

Bye-law 6: Code of Conduct

This Code has been established by the Board of Trustees in accordance with Article 13 Clause 13.1 of the Union's Memorandum and Articles of Association. It aims to provide a framework within which the Union can work with Members to maintain satisfactory standards of conduct (and where appropriate, performance) and to encourage improvement where necessary.

1. Introduction

- 1.1. This Code sets out the procedures to be followed in the case of disciplinary action against an individual Member of the Students' Union as set out in Article 10.1 of the Memorandum and Articles of Association.
 - 1.1.1. This Code also applies to non-members acting in voluntary roles within the Students' Union, for example non-student society members.
 - 1.1.2. Any complaints, including misconduct and capability, regarding the Officer Trustees may also be resolved through the employment policies of Hertfordshire Students' Union in place at the time.
 - 1.1.3. As set out in Article 36 on the Memorandum and Articles of Association, Trustees may remove Officers through a vote of no confidence.
- 1.2. It is the Students' Union policy to ensure that all matters are dealt with fairly and that steps are taken to establish the facts and to give Members the opportunity to respond before any formal action is taken.
- 1.3. If a Member has difficulty at any stage of a procedure instigated under this Code because of disability, the Member should discuss the situation with the President or General Manager as soon as possible.

2. Scope

- 2.1. Disciplinary action may be taken in respect of any breach of discipline:
 - 2.1.1. On the Students' Union premises;
 - 2.1.2. Whilst using Students' Union facilities;
 - 2.1.3. Whilst attending a Students' Union event;
 - 2.1.4. While a member is representing or acting on behalf of the Students' Union at any event of whatever kind and wherever held;
 - 2.1.5. In relation to actions or incidents between two or more representatives of the Students' Union in any or none of the settings above, or in relation to actions or incidents between Students' Union representatives and staff or stakeholders; or
 - 2.1.6. Breaching the additional guidance for Members who assume responsibility, for example Society Committee Members.

3. Meaning

- 3.1. In this Code a breach of discipline means (but is not limited to):
- 3.1.1. threatening or harassing any other person, whether physically or verbally;
 - 3.1.2. assaulting any other person;
 - 3.1.3. damaging any property, whether deliberately or negligently;
 - 3.1.4. acting in contravention of the Students' Union Equal Opportunities Policy;
 - 3.1.5. acting without due regard for the safety of others;
 - 3.1.6. acting with dishonesty or with intent to defraud; or
 - 3.1.7. bringing the Students' Union into disrepute through actions as an official representative of the Union

4. Panel and Supervising Trustee

- 4.1. The Chair of the Board of Trustees (Deputy Chair in the case of a conflict of interest) shall supervise this procedure. They shall annually report to the Board of Trustees on the operation of this Code.
- 4.2. The Board of Trustees will appoint a pool of people from which to form a panel at disciplinary hearings, which will always consist of:
- 4.2.1. A member of the Board of Trustees; and
 - 4.2.2. A member of the Student Council.
- 4.3. The Chair shall be the Supervising Trustee as described in paragraph 4.1.
- 4.4. Members of a panel should have no prior involvement in the case and must declare any conflicts of interest.

5. Making a Complaint

- 5.1. A complaint should be made in writing to the Supervising Trustee c/o the General Manager.
- 5.2. The Supervising Trustee may be assisted by the General Manager (or nominee) in carrying out his/her function of this Code.
- 5.3. Anonymous complaints may be investigated and dealt with. In such cases, the Students' Union will endeavour to take such extra steps and precautions as are appropriate to ensure fairness.
- 5.4. Once a complaint has been made, the Students' Union may deal with it even if the Member subsequently asks the Union not to do so. In such cases the Students' Union will endeavour to act sensitively and will take into account, so far as reasonable to do so, the complainant's wishes.

5.5. Complaints subsequently found to be spurious may be treated as an act of misconduct.

5.6. Following receipt of a complaint, the Supervising Trustee will determine any necessary action.

6. Criminal Allegations

6.1. Where a Member's conduct is the subject of a criminal investigation, charge or conviction the Students' Union will investigate the facts before deciding whether to take formal disciplinary action.

6.2. The Students' Union will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where a Member is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the Students' Union will have to take a decision based on the available evidence.

7. Investigations

7.1. If the Supervising Trustee determines this procedure is applied, they will appoint an Investigating Officer, who may be a member of the Students' Union's staff, to review the case and establish the facts.

7.2. All Members are required to fully and promptly comply with any investigation. This will include informing the Investigating Officer of any relevant witnesses, disclosing any relevant documents and attending investigatory interviews.

7.3. The Investigating Officer will consider all the evidence and report their findings to the Supervising Trustee who will make a decision as to the outcome. The possible outcomes include but are not limited to:

7.3.1. No further action to be taken;

7.3.2. Arrange informal coaching, advice and counselling;

7.3.3. Refer to a Disciplinary Panel; or

7.3.4. Refer to the University or other relevant body.

7.4. The Supervising Trustee will confirm its decision in writing to the Member within 10 working days. Where this is not practical to comply with this deadline, they may be extended at the discretion of the Supervising Trustee.

7.5. It is recognised that being the subject of a complaint can be a difficult time for an individual, and so such action will be taken with appropriate discretion, care and consideration.

7.6. No representative of the Students' Union should comment publicly on any incident that is being dealt with under this procedure. Failure to observe this requirement will result in disciplinary action being taken.

