

## **Rule 9 – Disciplinary Procedure**

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*At times our members may break our rules or terms of good behaviour. This Rule explains how those circumstances will be handled. The procedures and decisions in this process shall at all times be bound by principles of natural justice and equity.*

### **1. The disciplinary process**

- 1.1 The disciplinary process is designed to provide an efficient, fair and transparent means of resolving issues of discipline that fall within the jurisdiction of the Students' Union.
- 1.2 The Union President shall be responsible for the oversight of the implementation of this Rule, except for the operation of the Disciplinary Committee.
- 1.3 Prior to beginning the formal procedures, an appropriate Sabbatical Officer or nominated member of staff should attempt to deal with concerns about standards of conduct through informal methods. Where this is not appropriate, recourse may be taken to the disciplinary procedure.
- 1.4 Disciplinary hearings shall be held in open session, to which all members of the Union are entitled to attend, but may determine in particular cases to hold a hearing in private.
- 1.5 Democracy Zone may from time to time make and amend guidance (the "Penalty Guidance") relating to the imposition of penalties under this Rule, which shall include (but is not limited to) starting points for different types of conduct, examples of appropriate levels of penalties for different circumstances, and factors to consider in mitigation.
- 1.6 Any matters not dealt with in this Rule shall firstly be at discretion of the Chair, and thereafter of the Committee itself.

### **2. The Disciplinary Pool**

- 2.1 There shall be a Disciplinary Pool from which the membership of the Committee shall be drawn.
- 2.2 Members of the Zone Committees shall be automatically deemed to be in the Disciplinary Pool unless they opt-out.
- 2.3 Each time the Committee is required to meet, between 5 and 10 members shall be drawn randomly from the pool to attend.
- 2.4 A member who has a conflict of interest in the matter, will be excluded from selection for that meeting. Where there is any disagreement over whether such a conflict of interest exists, the final decision shall be that of the Chair.
- 2.5 Meetings of the Committee shall be quorate if at least five of the members drawn to attend are present (to which total the Chair of the Committee shall contribute).

### **3. Chair of Disciplinary Committee**

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- 3.1 A Chair shall be elected by and from the Disciplinary Pool by the end of week 4 in every academic year.
- 3.2 The Chair shall hold office for a period of one year (which may be renewed once), starting on the day on which they are elected and ending on 30 June the following year.
- 3.3 A person may not be Chair if they are a Sabbatical Officer.
- 3.4 In the case of the absence of the Chair (including any circumstances in which the Chair has a conflict of interest), the Chair of Union Senate shall act in their place.
- 3.5 The Chair may be removed by a vote of no confidence:
  - (a) during a meeting of the Committee, by a vote of two-thirds of the Committee (which shall only have effect for the duration of that meeting), or
  - (b) outside a meeting of the Committee, by a vote of two-thirds of Union Senate (which shall vacate the election of that person as Chair);
- 3.6 Where the Chair is removed by:
  - (a) the Committee, they shall select a member from amongst the Committee to act as Chair for the remainder of that meeting,
  - (b) Union Senate, a by-election for the position shall be held as soon as is reasonably practicable.
- 3.7 The Chair shall not vote on any matter, except where a vote is tied, where the Chair shall have the casting vote.

## **4. Function and jurisdiction of Disciplinary Committee**

- 4.1 Disciplinary Committee is responsible for responsible for taking action where breaches of good order occur:
  - (a) where Union resources, facilities and buildings under the control of the Union are involved, and
  - (b) whilst a student is representing the Union at any event, of whatever kind and wherever held.
- 4.2 The following shall be considered breaches of good order, but do not constitute a complete list:
  - (a) wilful or negligent damage to, or loss of, Union property,
  - (b) conduct detrimental to the reasonable enjoyment of Union facilities by other members of the Union or to the reputation of the Union,
  - (c) breach of any Article, Rule or By-Law of the Union, or any Statute,

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Ordinance or Regulation of the University from time to time in force, or

- (d) breach of:
- (e) the equality/diversity policy.
- (f) the staff/student protocol.

4.3 Disciplinary Committee will also be responsible for hearing cases concerning the performance or behaviour of Union Officers, as detailed in Rule 10.

### **5. Informal resolutions of incidents**

5.1 The Chief Executive may nominate members of staff to have the power to deal with discipline issues. A member of staff authorised for that purpose may place any student under an interim ban.

5.2 An interim ban may be imposed where the member of staff has reasonable cause to suspect that student has committed a breach of good order enforceable under this Rule.

5.3 Where a student is placed under an interim ban, they must:

- (a) surrender their University ID card, and
- (b) if on Union premises or using Union facilities, leave those premises or facilities forthwith.

5.4 While a student is under an interim ban, they shall not, except with the prior consent of a nominated member of staff or the Union President:

- (a) enter onto Union premises or use Union facilities; or
- (b) represent the Union at any event of whatever kind wherever held.

5.5 As soon as is practicable after the ban is imposed, the student shall meet with a nominated member of staff. Usually, this meeting will be held within 48 hours of the original incident.

