

BY-LAW 12 APPENDIX 3

Disciplinary Procedure for Members, Clubs and Societies

1 Introduction

- 1.1 All Members of the Union are subject to the rules and regulations of the Union. The aim is to promote fairness and order in the treatment of individuals, in line with the governing documents and policies of the Union, which include the Memorandum and Articles of Association, Code of Conduct, By-Laws, Union Regulations and Principles, Procedures and Policies.
- 1.2 This disciplinary procedure applies to any Member, associate member or any club or society of the Union. For the purposes of this By-Law, any reference to a “Member” shall include Member and associate member (unless the context requires otherwise).
- 1.3 For the avoidance of doubt, this disciplinary procedure does not apply to a Member who is also an Elected Officer, including a Sabbatical Officer. The disciplinary procedure for Elected Officers is set out in Appendix 7 of By-Law 12.
- 1.4 This Appendix should be read together with By-Law 12 Union Disciplinary Procedures – General Principles.

2 Procedure

- 2.1 Any person, including the Union acting through its Chief Executive or a Trustee, can make a complaint against a Member, club or society whose behavior contravenes the Union’s Code of Conduct or By-Laws or amounts to general misconduct. The Complaints Policy and Procedure describes the process that will be followed.
- 2.2 Complaints should be submitted to complaints@warwicksu.com.
- 2.3 Once a complaint has been submitted the complaint will be acknowledged. It will then be screened and the Complaints Process will be followed.
- 2.4 If the initial information submitted suggests that there may have been a serious breach of the Code of Conduct, the matter will be dealt with under the Disciplinary Procedure as described below. The decision to refer the matter to the Disciplinary Procedure will be made by the Democracy and Development

Officer.

- 2.5 If, during the investigation of a complaint, new information comes to light that suggests that the matter may represent a serious breach of the Code of Conduct, the Complaints Panel may refer the matter to be dealt with under the Disciplinary Procedure as described below.

3. Disciplinary Panel

- 3.1 A Disciplinary Panel shall be convened and shall be selected by the Democracy and Development Officer in consultation with relevant staff advisers (subject to paragraph 3.2).
- 3.2 The Disciplinary Panel shall normally be convened within 5 working days of the decision by the Democracy and Development Officer to refer the matter to the Disciplinary Procedure.
- 3.3 No person shall sit on the Disciplinary Panel if they are related to the case, e.g. if they are a witness, complainant, are directly connected with the Member, club or society being charged or have any substantive involvement in the case.
- 3.4 The Chair of the Disciplinary Panel shall be a Sabbatical officer (but not the President).
- 3.5 In addition to the Chair, there will be two further members of the Disciplinary Panel who will be members of Student Council. At least one of these members will not be a Sabbatical Officer. One of the Panel members will be appointed as the Investigating Officer.
- 3.6 The role of the Investigating Officer will be to establish the facts of the case promptly, obtain written evidence, interview witnesses and keep written records. In conducting interviews the Investigating Officer will state the issues as known; ask for information and explanations, and inform the person of the next steps and timelines. They will consult with staff advisors as necessary, prepare a written summary of findings and discuss these with the Chair of the Disciplinary Panel.
- 3.7 A staff member, as agreed by the Chief Executive, shall act as secretary to the Disciplinary Panel and shall be responsible for convening the Disciplinary Panel.
- 3.8 The Investigating Officer will conduct an investigation into the issue raised and shall endeavor, as far as possible, to complete their investigation within a reasonable period of time. For the purposes of the Hearing, the Investigating Officer does not have the right to act as prosecutor nor to question witnesses.
- 3.9 The Disciplinary Panel may stay the disciplinary procedure at its discretion, for example if there are pending criminal or civil investigations or proceedings which relate to the disciplinary issue.

4. Disciplinary Hearing

- 4.1 The Hearing shall normally be held between 5 and 10 working days after the Disciplinary Panel is convened, unless there are extenuating circumstances or it is delayed by mutual agreement.
- 4.2 It may be necessary to discipline a club, society or group of the Union. In this instance, it will be the club or society President (or equivalent) of the group who is called to appear. In the remainder of this Appendix, a reference to "Member" shall include the club or society President (or equivalent).
- 4.3 At least 5 working days before the Hearing, the member shall be sent written notification of the alleged misconduct, breach or offence, and notification of the Hearing. This written notification will:
 - a) outline the alleged offence
 - b) give the date, time and place of the Hearing
 - c) inform the Member that they have the right to bring a friend
 - d) inform the Member that they may provide written statements for themselves and/or witnesses to the Chair at least 24 hours in advance of the Hearing
 - e) inform the member that they have the opportunity to call witnesses but must inform the Chair of any intention to do so at least 24 hours in advance of the Hearing
 - f) inform the Member that copies of the witness statements and incident report will be available for collection from Warwick SUHQ reception, at least 24 hours in advance of the Hearing
 - g) detail the membership of the Disciplinary Panel, and inform the Member that if they wish to object to the membership of the panel, that they must do so in writing within 48 hours of receiving the written notification.
 - h) inform the Member that if they fail to appear, the Disciplinary Panel may allow for a postponement.
 - i) inform the Member that they can choose to have the case heard in their absence, providing that this is confirmed in writing within 48 hours of receiving the written notification.
 - j) inform the Member that they may request to have the hearing recorded and that they must inform the Chair of this within 48 hours of receiving the written notification.
 - k) include a copy of the Disciplinary Procedures for Members, Clubs and Societies.

