

## Bye-Law 9: Complaints and Disciplinary Procedure

### 1 Complaints

- 1.1 In accordance with the Education Act 1994, this document outlines the Union Complaints Procedure.
- 1.2 All Student Members, Associate Members, opted-out students, and others involved with the Union can make a complaint if they are dissatisfied with their dealings with the Union or claim to be unfairly disadvantaged as a result of opting out of the Union.
- 1.3 If a member has a complaint about the services of the Union which they feel they can take up informally, without raising a formal complaint using this procedure, with a view to its being resolved quickly, they are encouraged to do so. For example, they are encouraged:
  - (a) to take up any complaint they may have in relation to the Union's operations, initially with the relevant service manager and, if necessary, with the Chief Executive.
  - (b) to take up any complaint they may have in relation to other Union services, initially with relevant service manager and, if necessary, with the Chief Executive.
  - (c) to take up any complaint they may have in relation to the Assembly, initially with the Assembly Speaker; and
  - (d) to take up any complaint they may have in relation to any of the Union's student groups, initially with an elected leader or the committee of the student group concerned or the Chief Executive or their nominee.
- 1.4 If, for any reason, a member feels unable to make a complaint informally as referred to above, or they are dissatisfied with progress or outcome of making a complaint informally, they may make a formal complaint.
- 1.5 This procedure does not apply to complaints about the University, its services or University personnel. If a member has such a complaint relating to the University, please refer to the University's complaints procedures.
- 1.6 The Union has several other procedures which may need to be followed in relation to a complaint, or which may be more appropriate for dealing with that complaint. In particular:
  - (a) This procedure does not cover complaints about the conduct of elections. If a member has a complaint about elections, it should be made in accordance with the *Bye-Law 3: Elections*.
  - (b) If a complaint relates to the performance of elected Student Officers in relation to their duties and responsibilities as provided for in the Union's Bye-Laws, or to the performance of the Trustees in relation to their duties and responsibilities as provided for in the Union's Bye-Laws and/or in the Union's Memorandum or Association, this will normally be considered under such bye-laws and/or Articles. If a member has such a complaint, and they are not clear how to take it forward, they should seek the advice of the Assembly Speaker or, where the complaint relates to a Trustee, the Deputy Chair of the Board of Trustees.
  - (c) If a complaint concerns a member of staff of the Union, this may need to be considered under the University employment disciplinary procedures. If a

member has such a complaint, and they are not clear how to take it forward, they should seek the advice of the Chief Executive, unless the complaint relates the Chief Executive in which case they should seek advice from the Deputy Chair of the Board of Trustees.

If a member feels unable to seek advice from an individual specified above, because their complaint relates to or concerns that individual, or for any other reason, they should seek advice from the Chief Executive.

## **2 Complaints Procedure**

2.1 If a member wishes to raise a formal complaint, they should do so by emailing the Union President, or, if the complaint relates to or concerns the President, by emailing one of the Deputy Presidents. Please note, for the purposes of the following provisions, if a member's complaint relates to or concerns the Union President, all references to "the President" should be read as references to "the Deputy President."

2.1.1 If the President or Deputy President emailed has a conflict of interest with the complaint, the complaint will be dealt with by another Sabbatical Officer who does not have a conflict of interest.

2.2 A complaints form will be made available on the Union website and must at least include:

- (a) the nature of the complaint.
- (b) details of the circumstances in which it has arisen.
- (c) details of any steps taken so far to have the complaint dealt with; and
- (d) details of the steps the member considers should be taken to deal with the complaint.

The Member should also attach and clearly identify any documents they wish to be taken into account in the consideration of their complaint.

2.3 On receipt of a complaint, the President will respond to the Member within 10 working days setting out how the complaint will be considered.

2.4 The President will consider requests for confidentiality in dealing with a complaint but an anonymous complaint or anonymous contributions cannot be considered.

2.5 The President may deal with the complaint as they consider appropriate in all the circumstances. In particular:

- (a) the President may investigate the complaint themselves; or
- (b) may refer the complaint for investigation to another individual on their behalf or to a Disciplinary Panel; or
- (c) may refer the matter to be dealt with under other Union or University procedures as referred to above.

2.6 In case of referral to be dealt with under any other Union or University procedure, it may not be possible deal with a complaint within a specific time, but the Member will be kept informed of the anticipated timescale.

2.7 In the course of any investigation of the complaint the President may, but need not, invite the member to a meeting with them and/or other specified individuals to discuss the Member's complaint.

- 2.8 If the matter has not been referred to be dealt with under any other Union or University procedure as referred to above, the President will take a decision in relation to the complaint and notify the member by email of such decision by no later than 20 working days of the complaint being received, or by such later reasonable time notified to the member.
- 2.9 If the Member is dissatisfied with the President's decision in relation to their complaint, they may apply for a review of the decision by a reviewer in accordance with the procedure set out below.
- 2.10 If the matter has been referred to be dealt with under any other Union or University procedure as referred to above, the Member will be notified of the final decision under that procedure, which will be treated as the outcome in relation to the member's complaint, and the member will not be entitled to any review by the Review Panel in relation to it.

