

BYE-LAW 15: COMPLAINTS AND DISCIPLINE

1 GENERAL PROVISIONS

- 1.1 The President, on behalf of Student Executive Committee, shall have overall responsibility for all matters relating to student complaints and discipline.
- 1.2 The President shall delegate responsibility for implementing the Complaints and Discipline Bye-Law to the Chief Executive, who may appoint a nominee.
- 1.3 Student Executive Committee shall be responsible for agreeing:
 - 1.3.1 the schedule of fixed outcomes, resolutions and penalties to be applied for prescribed complaints and disciplinary incidents;
 - 1.3.2 the pool of student representatives eligible to be members of Panels
 - 1.3.3 any other procedural matters necessary for effective administration.
- 1.4 In order to be considered under Bye-Law 15, complaints and disciplinary incidents should be reported, in writing, to an Officer or the Chief Executive, usually within six months of the issue arising or the incident taking place.
- 1.5 Anonymous complaints will not be accepted under this Bye-Law.
- 1.6 All cases dealt with under this Bye-Law will usually be concluded within six months of the complaint or incident being reported. Reasonable adjustments can be made, at all stages of the process, when deemed appropriate by the Chief Executive, their nominee, an Officer or any other person responsible for implementing the Bye-Law.
- 1.7 Complaints against the Students' Union, Full Members, and students of the University who are eligible for Full Membership but have exercised the right not to be a member in accordance with the Education Act 1994, shall be considered in accordance with this Bye Law.
- 1.8 Complaints against all other classes of members shall be considered by the President and their decision shall be final.
- 1.9 Complaints against the Students' Union made by persons who are not Full Members shall be considered by the Chief Executive and their decision shall be final.
- 1.10 Complaints reported by a person on behalf of a student will only be accepted with the consent of the student concerned.
- 1.11 Where there may be a conflict of interest during consideration and adjudication of a complaint, steps will be taken to avoid or mitigate the conflict.
- 1.12 When a complaint is dismissed it should be because of one of the following reasons: there is insufficient evidence and/or the complaint is deemed to be frivolous, vexatious, obsessive, repetitive, unrealistic, disproportionate and/or with unrealistic expectations of outcomes.
- 1.13 An annual Complaints and Discipline Report will be submitted to Students' Union

Council, Trustee Board and the University.

2 COMPLAINTS ABOUT THE STUDENTS' UNION

- 2.1 Any Full Member, or student who has exercised the right not to be a member of the Students' Union, shall be entitled to complain if they are dissatisfied in their dealings with the Students' Union, or if they feel they have been unfairly treated by the Students' Union.
- 2.2 Complaints should usually fall under one or more of the following categories, noting that this list is neither exhaustive nor exclusive:
 - 2.2.1 Cost, quality, or delivery of facilities, services or activities provided by the Students' Union;
 - 2.2.2 Treatment of a student or group of students by the Students' Union;
 - 2.2.3 Actions contrary to the Students' Union Constitution or Bye-Laws;
 - 2.2.4 Fundraising activity undertaken by, or on behalf of, the Students' Union;
 - 2.2.5 Inaccurate, unfair or intrusive material, published or broadcast by the Students' Union which is contrary to the National Union of Journalists Code of Conduct, Editors Code of Conduct or OFCOM guidelines;
 - 2.2.6 Students' Union breaches of statutory or regulatory requirements.

