

## **Byelaw L: Members' Disciplinary Procedure**

### **1. Purpose**

This Byelaw has been established to provide further details regarding the consequences of a potential breach of the Members' Code of Conduct when participating in Union activities, under Article 4 of the Constitution.

The Board will also publish an additional Code of Conduct and associated Disciplinary Procedure for all trustees of the Union, which will be made publicly available.

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

The Discipline Procedure sets expectation that all allegations of misconduct which may require a disciplinary process are:

- i. Taken seriously, and proceed in a timely fashion
- ii. Consistent with principles of natural justice
- iii. Raised as soon as possible, and no later than three months following the event
- iv. Made by an aggrieved party; the Union will not usually accept allegations of misconduct made anonymously or on behalf of others

This Discipline Procedure is appropriate for use to consider allegations against members, individually or collectively. The Discipline Procedure sets out how:

- i. Summary offences will be managed
- ii. Allegations of misconduct should be raised
- iii. Allegations of misconduct will be investigated
- iv. Appropriate outcomes are determined
- v. Appeals may be submitted
- vi. Appeals will be heard

The Discipline Procedure is not appropriate for allegations regarding:

- i. Political decisions taken by elected representatives, which should be raised through the political accountability framework
- ii. Conduct of Union trustees, which should be considered through the appropriate charity law practices
- iii. Conduct of Union staff, which should be considered through appropriate employment practices
- iv. Behaviour or activity which is not related to Union membership or employment

### **3. Summary Offences**

The Disciplinary Procedure is only appropriate for use in considering allegations of misconduct against members or groups of members; for the avoidance of doubt, this does not include misconduct which occurs when students are using Union services.

The Chief Executive has managerial authority to enforce good conduct in the use of services, in line with standard operating procedures, using appropriate discipline against summary offences. The exercise of this authority, therefore, may not limit membership of the Union, and only refers to the use of services.

The Chief Executive may refer any allegation of misconduct to the President or another Trustee for consideration under this Disciplinary Procedure, at their discretion.

#### 4. Triggering an Investigation

The Union may investigate an allegation of misconduct for any reason. Where a student wishes to raise an allegation directly, this should be raised in writing to the President.

A Full-time Officer, appointed by the President and supported by a member of staff appointed by the Chief Executive, will determine probable cause for an investigation. The delegated Full-time Officer and Chief Executive will determine that an allegation of misconduct does, in fact, refer to behaviour or actions that relate to Union membership or employment. In any event, they will write to the person making the allegation to confirm receipt of the allegation and any action taken.

Allegations which do not relate to Union membership or employment may be more appropriately considered by the College, under their Student Conduct Regulations, or by an external partner, such as a local authority or the police. The Full-time Officer will refer any person who makes an allegation of misconduct which the Union declines to proceed with to appropriate external partners.

If a person makes an allegation of misconduct to the Union as well as to the College or to external partners, the Union reserves the right to suspend consideration of the allegation until the conclusion of other processes. For the avoidance of doubt, the President may at this time suspend membership entitlements if there is reasonable grounds to do, whilst the third party investigation takes place.

The President will refer any allegations of misconduct about the President to another Full-time Officer with no conflict of interest.

#### 5. Investigation Process

The Full-time Officer will, after finding probable cause for investigation, work with an appointed member of staff to produce an Investigation Report. The Investigation Report will concisely summarise the facts of the allegation and a recommendation as to an effective sanction.

The Full-time Officer running the investigation will, generally, ask both parties whether they would like a face-to-face meeting during the investigation process. The Full-time Officer may require members, staff, and Trustees, to support the collection of evidence in the investigation process.

For the avoidance of doubt, the President has discretion to suspend membership entitlements while an investigation is in progress, including the recognition of student groups, and their members' access to support, funding, and facilities. There is no assumption of guilt during a period of suspension, but non-compliance with the President's decision may be considered a further disciplinary matter.

#### 6. Discipline Outcomes

The designated Full-time Officer will be guided by precedent and will securely store their Investigation Report for an appropriate time period, under the guardianship of the Chief Executive. The Full-time Officer may conclude that there is no case to answer and therefore dismiss the case.

The President or Deputy President where there is a conflict of interest, is empowered to issue the following on the basis of the evidence provided by the investigation.

- i. A verbal warning
- ii. A written warning
- iii. A final written warning

Where the investigation finds there is a serious case to answer (over and above the three outcomes listed above), and there is sufficient time to do so, the matter will be referred to a disciplinary panel.

### *Disciplinary Panel*

The disciplinary panel will consist of three student members of the Union with no conflict of interest, from a pool that includes:

- i. Elected members of the Student Executives
- ii. Elected committee members of ratified Student Groups
- iii. Elected leaders of Student Collectives
- iv. Elected Academic Representatives

The panel will review the investigation report, and will hear evidence from both the investigating officer and the individual accused of misconduct. It may choose to hear evidence from other related parties as it sees fit. Usually, the individuals subject to the process will receive all evidentiary documents not less than five working days before a panel. Where there is a delay, reasonable justification should be made.

An appropriate discipline outcome may be that:

- i. There is no case to answer
- ii. There should be a period of mandatory training and development
- iii. There should be a sanction imposed

The sanctions available to the panel include:

- i. A written warning
- ii. A final written warning
- iii. Termination or suspension of membership entitlements

The Panel, for the avoidance of doubt, has discretion to impose sanctions against members of student groups and the whole student group, individually and collectively.

### 7. Appeals

Any member or group who has an allegation of misconduct against them upheld has a right to appeal on three grounds, and must provide evidence that:

- i. The investigation process was conducted in a way that was procedurally irregular
- ii. The disciplinary panel was not able to consider evidence that has now become available
- iii. The disciplinary panel has imposed a disproportionate sanction

The member or group against whom an allegation has been upheld may not appeal because they disagree that an allegation has been upheld, unless they also have one or more of the grounds for appeal. The member or group should submit their appeal in writing to the Chief Executive, who will determine that grounds for appeal do 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 at least three trustees, none of whom will have had previous knowledge of the allegation.

The panel will consider the outcome of the disciplinary panel, and disputed by the member or group. The appeal will not necessarily require a hearing, and the panel may determine that it will conduct the process at a distance or electronically.

The panel will consider the appeal and may find that the disciplinary case should be:

- i. Dismissed
- ii. Upheld, and the original sanction applied
- iii. Upheld, and an alternative sanction applied

After the appeal process has concluded, there is no further opportunity to contest a disciplinary case. The Statutory Complaints Procedure will only be appropriate if there is probable cause to investigate a complaint that no confidence can be placed in the entire disciplinary process.