8. Informal Procedures

8.1. Minor cases of misconduct and poor performance are best resolved informally. It may be necessary to issue an informal warning, but the Supervising Trustee will ensure

that these areas are discussed with the objective of helping the Member to make appropriate improvements. At this stage, the Member will be made fully aware of what steps need to be taken to address the conduct issue. They will also be told when this will be reviewed and over what period.

- 8.2. Members will be informed of what action will be taken if they fail to improve either their performance or conduct (see below). Informal warnings and/or counselling are not part of the formal disciplinary procedure and Members should be made aware of this.

9. Stages of Disciplinary Action

- 9.1. The Supervising Trustee will decide whether a matter should be dealt with informally or formally under the disciplinary procedure.
- 9.2. Disciplinary panels and appeal panels will be made up of different people to ensure fairness and no panel member shall have had a significant involvement in the case before being on a panel.
- 9.3. There are different types of action that can be taken that vary in their severity. The disciplinary hearing will decide the severity of the misconduct and the appropriate action. These are:
 - 9.3.1. Written Warning – in cases of misconduct the Member will usually receive a written warning for six months. This will be recorded on the Member's record for six months to 12 months but then be disregarded for disciplinary purposes.
 - 9.3.2. Final Written Warning – for more serious infringements or if the Member has committed a further infringement during the period covered by a written warning, a final written warning can be issued. This will be recorded on the Member's record for 12 months.
 - 9.3.3. Suspension of all or parts of membership entitlements including removal from a committee position – in cases of gross misconduct Members may have their membership suspended for a defined period of time. This can range from as a member of a student group to as a member of the Union.
 - 9.3.4. Termination of Membership Entitlements – in cases of gross misconduct, Members may have Membership terminated. NB: the ability to hold office in the Students' Union is dependent on upon being a Full Member. Termination of all entitlements would therefore represent a termination of their ability to hold such office.

10. Suspension

- 10.1. In certain circumstances, for example cases involving alleged gross misconduct, where relationships have broken down, or where it is considered there are risks to the property or the Students' Union responsibilities to other parties, it may be appropriate to suspend membership rights, with or without, entitlements whilst an investigation is undertaken.
- 10.2. Suspending a Member from the Students' Union is not in itself a form of disciplinary action whilst the investigation is progressing.

- 10.3. As the ability to hold office in the Students' Union is dependent upon being a Full Member, suspension of membership would represent a temporary suspension of that holding of office.

11. Disciplinary Hearing

- 11.1. The Supervising Trustee will form a Disciplinary Panel of no more than three people.
- 11.2. Before a decision is reached or any disciplinary action is taken, there will be a disciplinary hearing at which the Member will have the opportunity to state their case and answer the allegations that have been made. The Investigating Officer will present their findings at the disciplinary hearing.
- 11.3. The Member will be given a minimum of five (5) working days advance notice of the disciplinary hearing.
- 11.4. The Students' Union will provide all relevant information, including statements, no later than five (5) days in advance of the disciplinary hearing.
- 11.5. The Member has the right to be accompanied at a formal disciplinary hearing by a companion or friend. This does not include a legal representative.
- 11.6. The disciplinary hearing may be adjourned by the panel if it deems it necessary to carry out any further investigations such as re-interviewing witnesses in the light of any new points raised at the hearing. The Member will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 11.7. The panel will inform the Member in writing of its decision. This will include:
- 11.7.1. Detail of the misconduct that has been alleged and what the decision of the panel is;
 - 11.7.2. If necessary, the level of disciplinary action;
 - 11.7.3. Any recommendations/action required to prevent future disciplinary action (if applicable);
 - 11.7.4. The consequence of failure to comply with the decision (if applicable);
 - 11.7.5. Details of the appeal mechanism; and
 - 11.7.6. If necessary, the length of time the warning will last before it is disregarded.

12. Appeals

- 12.1. A member will notify the panel of their intention to appeal against disciplinary action within five working days of the date of the decision letter. The appeal should be made in writing stating the grounds upon which the appeal is to be made.
- 12.2. Members should note that an appeal is designed to remedy any defects in the disciplinary process rather than repeat the investigation of the disciplinary process. Therefore grounds for appeal are:

- 12.2.1. A procedural or administrative error of the original hearing;
- 12.2.2. The level of disciplinary sanction imposed; and
- 12.2.3. If considering any new material evidence not produced at the original hearing.
- 12.3. An appeal hearing will normally be held within 14 working days of receipt of the letter of appeal. An appeal will be heard by a panel (see below), who have previously had no involvement in the case.
- 12.4. The appeal panel shall include the following:
 - 12.4.1. A Student Trustee
 - 12.4.2. An External Trustee
 - 12.4.3. A member of Student Council
- 12.5. A member will have the right to be accompanied by a companion or friend. This does not include a legal representative.
- 12.6. The member will be notified of the results of the appeal in writing within five working days of the hearing. The Member will have no further right of appeal.
- 12.7. The outcome of the appeal could be (but is not limited to):
 - 12.7.1. To uphold the disciplinary sanction;
 - 12.7.2. To reduce the disciplinary sanction to a lower level;
 - 12.7.3. To increase the disciplinary sanction and/or impose other remedial action;
 - 12.7.4. To impose other remedial action; or
 - 12.7.5. To overturn the disciplinary decision and sanction;
- 13. Record keeping and confidentiality**
 - 13.1. Records will be kept of alleged breaches of disciplinary rules and of subsequent developments, including written notes of all formal interviews under the disciplinary procedure and, where applicable, the appeals procedure.
 - 13.2. The records are confidential and will be retained in accordance with the Data Protection Act 1998 (or the current data protection legislation).