3 COMPLAINTS ABOUT A FULL MEMBER

- 3.1 The Students' Union shall consider complaints made by any person against any member in respect of misconduct, unacceptable and/or inappropriate behaviour. Such incidents shall usually occur at events or activities organised by the Students' Union, either on the premises or elsewhere or carried out by officials of the Students' Union, acting in an official capacity, or by members of a recognised society in the course of their usual activities.
- 3.2 This bye law will cover the following types of incident, noting that this list is neither exhaustive nor exclusive:
 - 3.2.1 Indecent, threatening, violent or disorderly behaviour against any person;
 - 3.2.2 Personal harassment of any person that relates to a person's background or personal characteristic;
 - 3.2.3 Sexual harassment or inappropriate sexual behaviour;
 - 3.2.4 Behaviour that is bullying, hostile, intimidating, discriminatory, malicious or insulting, an abuse or misuse of power which is meant to undermine, humiliate or injure the person on the receiving end;
 - 3.2.5 Behaviour likely to cause injury, impair the safety of others or put at risk of harm any person;
 - 3.2.6 Damage to, or defacement of, Students' Union property either through misappropriation or through intentional or reckless acts;
 - 3.2.7 Theft, fraud, deceit, deception or dishonesty;

- 3.2.8 Possession, or supply, of a controlled or illegal substance or any other illegal activity;
 - 3.2.9 Behaviour which brings, or is likely to bring, the Students' Union into disrepute;
 - 3.2.10 Disruption, obstruction of, or improper interference with the social, governance or cultural activities of the Students' Union;
 - 3.2.11 Misconduct, unacceptable or inappropriate behaviour on premises of organisations associated with the Students' Union under reciprocal or other agreements;
 - 3.2.12 Breaches of Students' Union data protection, health and safety, safeguarding, equality and diversity or other policies or regulatory requirements;
 - 3.2.13 Failure to comply with an exclusion or penalty previously imposed by the Students' Union.
- 3.3 The Chief Executive shall give authority to Students' Union and University employees to exclude any persons from the Students' Union premises in respect of misconduct, unacceptable and/or inappropriate behaviour and they shall make a complaint arising from the exclusion to the Chief Executive.
- 3.4 In certain cases, (for example a complaint of harassment):
- 3.4.1 additional support and guidance on support services will be provided;
 - 3.4.2 arrangements may be made to ensure the complainant does not come into direct contact with the respondent, but such arrangements shall ensure that both parties, or their nominees, can hear evidence and be given an opportunity to ask questions of the other party;
 - 3.4.3 the Chief Executive, their nominee, or Panel Chair, may use their discretion to allow written evidence to be considered anonymously, subject to them verifying the authenticity of the evidence.

4 COMPLAINTS ABOUT A STUDENTS' UNION OFFICER OR STUDENT OFFICIAL

- 4.1 Complaints about an Officer will be referred to an External Trustee who shall determine whether the complaint is of a democratic nature and should be dealt with under the Bye-Laws or whether it is a complaint of misconduct and should be dealt with under the Students' Union's employee procedures.
- 4.2 Upheld complaints about an Officer or Official of the Students' Union, which results in a penalty of exclusion from office, or removal of duties, applied under Bye-Law 15, shall be implemented in accordance with Bye-Law 8.

5 COMPLAINTS ABOUT A STUDENTS' UNION EMPLOYEE

- 5.1 Complaints made by students about any service that is delivered by staff will be treated as a complaint of dissatisfaction in their dealings with the Students' Union.

- 5.2 The complaint will be considered against the standards, policies and procedures of the service.
- 5.3 The complaint will not usually be considered as a complaint against individual employees.
- 5.4 If, in the course of considering or investigating the complaint, or at any subsequent stages, the Chief Executive or their nominee, have reason to believe that the conduct or behaviour of an employee may justify further consideration, the matter will be referred to the relevant employee procedures.

6 ASSESSMENT OF COMPLAINTS

- 6.1 Complaints will, in the first instance, be assessed by the Chief Executive, or their nominee, who may:
 - 6.1.1 dismiss the complaint, subject to consultation with the President;
 - 6.1.2 uphold the complaint, wholly or partially, with an appropriate resolution or penalty applied;
 - 6.1.3 decide if the complaint should be considered under the Procedural Stages;
 - 6.1.4 convene a Complaints and Discipline Panel (Stage 2);
 - 6.1.5 refer the complaint to the University to be dealt with under their Discipline Regulations;
 - 6.1.6 report, or advise the complainant to report, the complaint to the Police to be dealt with under the criminal justice system.
- 6.2 A complaint may be investigated as part of the initial assessment or the Local Resolution Stage.
- 6.3 During assessment, the Chief Executive, or their nominee, will consider what support is appropriate for each party involved.
- 6.4 If the complainant or respondent is not satisfied with the decision to dismiss or uphold the complaint, they may request, in writing, that the complaint is considered under the Procedural Stages on one of the following grounds:
 - 6.4.1 the Chief Executive, or their nominee, reached an incorrect decision; or
 - 6.4.2 an inappropriate resolution or penalty was applied.

