

## **Byelaw K: Statutory Complaints Procedure**

### **1. Purpose**

This Byelaw has been established to provide further details of the procedure for how members may complain if they are dissatisfied by their dealings with the Union, or if they feel they have been unfairly disadvantaged by reason of having exercised their right not to be a member of the Union, in accordance with the Education Act 1994. This procedure codifies the Statutory Complaints Procedure detailed in Article 20 of the Constitution.

The Board may determine that other complaints procedures are appropriate for specific circumstances, such as in relation to the provision of services, or in connection with elections. The Chief Executive will ensure that any complaints procedures in force are widely published and available.

### **2. Principles of the Complaints Procedure**

The Complaints Procedure sets expectation that all complaints are:

- i. Taken seriously and proceed in a timely fashion.
- ii. Treated in a confidential manner.
- iii. Consistent with principles of natural justice.
- iv. Raised no later than three months after which the matter causing complaint occurred.
- v. Made by an aggrieved party; the Union will not usually accept complaints made anonymously or on behalf of others.

Complaints raised more than three months after the matter which is cause for complaint will be accepted only in exceptional circumstances, at the discretion of the Senior Management Team.

This Complaints Procedure is appropriate for use by all students who are dissatisfied with their dealings with the Union. The Complaints Procedure sets out how:

- i. Students will submit complaints.
- ii. Complaints will be investigated.
- iii. Complaint outcomes are determined.
- iv. Appeals may be submitted.
- v. Appeals will be heard.

The Complaints Procedure is not appropriate for complaints regarding:

- i. Political decisions taken by elected representatives, which should be raised through the political accountability framework provided by Student Executives and referenda.
- ii. Disciplinary action, which is set out in Byelaw L.

Should it be determined that another procedure, such as the Members' Disciplinary Procedure, is more appropriate to address the complaint at any stage, the complainant will be advised of this at the earliest opportunity.

### **3. Submitting a Complaint**

All complaints should be made via the online Complaints Form available on the Students' Union website. Where this is not possible, complaints may be submitted in writing to the President.

Complainants will receive confirmation of the receipt of their complaint following submission, and will be informed of any updates, actions, or outcomes of the subsequent investigation in writing.

#### 4. Informal Resolution Stage

In the first instance, an informal resolution will be sought for complaints, unless it would be inappropriate for the complaint to be raised informally, due to the nature or severity of the incident involved. In this instance, the complaint would be escalated to the formal complaint stage immediately.

If the complaint is progressed as informal, it will begin with a discussion between you and a member of the Union team aimed at resolving the concerns raised. An informal complaint can be resolved by an informal discussion, mediation or by any other way that is deemed appropriate with the aim of working with all parties concerned to identify a mutually agreeable outcome.

If, after the conclusion of the informal intervention, the complainant is unhappy with the outcome, they may request in writing to the member of staff managing the informal process that the complaint be escalated to the formal complaint stage.

#### 5. Formal Complaint Stage

On receipt of a formal complaint, one Full-time Officer will be appointed as a Deciding Officer by the President. This individual will receive the complaint and sanction a formal investigation. If the Deciding Officer sanctions an investigation, the Senior Management Team will appoint a member of staff as the Investigation Lead with the responsibility of investigating the complaint and producing an Investigation Report to be sent to the Deciding Officer. In complex cases, the Senior Management Team may refer the case to an external partner who will then be appointed as the Investigation Lead.

On receipt of the Investigation Report, the Deciding Officer will rule on the outcome of the investigation as detailed in Section 7. In any event, the Officer will write to the complainant to confirm receipt of the formal complaint and any action taken.

Any complaint about a Full-time Officer will be referred to another Full-time Officer with no conflict of interest.

Complaints made about staff will be referred to the Chief Executive, for processing in line with appropriate employment practices. If a complaint is made about the Chief Executive, the Full-time Officer appointed to investigate will be supported by an External Trustee (usually the Vice Chair of the Board).

#### 6. Investigation of a Formal Complaint

The designated Deciding Officer will, after finding probable cause for investigation, work with the appointed Investigation Lead to ensure the investigation proceeds efficiently and in-line with timeframes outlined below. The Investigation Report will concisely summarise the facts of the complaint and, if the complaint is upheld, a recommendation as to an effective remedy.

In any event, the Deciding Officer will write to the complainant with a summary of the Investigation Report within 90 calendar days of receipt of the Formal Complaint. This timescale may in exceptional circumstances need to be extended, where this is the case, the complainant will be informed and kept up to date with the progress of the investigation.

The Investigation Lead will, generally, ask the complainant whether they would like a face-to-face meeting during the investigation process. The Investigation Lead may also require members, staff, and trustees to support the collection of evidence in the investigation process.

The Investigation Lead will be guided by precedent during their investigation and will securely store their Investigation Report for an appropriate time period.

## 7. Complaint Outcomes

At the conclusion of the investigation, the Deciding Officer will review the Investigation Report and conclude if the complaint is:

- i. Upheld: whereby the Union will seek to adopt an appropriate solution or remedy, and issue an apology where appropriate. It may not always be appropriate for the complainant to be informed of all the details of any decision, for example in matters related to staffing, in order to comply with our duties of confidentiality as an employer. Where this is the case, the rationale will be made clear in the outcome provided to the complainant.
- ii. Partially upheld: whereby the Union will seek to adopt a mutually agreeable solution or remedy. As before, it may not always be appropriate for the complainant to be informed of all the details of any decision.
- iii. Not upheld: whereby the Union determines that there is no case to answer, and will provide a clear rationale for the decision.

The Deciding Officer may conclude that an appropriate complaint outcome is the commencement of disciplinary procedures. A complainant should have no expectation that they will be involved in disciplinary processes, as this may include confidential practices.

## 8. Appeals

The complainant has a right to appeal on three grounds, and must have evidence that the Deciding Officer:

- i. Allowed the Investigation Lead to conduct the investigation in a way that was procedurally irregular.
- ii. Was not able to consider evidence that has now become available.
- iii. Has not identified an effective remedy to an upheld complaint.

The complainant may not appeal because they disagree with a complaint not being upheld, unless they also have one or more of the grounds for appeal.

Requests for appeal should be made in writing to the Deciding Officer within seven calendar days of receiving the outcome of the formal complaint. The request will be passed to the Chief Executive, who will determine whether grounds for appeal exist.

The Chief Executive will, after finding grounds for appeal, make arrangements for a panel of the Board to consider the appeal. The panel will include three trustees, none of whom will have had previous knowledge of the complaint.

The panel will consider a case presented by the individual(s) who ran the investigation, and disputed by the complainant. The appeal may not require a hearing, and the panel may determine that it will conduct the process at a distance.

9. External review

Complainants have the right to request that the College review the complaints process. The College will not reinvestigate the complaint, but will report on the confidence that can be placed in the complaints procedure being fair and appropriate.