5.6 At the meeting, the member of staff will hear any representations the student wishes to make, and will then make a determination as to the facts of the incident and, having due regard to the Penalty Guidelines, may choose to:

- (a) take no further action,
- (b) impose a temporary suspension from specified Union buildings or facilities for a period not exceeding one month, or
- (c) make a formal complaint.

5.7 The student may, at their discretion, choose to have the matter dealt with as a formal complaint.

5.8 A student who is subject to a temporary suspension shall not enter into specified Union buildings or use specified Union facilities for the duration of their

suspension.

## **6. Formal complaints**

- 6.1 A formal complaint may be made by a member of the Union (“the complainant”), alleging a breach of good order by a Union member, in writing to the Chair of the Disciplinary Committee.
- 6.2 Formal complaints should be made within seven clear working days of the original incident occurring, unless there are extenuating circumstances.
- 6.3 The Chair, in consultation with the Union President, shall decide the most suitable course of action to take, including (but not limited to):
- (a) referring the complaint to the police for investigation,
  - (b) referring the complaint to the University for investigation,
  - (c) hearing the complaint by the Committee,
  - (d) summarily dismissing the complaint,
- 6.4 The Chair, in consultation with the Union President, may decide that the complaint should be brought against a recognised club or society (“Club or Society”) instead of the member(s) named in the complaint. In such cases, section 12 (Application of the disciplinary procedure to Clubs and Societies) shall apply.
- 6.5 The referral of a complaint to the police or University may be in conjunction with the hearing of that complaint by the Committee if necessary, but nothing should be done which might prejudice a criminal investigation. The Chair may decide to suspend the complaint pending the resolution of legal action or action taken by the University.
- 6.6 Any person who is the subject of a complaint (“a respondent”) shall be informed of the Chair’s decision in writing as soon as is reasonably practicable, and in any case within three clear working days.
- 6.7 If the Chair decides to dismiss the complaint, the complainant may appeal this decision to Disciplinary Committee (who shall be convened accordingly).
- 6.8 In respect of a student against whom a formal complaint has been submitted but a hearing has not yet occurred, the Chair of Disciplinary Committee may, if they believe it necessary to prevent a further breach of good order by that student, impose a ban.
- 6.9 While a student is under a ban imposed under this section, they shall not, except with the prior consent of the Chair:
- (a) enter onto Union premises or use Union facilities; or
  - (b) represent the Union at any event of whatever kind wherever held.
- 6.10 A ban shall last until the date of the hearing.

**7. Disciplinary hearings: preliminary**

- 7.1 A disciplinary hearing should be called with at least five clear days' notice, and within two weeks of the submission of the formal complaint (except with the consent of the respondent, in extenuating circumstances).
- 7.2 If a person is called to a disciplinary hearing, they shall be informed of the Committee's procedures. The Union shall:
- (a) provide the respondent with a copy of these procedures,
  - (b) provide the respondent adequate information about the offence(s) with which they are being charged, including factual details of the charge(s),
  - (c) inform the respondent as to the time, date and place of the hearing,
  - (d) inform the respondent of the need to provide details of their defence at least three clear days before the hearing, and
  - (e) inform the respondent of the procedure for providing written witness statements, and bringing witnesses to the hearing.
- 7.3 Where the Chair reasonably believes that a witness would not give evidence if required to do so due to the nature of the complaint, they may permit them to submit evidence in writing. Where the witness requests it, the identity of the witness shall only be made available to the members of the Committee, the respondent, the complainant (and where the respondent or complainant are accompanied by another person, that person) and the staff servicing the Committee.
- 7.4 The complainant and respondent (or their representatives) shall provide the Chair with the particulars of their cases (including any written witness statements) at least three clear working days before the hearing.
- 7.5 Copies of these summaries will be distributed to the complainant, respondent, and the members of the Committee at least twenty-four hours before the hearing.

**8. Disciplinary hearings: procedure**

- 8.1 Both the complainant and respondent may be accompanied by a full member of the Union.
- 8.2 At the hearing, the Chair will explain the procedure, read the charge(s), and ask the respondent whether they admit the charge(s).
- 8.3 The complainant (or the person accompanying them, at the discretion of the Chair) shall present their case, and their witnesses shall give their accounts of what occurred.
- 8.4 The respondent (or the person accompanying them, at the discretion of the Chair) shall then present their case, and their witnesses shall give their accounts of what

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occurred.

8.5 The complainant, the complainant's witnesses, the respondent and the respondent's witnesses, are expected to attend the hearing (except where permitted by the Chair to instead written evidence), and can be questioned by the Committee and the other side in such a manner as shall be deemed fair and appropriate by the Chair.

8.6 The complainant will then sum up their case, followed by the respondent.

### **9. Decisions and available penalties**

9.1 Following the summing-up, the Committee shall continue in private, and shall determine whether the respondent is guilty of each charge. If they find them guilty, they shall then determine the appropriate penalty, taking into account the Penalty Guidance.

9.2 The Committee shall also take into consideration any punishments previously imposed on the respondent in respect of that incident (whether by the University or courts, or any other body).