7 PROCEDURAL STAGES

- 7.1 There will be three stages to the Students' Union's Complaints and Discipline process:
 - 7.1.1 Local Resolution (Stage 1)
 - 7.1.2 Panel (Stage 2)
 - 7.1.3 Appeal (Stage 3)
- 7.2 There will be a further right of appeal to the University if a complainant, respondent or Officer is dissatisfied with how the Students' Union has dealt with a

complaint; this will be known as Stage 4.

8 LOCAL RESOLUTION (STAGE 1)

- 8.1 A complaint dealt with locally by the relevant Officer, Committee or Department will be informal and can be:
 - 8.1.1 dismissed; or
 - 8.1.2 upheld, wholly or partially, with an appropriate outcome, resolution or penalty applied;
- 8.2 If the complainant, respondent or an Officer is not satisfied with the decision made at Stage 1, they may request, in writing, that a Complaints and Discipline Panel is convened (Stage 2), on one or more of the following grounds:
 - 8.2.1 the outcome, resolution or penalty was manifestly unfair or disproportionate;
 - 8.2.2 an incorrect decision was made;
 - 8.2.3 there is new evidence which could not reasonably have been available at the time.
- 8.3 The decision to convene a Complaints and Discipline Panel will be taken by the Chief Executive or their nominee, subject to consultation with the President.

9 PANEL (STAGE 2)

- 9.1 The Panel will consider all of the evidence previously considered (if applicable), plus any new evidence which was not previously available.
- 9.2 The Panel may uphold or dismiss the complaint or accept or reject the decision made at an earlier Stage, in full or in part and, as a consequence may remove, reduce or increase any resolutions or penalties previously applied.
- 9.3 If the complainant or respondent or an Officer is not satisfied with the decision of the Stage 2 Panel, they may appeal the decision and request, in writing, that a Complaints and Discipline Appeal Panel (Stage 3) is convened, on one or more of the following grounds:
 - 9.3.1 there was a procedural irregularity which rendered the process leading to the decision unfair;
 - 9.3.2 the outcome, resolution or penalty was manifestly unfair or disproportionate.
- 9.4 The decision to convene a Complaints and Discipline Appeal Panel will be taken by the Chief Executive, subject to consultation with the President.

10 APPEAL (STAGE 3)

- 10.1 The Appeal Panel is the final stage of the Students' Union procedures and may accept or reject the appeal in full or in part, and as a consequence, may remove, reduce or increase any outcomes, resolutions or penalties imposed by the Panel.

- 10.2 Where an appellant, respondent or an Officer is not satisfied with how the Students' Union has dealt with a complaint, and all three stages of the process have been concluded, they may appeal, in writing, to the University on one or more of the following grounds:
- 10.2.1 there was a procedural irregularity which rendered the process leading to the decision unfair;
 - 10.2.2 the outcome, resolution or penalty applied was manifestly unfair or disproportionate.

11 APPEALS TO THE UNIVERSITY (STAGE 4)

- 11.1 An appeal to the University will not be a re-hearing of the original complaint.
- 11.2 The University Secretary will consider the appeal and respond, in writing, usually within six weeks.
- 11.3 The decision of the University Secretary is final and there is no further right of appeal against the Students' Union.

