In such cases, the Board of Examiners would not have any role to play unless it is decided not to expel the student in which case the Board could be called upon to consider recommendations as to academic penalty.
- 16.12 Examinations Disciplinary Committees are required to:

- i determine the facts of the case before them;
  - ii in cases where guilt is established, to make a recommendation or recommendations to the relevant Board of Examiners as to the penalty which might be applied;
- and/or
- iii to recommend to a student's Head of Department that the student be expelled and/or dealt with via the Student Disciplinary Procedures of the University.

16.13 In 'determining the facts of the case' the following stages are involved in the sequence indicated:

- i the finding of the primary facts of the case;
- ii the finding of secondary facts; i.e the reaching of a conclusion or conclusions which in the judgement of the committee can be reasonably drawn from the primary facts;
- iii the hearing of any pleas in mitigation;
- iv the recommendation of penalty/penalties (which includes the recommending that no penalty be applied).

16.14 Examination Disciplinary Committees are required to make a recommendation as to penalty. In cases where guilt has been established and the disciplinary committee has decided not to recommend expulsion or further disciplinary proceedings then it MUST make a recommendation or recommendations as to the penalty to the Board of Examiners. It can, of course, recommend that no penalty be applied to a particular case if it considers there are valid reasons for so doing.

16.15 It is incumbent upon disciplinary committees to satisfy themselves that the guilt of a student whose case is before them has been established; it is not for the student to prove his/her innocence. As there is no automatic appeal against the findings of a disciplinary committee the burden of proof on the part of the case against the student is high.

16.16 A report of the proceedings of examination disciplinary committees must be produced under the authority of the Faculty Secretary. The report shall include the following:

- i a list of those present as members of the committee;
- ii a list of the servicing officers;

- iii a list of any other persons present for whatever purpose which shall be specified;
- iv the name of the student whose case was before the committee;
- v a clear and unambiguous statement of the charge(s) against the student; it is important that particular attention be paid to the wording of this and that this should be the same as the wording issued to the student at the stage of the serving of notice of the charge(s) and hearing;
- vi a list of any items, documents or reports (which may be oral or in some other form) submitted in evidence (both by the prosecution and the defence);
- vii a clear and unambiguous statement as to the finding of facts by the committee, both primary and secondary, and a declaration as to whether the student is found guilty or not guilty of the alleged charge(s);
- viii a full account and list of any items, documents or reports submitted or made in mitigation to the committee by or on behalf of the student;
- ix a statement as to whether or not the plea(s) in mitigation is/are accepted or otherwise by the committee and the weight it attached thereto;
- x the recommendation of the committee made in the light of its findings and in the light of any mitigating plea(s) made and considered - these must be fully detailed together with the view/decision of the committee on the validity and degree of acceptability thereof;
- xi the signature of the Chairperson approving the report as accurate in every respect.

16.17 In cases where guilt is established and the matter is referred to a Board of Examiners for decision on penalty, the full report of the disciplinary committee shall be presented to the Board of Examiners together with any evidence submitted in mitigation by the student or on his/her behalf.

16.18 The student shall be given a copy of the report of the committee and informed that the report together with such additional information as he/she may wish to submit in mitigation will be placed before the Board of Examiners.

16.19 Boards of Examiners must not attempt to re-hear or reconsider a case already determined by a disciplinary committee. The function of the Board of Examiners in such cases is to reach a decision as to the penalty to be imposed in the light of the findings of the disciplinary committee and of any mitigating evidence submitted by the student or on his/her behalf. This will involve the Board in judging the seriousness of the offence and exercising its discretion in a way appropriate to the case having regard for any applicable regulations.

16.20 In considering what penalty, if any, to apply to a student found guilty of cheating etc, a Board of Examiners is not acting in a judicial manner. It is not judging the guilt or otherwise of the student but making a judgement as to the seriousness or otherwise of the offence committed and the appropriate penalty to apply. It is because Boards of Examiners are considered to be non-judicial bodies that regulations can provide for the exclusion of students from their proceedings and prohibit students a hearing before them. This is considered to be the current position in law at present.

16.21 The examples given below for misconduct, cheating, plagiarism and attempting to gain an unfair advantage are for guidance only. They are not intended to constrain or determine the findings of fact by examination disciplinary committees. Examination disciplinary committees may find it useful to refer to these examples and are encouraged to do so with a view to acting uniformly and consistently in applying the regulations of the University.

16.22 **Misconduct**

- i disruptive behaviour in an examination;
- ii non-compliance with written or oral instructions to candidates;
- iii non-compliance with examination regulations.

16.23 **Cheating**

- i communicating with or copying from any other candidate during an examination except insofar as the examination regulations may specifically permit this e.g group assessments;
- ii communicating during an examination with any person other than the invigilator(s) or other authorised members of staff;
- iii introducing into the examination room or being in possession of any written or printed material(s) or any electronically stored information unless expressly permitted by the examination and/or assessment regulations;

- iv gaining access to any unauthorised material relating to an examination prior to or during an examination;
- v being in possession of or obtaining access to a copy of an examination question paper in advance of the date and time for its authorised release; (this covers both 'seen' and 'unseen' papers)
- vi the provision or assistance in the provision of false evidence or knowledge of understanding in examinations.

## 16.24 Plagiarism

<p><b>See Appendix to Regulations for the Conduct of Examinations for the Institutional Scheme and Tariff for dealing with cases of plagiarism</b></p>
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- i the representation of another person's work, without acknowledgement of the source, as one's own; or
- ii the unacknowledged incorporation in a student's work of material derived from the work (published or otherwise) of another, examples of which are:
  - a the unacknowledged inclusion of another person's work;
  - b the unacknowledged summarising of another person's work;
  - c the unacknowledged and/or unauthorised use of the ideas of another;
  - d copying the work of another person with or without that person's knowledge or agreement and presenting it as one's own.

## 16.25 Attempting to gain an unfair advantage

- i the submission by a candidate as entirely his/her own of work done in collaboration with another person;

- ii the completion of work with another person which is intended to be submitted as a candidate's own unaided work;
- iii the presentation of data in reports, projects etc based on experimental work falsely purported to have been carried out by the candidate, or obtained by unfair means;
- iv knowingly to permit another candidate to copy all or part of his/her own work and to submit it as that candidate's own unaided work; (aiding and abetting).

16.26 The following guidance is given on the application of mitigation to disciplinary cases. In advancing a plea of mitigation, the student (the defendant) is seeking to show special reasons why he/she should be treated leniently in the application of any sanction following his/her having been found guilty of an offence.

16.27 The phrase 'special reasons' requires the facts of the case to be special in some way or other so that, although there is no defence to the substantive charge, there are nevertheless mitigating or extenuating circumstances which are directly connected with the commission of the offence and which the disciplinary committee and Board of Examiners ought properly to take into consideration when recommending or awarding punishment. Statements of mitigation unsupported by evidence should not attract much credibility.