- 4.4 If both the Member concerned and the Chair agree then the date of the hearing may be postponed to a specified later date. The Member must communicate their request for a postponement within 48 hours of receiving the notification of the Hearing. A postponement may happen only once.
- 4.5 The Chair shall make the final decision about whether to uphold any objection over the membership of the Disciplinary Panel and replace a member of the Panel. In the event that the objection relates to the Chair's membership, the President shall make the final decision as to whether to uphold the objection.
- 4.6 In any circumstance where the President judges themselves to have a conflict of interest they may choose to turn to the Deputy President to take a decision in their place.
- 4.7 The Hearing will be ordered as follows:
- a) Introductions
 - b) Investigating Officer presents their findings
 - c) Member presents their case
 - d) Panel calls on witnesses of the alleged misconduct or offence
 - e) Panel asks questions of parties and witnesses as they see fit
 - f) Member has the opportunity to respond to evidence
 - g) Member is asked to leave the room while the Panel discusses and reaches a decision as to their findings and, if necessary, decides upon a suitable sanction
 - h) Member is called back into the room and informed that the Panel's decision will be communicated in writing within 5 working days.
 - i) The Chair informs the member of their right to appeal against any decision
- 4.8 Neither the Panel nor the Member has the authority to compel the attendance or contribution of a witness against their will. It will normally be the responsibility of the Member to notify any witnesses they wish to attend and to inform them of this fact.
- 4.9 The Member does not have the right to question witnesses but may submit to the Panel a list of written questions for each witness following his/her evidence. At its discretion, the Panel may ask the witness any of these questions.
- 4.10 In exceptional circumstances, on the request of a witness, the Panel may direct that the Member leaves the room for the whole or part of the evidence of the witness.
- 4.11 The Panel shall call upon staff advisors in matters for which they require legal or professional clarification or in such instances where the Union's legal

responsibilities may require them to take account of employment law issues or employee/employer rights. These advisors will normally be present throughout the Hearing.

- 4.12 The Disciplinary Panel shall have the power to adjourn, continue or postpone a hearing at its discretion.
- 4.13 The findings of the Panel and the imposition of any sanctions shall be decided by a simple majority vote of the Panel, notwithstanding that every effort will be made to reach a unanimous decision in the first instance.
- 4.14 The Panel reserves the right to inform the University of any sanction imposed on an individual.
- 4.15 After the Hearing, the Chair will notify all parties in writing of the outcome. Unless doing so would in any way breach the Data Protection Act or any other legal obligation relating to defamation or Duty of Care, the finding of the Hearing will be placed on the Democracy Hub Notice Board.
- 4.16 In line with the Data Protection Act 1998 the Member has the right to make a Subject Access Request for any record of the hearing kept on computer or in an intelligible and accessible filing system. In cases where an intelligible recording of the proceedings has been made the Union will not be under an obligation to provide a written record as well. If the record is written it will not normally be a verbatim record. The final decision in that matter will lie with the President. The Union's Privacy Statement (link xxx) sets out how personal information is treated.

5. Decision of the Disciplinary Panel

- 5.1 The decisions which the Disciplinary panel may take are:
- a) Imposition of a sanction on the Member, club or society from the list in paragraphs 5.8 or 5.9 below (as appropriate)
 - b) Referral of the matter to the University for assessment and final verdict; or
 - c) Dismissal of the allegations and charges brought against the Member, club or society.
- 5.2 In making its decision, the threshold to be reached by the Panel in any contested allegations is an assessment on the balance of probabilities, and not proof beyond reasonable doubt.
- 5.3 The Disciplinary Panel will be made aware of any previous offences in which the Member has been involved at the stage when sanctions (if any) are to be imposed.
- 5.4 A sanction may be suspended or deferred at the discretion of the Panel.

- 5.5 When setting sanctions the Panel will take into account any time or penalty already spent.
- 5.6 Within 5 working days of deciding the appropriate disciplinary action, the Disciplinary Panel shall notify the Member, club or society in writing of its decision and this notification shall normally set out the reasons for the Panel's decision and the imposition of any sanctions.