12 OUTCOMES, RESOLUTIONS AND PENALTIES

- 12.1 The following Outcomes are available at any stage in the procedure:
 - 12.1.1 A complaint is wholly upheld or a disciplinary incident is proven;
 - 12.1.2 A complaint is partially upheld or a disciplinary incident partially proven;
 - 12.1.3 A complaint is dismissed or a disciplinary incident is not proven.
- 12.2 When a complaint is upheld, resolutions and penalties shall be fair and proportionate, and in accordance with guidelines agreed by Student Executive Committee.
- 12.3 Once the Outcome has been determined, the following Resolutions are available at any stage in the procedure:
 - 12.3.1 Improvements or changes to Students' Union services, outlets, facilities, policies or procedures are recommended;
 - 12.3.2 The complainant and respondent are required to participate in training and/or mediation and conflict resolution;
 - 12.3.3 An apology is given;
 - 12.3.4 A requirement that there should be a published reply, statement or apology in a specified issue or programme of the student media against which a complaint was upheld. Such reply, statement or apology shall normally be of equal size and position as the original item against which the complaint was made, unless it is decided that a lesser size or less prominent position is appropriate;
 - 12.3.5 A referral to a University or external agency able to provide appropriate support.
- 12.4 Once the Outcome has been determined, the following Penalties are available at

- any stage in the procedures.
- 12.4.1 Caution on future conduct;
 - 12.4.2 A letter of concern;
 - 12.4.3 Full or partial ban from, or access to, Students' Union building, licensed premises, services, events and/or activities for a prescribed period;
 - 12.4.4 Removal of the right to stand as a candidate for all or any elections for Students' Union Officer, Trustee, Representative and Working Committees, Students' Union Council or as an NUS delegate;
 - 12.4.5 Removal from an Official position or have specific duties removed; implementation of such a recommendation will be in accordance with Bye-Law 8 unless this penalty has been applied for reasons of safeguarding or a serious incident, in which case the penalty shall be enforced under Bye-Law 15.;
 - 12.4.6 Removal of, or ban on obtaining, Associate, Life or Reciprocal Membership.
 - 12.4.7 Referral to the University for consideration under its disciplinary procedures;
 - 12.4.8 Referral to other action, including legal action, if such action is deemed to be in the best interests of the organisation;
 - 12.4.9 Referral to the Students' Union employment procedures for consideration of current or future employment.
- 12.5 Failure to comply with the conditions of any resolution or penalty, applied at any stage of the process, will constitute an act of misconduct and the Chief Executive may take further action against the student including extending the penalties or re-hearing the case.
- 12.6 If any member breaches the terms of any resolution or penalty, the Chief Executive shall be empowered to extend the resolution or penalty.

13 TEMPORARY MEASURES

- 13.1 In order to protect the Students' Union or any of its members or staff, the Chief Executive shall be empowered to exclude Full Members from all or any premises, services and activities pending consideration of:
- 13.1.1 a complaint under the Complaint and Discipline Bye-Law;
 - 13.1.2 misconduct under the University's Discipline Regulations;
 - 13.1.3 a charge in a court of law.
- 13.2 The Chief Executive may only take such action if, in their opinion, it is necessary to protect the Students' Union or any of its members or employees.
- 13.3 During the course of dealing with a complaint, measures may be put in place to temporarily remove broadcast or published material, pending the conclusion of the complaint.

14 TIMEFRAMES

- 14.1 All complaints will usually be assessed within two weeks of receipt and a written response issued.
- 14.2 Each formal stage will usually be concluded within three weeks, with written notification usually issued within one week of a decision.
- 14.3 The complainant and respondent will usually have two weeks in which to challenge or appeal a decision.
- 14.4 A Panel will usually be convened within three weeks of the request being received.
- 14.5 Complainants, appellants, respondents and Panel members will usually be given one week's notice of a Panel hearing.
- 14.6 Communications with complainants and respondents will be timely and reasonable.
- 14.7 Complaints may be heard during university vacations, during which time the deadlines may be extended.
- 14.8 If a Full Member has been excluded from candidacy for elected office, the respondent may appeal specifically against this penalty outside the usual time limits. Such an appeal may only be submitted on the grounds that the penalty was inappropriate to the offence for which the respondent was found responsible, and must be submitted to the President at least one month before the close of nominations for the post(s) for which the respondent wishes to stand. Any such appeal will be considered by an Appeal Panel. The member may not be given an extension of any election deadlines as a result of such an appeal.