### **3 Complaint Review**

- 3.1 If a member is dissatisfied with the decision relating to their complaint, they may apply within 10 working days for a review of that decision.
- 3.2 A request for a review should be sent by email to the Deputy Chair of the Board of Trustees headed 'Request for Review of Complaint Decision' and should set out:
- (a) details of the original complaint.
  - (b) details of the complaint decision; and
  - (c) details of why the member considers the decision should be reviewed.
- 3.3 The Member should also attach to their e-mail or otherwise clearly identify any documents they asked to be considered in relation to their complaint and any further documents they consider relevant to the review.
- 3.4 As soon as practicable after a request of review the Deputy Chair of the Board of Trustees or another Lay Trustee will review the complaint. This person must have had no significant involvement in investigating the initial complaint.
- 3.5 The reviewer may, but need not, invite the member to attend a part of their meeting to discuss their request for a review.
- 3.6 In considering the request, the reviewer will review all aspects of the complaint and the process by which it has been dealt with and may decide to uphold or vary the complaint decision on such terms as they consider appropriate.
- 3.7 The decision of the reviewer will be notified to the member by the Deputy Chair of the Board of Trustees by e-mail within 5 working days of the review taking place (or within such later reasonable period, notified to the member). The reviewer's decision will be final for the purposes of all Union Procedures.
- 3.8 If the complainant is dissatisfied with the complaint review, they can refer their complaint to the University for an independent review.

### **4 Disciplinary Arrangements**

- 4.1 Where a complaint is referred to a Disciplinary Panel by the President or the complaint is about an individual the Board of Trustees shall have the power to establish a Disciplinary Panel and a Disciplinary Appeals Panel to consider complaints made by any person against a Student Member, Associate Member or opted-out student of the Union or any Union office holder.
- 4.2 It shall include complaints based upon:
- (a) Misconduct on Union premises or at events or activities organised by the Union elsewhere.
  - (b) Misconduct on premises of organisations associated with the Union under reciprocal or other agreements.
  - (c) Any form of personal harassment and or bullying; or
  - (d) Actions contrary to the Memorandum of Association, Bye-Laws, Union Policy and values of the Union.
- 4.2.1 In addition, in the case of remunerated Office holders that they fail to perform in line with the terms and conditions of their employment contract.

## **5 Disciplinary Panels**

- 5.1 Disciplinary Panels shall have the power to:
- (a) Dismiss the complaint.
  - (b) Issue a verbal or written warning.
  - (c) Request a verbal or written apology.
  - (d) Direct an office holder to complete a specified undertaking.
  - (e) Exclude any persons from the Union premises permanently or for a specified time.
  - (f) Exclude any persons from Union activities or services permanently or for a specified time.
  - (g) Revoke membership of the Union or any student group permanently or for a specified time.
  - (h) Revoke or restrict powers of an office holder permanently or for a specified time.
  - (i) Remove an individual from office.
  - (j) Revoke any privilege, benefit or entitlement created under the Memorandum of Association and bye-laws permanently or for a specified time.
  - (k) At the request of the Chair suspend any powers, rights or privileges, access to premises, services, or activities for a reasonable specified time, while an investigation takes place.
  - (l) Refer the matter to the University for further disciplinary action or the police for investigation.
- 5.2 The membership of a Disciplinary Panel shall include:
- (a) Three Trustees, one of which shall be Chair.
  - (b) An external who is not a member of the University community.
- 5.3 No member of the panel shall have been involved with the matter under consideration.
- 5.4 The Chief Executive shall be an advisory non-voting member of the panel.
- 5.5 The Disciplinary Panel shall normally be convened within fifteen working days of the

written complaint being received by the President.

- 5.6 The Chair of the Disciplinary Panel shall ensure that the complainant and respondent are advised in writing the time and place of the Panel meeting, and of their right to provide any written statements, evidence or witnesses.
- 5.7 It shall be the responsibility of the complainant and respondent to decide for the attendance of any witnesses that they wish to call.
- 5.8 Any written statements, evidence, and names of witnesses who are to be called, shall be given to the Chair of the Disciplinary Panel five days prior to the hearing and should be made available to the complainant, respondent and members of the Disciplinary Panel no less than three days prior to the hearing.
- 5.9 If the complainant or respondent fail to attend the hearing, the Disciplinary Panel may proceed to consider the complaint in their absence.
- 5.10 The panel shall operate in accordance with the following procedure:
  - (a) The Panel shall introduce themselves.
  - (b) The Chair shall outline the procedure.
  - (c) The complainant shall present details of the complaint and their witnesses.
  - (d) The respondent and the panel shall have an opportunity to question them before each witness leaves.
  - (e) The respondent shall present their response and their witnesses.
  - (f) The complainant and the panel shall have the opportunity to question them before each witness leaves.
  - (g) The complainant shall be given the opportunity to make a final statement.
  - (h) The respondent shall be given the opportunity to make a final statement.
  - (i) The complainant and respondent leave the hearing.
  - (j) The panel will decide on the outcome.
  - (k) The chair will close the hearing.
- 5.11 The complainant and respondent shall be given written notification of the Panel's decision within three working days of the meeting, and of their right to appeal against that decision.