List of Grounds for Disciplinary Action

5.7 The following (which is not an exhaustive list) shall be considered misconduct and grounds for disciplinary action:

- a) violence or threat of violence
- b) using, dealing or possessing illegal drugs on Union premises
- c) drunk and disorderly conduct
- d) damage to the Union's property, or property belonging to a Member or guest
- e) refusal to leave the Union's premises
- f) misbehaviour of a Member's guests
- g) harassment of any kind
- h) abusive language to students or staff members
- i) contravention of the Memorandum and Articles of Association, Code of Conduct, By-Laws, Union Regulations and Principles or Policy
- j) lewd or offensive behaviour
- k) breach of the Union's Equality and Diversity By-Law
- l) any illegal behaviour
- m) failure to follow required health and safety provisions that have or are likely to have put someone in danger of serious injury, illness or death
- n) failure to comply with data protection provisions and provisions relating to secure use of the internet or email
- o) behavior which exposes the Union to potential or actual financial risk or loss or legal action
- p) behavior which causes difficult working relationships or damages the Union's reputation
- q) Conduct which disrupts or prejudices the work of the Union, other Members, officers or employees of the Union or the carrying out of the Union's business.

List of Sanctions for Groups

5.8 The following sanctions may be imposed by the Disciplinary Panel upon any club, society or group of the Union:

- a) financial penalty up to £350 (unrelated to specific financial loss as in b)
- b) financial restitution in full or in part of the cost of making good any damage or loss suffered by the Union or other Members or persons
- c) total or partial ban from some or all of the Union for a specified period of time
- d) removal of rights to use some or all of the Union's facilities for a specified period of time
- e) closure of the group, club or society
- f) any combination of the above sanctions
- g) any other sanction deemed appropriate by the Panel

List of Sanctions for Individual Members

5.9 The following sanctions may be imposed by the Disciplinary panel upon any Member of the Union:

- a) verbal or written apology
- b) total or partial ban from some or all areas of the Union, and access to services, facilities or activities for a specified period
- c) withdrawal of rights to participate in or benefit from specified Union services, facilities or activities for a specified period
- d) permanent or temporary suspension of some of the rights and benefits of membership of the Union (except that a member's right to receive notice of, attend, speak and vote at a Company General Meeting cannot be suspended).
- e) financial penalty up to £50 (unrelated to specific financial loss as in f)
- f) financial restitution in full or in part of the cost of making good any damage or loss suffered by the Union or other Members or persons
- g) any combination of the above sanctions
- h) any other sanctions deemed appropriate by the Panel

6. Appeal Process

6.1 An appeal may be made against the decision of the Disciplinary Panel.

Appeals may be submitted on the following grounds:

- a) That there was a material irregularity or failure in procedure in the conduct of the original Disciplinary Hearing.
- b) That there appears to be evidence of prejudice or bias in the preparation for or during the original Disciplinary Hearing.
- c) That relevant and apparently credible evidence has come to light which could not have been obtained with reasonable diligence for the original Disciplinary Hearing and which would probably have had an important influence on the Hearing.
- d) That in the light of such new evidence, the penalty imposed by the Disciplinary Panel is excessive in relation to the offence committed.

6.2 An appeal may be made by the Member in writing to the President within 5 working days of the Member receiving notification of the Disciplinary Panel's decision. If the individual lodging the appeal is awaiting a written record of the Hearing this will be taken into consideration when enforcing the appeal deadline. The appeal letter must briefly state the grounds for the appeal.

6.3 The President shall then convene an Appeals Panel that will consist of a Sabbatical Officer as Chair, and two other members of Student Council. The Appeals Panel members must not have been involved in the original hearing, not be directly connected with the Member bringing the appeal, nor have any other conflict of interest.

6.4 The Chair shall ensure that all relevant papers pertaining to the Appeals Panel have been circulated to the appellant, the complainant, and the members of the Appeals Panel.

6.5 The Appeals Panel will be held between 3 and 8 working days after the appeal has been lodged (subject to 6.2 above).

6.6 If both the appellant and the Chair agree then the date of the Appeals Panel may be postponed to a specified later date. However, this may happen only once.

6.7 The function of the Appeals Panel will be to consider whether there is a ground for the appeal, in accordance with 6.1 above. If so, the function of the Appeals Panel will be to consider the case again and as such the Appeals Panel should follow the same procedure as the original Disciplinary Panel, with the exception that the original witnesses will not be called again unless the Appeal Panel decides that their attendance is merited. The appellant should be able to speak first, and have the final word in mitigation.

6.8 The Appeals Panel may permit the appellant to call additional witnesses

or present additional evidence, and may call further witnesses itself.

6.9 The Appeals Panel may:

- a) uphold the decision of the Disciplinary Panel
- b) overturn the decision made by the Disciplinary Panel; or
- c) change the sanctions imposed by the Disciplinary Panel

6.10 The decision of the Appeals Panel shall be final.

7. Complaints about the Disciplinary Procedure

If either party is dissatisfied with their dealings with the Union, they may refer their complaint to the University Registrar. The Registrar may delegate an alternative University Officer to respond at his discretion. It should be noted, however, that recourse to the Registrar does not constitute a further appeals procedure and as such the appellant cannot delay complying with the decision of the Appeals Panel on the grounds that the Registrar has yet to adjudicate.