9.3 The available penalties are:

- (a) monetary compensation; to a maximum of the cost of any damage caused by the respondent,
- (b) a fine; to the maximum set in the Union Financial Schedule,
- (c) a full or partial suspension of the member; for a maximum period of one year, during which time specified Union facilities, activities or services shall be unavailable,
- (d) such other penalty, by way of rehabilitation or restitution, as the Committee believes to be reasonable in the circumstances, taking into account the nature and severity of the breach and the means by which it was committed.

9.4 The Committee may decide, in addition to any other penalty imposed, that the identity of the respondent should be included in the report to Senate of that hearing.

9.5 The Committee may decide that the available penalties are not suitable, and refer the case to the police or University.

9.6 In a case brought against a Union Officer under the provisions of Rule 10, the penalties will instead be as provided for by section 4 of that Rule.

9.7 Fines levied under this section shall be donated to RAG.

9.8 If a person or committee fails to comply with a penalty imposed under this Rule, they shall be subject to a further hearing of Disciplinary Committee, which shall be entitled to impose additional penalties (within the provisions of this section).

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9.9 A suspension (however imposed) shall not have the effect of preventing a student who is also an employee of the Union (of whatsoever description) from carrying out their duties in accordance with their employment.

### **10. Appeals**

10.1 Following receipt of the decision of the Disciplinary Committee, the complainant and/or respondent have three clear days to lodge an appeal.

10.2 An appeal must be in writing to the Chair of Disciplinary Committee and must clearly state the grounds for appeal, which must be that:

- (a) a failure to follow proper procedure impacted significantly on the integrity of the disciplinary process,
- (b) a failure by the Committee to properly consider the facts of the case impacted significantly on the integrity of the disciplinary process, or
- (c) the penalty imposed was unreasonable.

10.3 Five new names shall be drawn at random from the Disciplinary Pool to form the Appeals Committee. A Sabbatical Officer who is not a member of a Disciplinary Committee shall sit on Appeals Committee. This group will select a Chair from its number at the start of the meeting.

10.4 The Chair of Disciplinary Committee shall be available to advise the Chair of Appeals Committee as requested.

10.5 Procedures for Appeals Committee will follow those of a disciplinary hearing as outlined above, but, in addition:

- (a) either side can include new evidence, and
- (b) the decision of Appeals Committee must be by a two-thirds majority.

10.6 The Appeals Committee must first consider the grounds for appeal. They may decide to:

- (a) uphold the grounds, in which case they will re-hear the original complaint, or
- (b) reject the grounds, in which case the appeal is terminated.

10.7 Where the Appeals Committee decide to uphold the grounds, and have re-heard the complaint, they may decide to either:

- (a) dismiss the original complaint,
- (b) change the decision of Disciplinary Committee (including any penalty imposed, but where the appeal has been brought by the respondent, a new penalty shall not be more severe than that originally imposed),
- (c) uphold the decision of Disciplinary Committee.

10.8 The decision of Appeals Committee is final.

**11. Recording and publication of outcomes**

- 11.1 The Chair of Disciplinary Committee shall inform all parties of the outcome within three clear days of the hearing, including sending the procedures for appeal.
- 11.2 Minutes shall be kept of the hearings of the Committee, which shall include a numerical record of any vote held, but shall not include the content of any private deliberation between members of the Committee.
- 11.3 The outcome of every hearing shall be published on the Union website, and reported to the next meeting of Union Senate, with the identity of the respondent, any witnesses and the complainant (except where this is the Union President on behalf of the Union) removed.
- 11.4 The identity of the respondent shall be published where:
- (a) the Committee have decided (under section 9.4) that the name of the respondent should be published, or
  - (b) the respondent is a Club or Society (but the identity of any person appearing on behalf of that Club or Society shall not be published).
- 11.5 The minutes and outcome of every hearing (including the names of parties involved) shall be kept on file by the Union, and shall available for inspection by members of the Union on request to the President.
- 11.6 The Committee may also report to Union Senate as it sees fit on matters of general importance relating to the disciplinary process.

**12. Application of the procedure to Clubs and Societies**

- 12.1 Where the Chair determines that a complaint be brought against a Club or Society (under the provisions of section 6.4), this section shall apply.
- 12.2 The President (or most senior committee member) of the Club or Society shall respond, receive documents and attend the hearing on behalf of the Club or Society, but this does not create any personal liability for them for the actions of that Club or Society.
- 12.3 Where a Club or Society is subject to a penalty, section 9.3 shall not apply, and the available penalties are instead:
- (a) Monetary compensation; to a maximum of the cost of any damage caused,
  - (b) a fine; to the maximum set in the Union Financial Schedule,
  - (c) suspension of funding from the Union for a maximum period of one year,
  - (d) suspension of the student club or society account (where this is held by the



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- Union) for a maximum period of one year,
- (e) suspension of the affiliation of the student club or society to the Union; for a maximum period of one year, during which time specified Union facilities, activities or services shall be unavailable,
  - (f) such other penalty, by way of rehabilitation or restitution, as the Committee believes to be reasonable in the circumstances, taking into account the nature and severity of the breach and the means by which it was committed.
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