## **6 Disciplinary Appeal Panels**

- 6.1 The complainant or respondent may appeal against the decision of the Disciplinary Panel on the following grounds:
  - (a) There was procedural impropriety in the original hearing.
  - (b) That the decision of the panel was irrational or illegal.
- 6.2 Notice of appeal, specifying on which of the above grounds the appeal is made, should be given in writing to the Secretary of the Board of Trustees within ten days of notification of the panel decision.
- 6.3 The Secretary of the Trustee Board shall refer the appeal to the Disciplinary Appeal Panel.
- 6.4 Disciplinary Appeals Panels shall have the power to consider the appeal only based on the grounds stated in 6.1. The disciplinary panel may:

- (a) Overturn all or part of the decision of the Disciplinary Panel.
  - (b) Upheld the decision of the Disciplinary Panel.
- 6.5 The Disciplinary Appeals Panel shall include:
- (a) At least two appointed Trustees; one of whom shall Chair.
  - (b) One external member who is not a member of the University community
- 6.6 A University staff member may act in an advisory and non-voting capacity.
- 6.7 No member of the panel shall have been involved with the matter under consideration.
- 6.10 The panel shall operate in accordance with the following procedure:
- (a) The Panel shall introduce themselves.
  - (b) The Chair shall outline the procedure.
  - (c) The complainant shall present details of the grounds for appeal.
  - (d) The Chair of the original panel shall be the respondent.
  - (e) The Panel shall question both the complainant and respondent.
  - (f) The complainant shall be given the opportunity to make a final statement.
  - (g) The respondent shall be given the opportunity to make a final statement.
  - (h) The complainant and respondent leave the hearing.
  - (i) The panel will decide on the outcome.
  - (j) The chair will close the hearing.
- 6.11 The complainant and respondent shall be given written notification of the Panel's decision within three working days of the meeting.
- 6.12 The decision of the Appeals Panel shall be final.
- 6.13 If the complainant is dissatisfied with the complaint review, they can refer their complaint to the University for an independent review.

## **7 General Arrangements for Disciplinary panels**

- 7.1 The Panel shall be empowered to require the complainant and respondent to attend and make a statement regarding the complaint, except in cases of individual harassment or attack where the complainant may be granted the right to make a written statement only.
- 7.2 The Chair may request additional information from the complainant or respondent in advance of a hearing.
- 7.3 Student Members may be accompanied by, or represented by, another Student Member or a member of Union staff/volunteer Adviser acting as their representative at Panel hearings.
- 7.4 The summary of proceedings shall be confidential to Panel members, complainants, and respondents. The decision of Panels may be published in such way as the Board of Trustees determine.
- 7.5 Should the requisite number of Trustees not be available the Board may delegate this function to individuals with appropriate sector knowledge who are not members of the University Community.

- 7.6 A record of proceedings and the decision of the Panel shall be recorded by a member of Union staff, who shall attend the Panel. Minutes shall be available to the complainant and respondent on request.
- 7.7 The Chair shall normally consult with the Secretary of the Trustee Board before suspending any powers, rights or privileges, access to premises services or activities for a reasonable specified time, while an investigation takes place. The respondent shall be given written notice outlining the reason for this suspension within three working days of the suspension taking effect. There shall be no appeal to this suspension.
- 7.8 The decision of the Disciplinary Panel shall be deemed upheld until the outcome of the Disciplinary Appeal panel is resolved.
- 7.9 If any member breaches the terms of any exclusion from premises, services or activities of the Union, the Chair of the Disciplinary Panel shall be empowered to:
- (a) Extend the exclusion for a period not exceeding the full length of the original exclusion; or
  - (b) Refer the matter to the University for consideration under the University Discipline Regulations.
- 7.10 The Panel's meeting shall be held "in camera" except for the presence of those presenting evidence at a given moment.
- 7.11 In the case of a motion of no confidence a resolution to remove an officer from post shall not be considered by the Disciplinary Committee unless the Officer concerned has been given at least 14 clear days' notice in writing that the resolution is to be proposed, specifying the circumstances alleged to justify removal from office, and has been afforded a reasonable opportunity of being heard.