15 GENERAL ARRANGEMENTS FOR PANELS

- 15.1 Selecting the Panel
 - 15.1.1 A pool of full members will be created from which all panels will be drawn;
 - 15.1.2 A Panel will consist of three student representatives, including at least one Officer, who have not previously been involved with the case and who will be drawn from the pool
 - 15.1.3 All Panels will be chaired by an Officer;
 - 15.1.4 All panel members will be selected ensuring there is no conflict of interest. The complainant, respondent or appellant may request reconsideration of any Panel member on the grounds of partiality or conflict of interest. Such a request shall be considered by the Panel Chair and their decision shall be final.
- 15.2 Submitting Evidence
 - 15.2.1 Statements and other evidence (including witnesses attending the hearing) may be submitted to a Panel, with all such information shared with all relevant parties prior to the hearing;

- 15.2.2 Arrangements for notifying witnesses of a Panel hearing will be the responsibility of the person who has requested their attendance;
 - 15.2.3 Any information previously considered at earlier stages will be provided, as evidence, to a Panel hearing;
 - 15.2.4 The Panel may request the input of specialist witnesses in order to assist the Panel;
 - 15.2.5 No information about previous offences will be considered until and unless the complaint is upheld.
- 15.3 Attendance at the Hearing
- 15.3.1 Complainants or respondents may be accompanied or represented by a Full Member, at Panel and Appeal Panel hearings, but may not have external or legal representation;
 - 15.3.2 A Panel hearing can be adjourned if a request is made to the Chair, by any party or Panel member, in order to consider further information, hear further witnesses or allow extra time for other reasons. Such agreement will not be unreasonably withheld and the Chair shall determine the length of the adjournment;
 - 15.3.3 If the complainant or respondent and/or their representative fails to attend the hearing, the Panel may proceed with the hearing or adjourn for a reasonable period.
- 15.4 Making a decision
- 15.4.1 The panel will first determine the outcome of the case;
 - 15.4.2 If the outcome is to uphold the complaint, the Panel will be informed of any previous offences. In such instances, the respondent will be given the opportunity to make a statement to the Panel before a decision is reached on the resolutions or penalties imposed;
 - 15.4.3 The Panel will then consider what resolutions and penalties to set in place.
- 15.5 A Panel hearing will operate in accordance with the following procedures:
- 15.5.1 The Chair will introduce all present, outline what will happen in the hearing, and ensure everyone understands the purpose of the hearing;
 - 15.5.2 The complainant or appellant will present their case and introduce any supporting statements and/or or witnesses;
 - 15.5.3 There will be an opportunity for the members of the Panel and the respondent to question the complainant or appellant and any witnesses;
 - 15.5.4 The respondent will present their case and may introduce any supporting statements and/or or witnesses;
 - 15.5.5 There will then be an opportunity for members of the Panel and the complainant or appellant to question the respondent;
 - 15.5.6 Any expert witnesses will be heard;
 - 15.5.7 The complainant or appellant will be given the opportunity to make a final statement;

- 15.5.8 The respondent will be given the opportunity to make a final statement;
 - 15.5.9 The complainant, appellants and respondents will be asked to leave the room to allow the Panel to make a decision;
 - 15.5.10 The complainant, appellant and respondent will be invited to re-join the hearing and the Chair of the Panel will inform them of the decision, or, if a decision has not been reached, a date when it will be issued;
 - 15.5.11 Complainants, appellants and respondents will subsequently receive written notification of the decision, including any further rights of appeal;
 - 15.5.12 Where relevant, case precedents will be recorded and may be referred to in future Complaints and Discipline Panel hearings or Appeals.
- 15.6 A written summary of proceedings will be taken and made available to the complaint, appellant or respondent on request; information will be confidential but the Panel may publish its decision in such a way as it determines.