

### **Preamble**

1. This Code sets out the procedures to be followed in the case of disciplinary action against an individual member (“the member”) of the University of Manchester Students’ Union (“the Union”)
2. Disciplinary issues arise when problems of conduct are raised and the Union seeks to address them through the agreed procedures.
3. For the purpose of this procedure, members are defined as in the Articles of Association and Bye-Laws.
4. This procedure also applies to non-members and visitors acting in volunteer roles in the Union.
5. This does not include any of the Union’s non-elected employees, who shall be subject to an internal staff disciplinary procedure.
6. The code concerns the disciplinary rules and procedures that operate within the Union. The Union believes that rules and procedures are necessary for promoting orderly relations as well as fairness and consistency in the treatment of individuals.
7. It is important that Members know what standards of conduct and performance is expected of them. As a result this policy shall be publicly available to members of the Union and shall be provided to members in relevant settings.

### **Scope and meaning**

8. Disciplinary action may be taken in respect of any breach of discipline:
  - (i) On the Union premises;
  - (ii) While the member is using the Union facilities or at a Union event;
  - (iii) While a member is representing or acting on behalf of the Union at any event of whatever kind and wherever held;
  - (iv) In relation to actions or incidents between two or more representatives of the Union in any or none of the settings above, or in relation to actions or incidents between the Union’s representatives and other members, staff or stakeholders.
9. Any of the above where an interaction or incident is on social media or other form of electronic communication.
10. Where a complaint is made about a group activity, including socials, demonstrations, and activity that can be classed as organised by the Union or any union group or in that group’s name, a group of members may be subject to disciplinary action and penalties.
11. Recognising that members have a right to freedom of speech and to protest, in this code a breach of discipline means (but is not limited to):
  - (i) Threatening or harassing any other person, whether physically or verbally;
  - (ii) Assaulting any other person;

- (iii) Damaging any property, whether deliberately or negligently;
  - (iv) Acting in contravention of the Union's Equality & Diversity Policies;
  - (v) Acting without due regard for the safety of others;
  - (vi) Acting with dishonesty or with intent to defraud;
  - (vii) Infringement of equal opportunities, safe space, or staff protocol policies;
  - (viii) Imparting to the press, television or radio, or any agency thereof, any expressly confidential material about the Union or any of its members or Officers, unless prior permission has been granted by the Trustee Board;
  - (ix) Incurring unauthorised expenditure on behalf of the Union and/or misappropriation of Union funds or property;
  - (x) Organising initiation ceremonies, and/or coercing others to drink alcohol to excess;
  - (xi) Undertaking any activity in breach of relevant laws or in contradiction of a direct instruction given by a Union staff member.
12. In the case of any matter concerning the maladministration or misconduct of a Society, this shall not be dealt with by this Code (instead under the procedure in the Bye-Law on Societies) until and unless the matter is referred to this procedure by the Activities and Development Officer.

#### **Panel and Supervising Trustee**

13. The Trustee Board shall annually appoint an external trustee to supervise the formal complaints procedure set out below. They shall annually report to the Trustee Board on the operation of this code.
14. It shall also appoint a pool of people from which to form a panel at disciplinary hearings, which will always consist of:
- (i) A student trustee;
  - (ii) An officer of the Union;
  - (iii) A Union staff member.
15. Measures will be put into place to ensure a diverse membership of this committee.

#### **Licensed Premises**

16. In the event of a complaint, incident or concern being raised within licensed premises, the procedure in this section will apply.
17. Authorised staff will always have the right to refuse admission and to exclude members on the basis of their behaviour, intoxication from alcohol or illegal substances in pursuit of the license.
18. Where an alleged breach of the code occurs beyond the standard right to refused admission at 5(b), authorised staff shall have the authority to exclude the member from the venue or to take any other reasonable action to prevent further immediate breaches of the

code. This action, shall at the earliest opportunity, be reported to a nominated Duty Manager who shall endorse, amend or withdraw the restrictions pending a meeting with the accused.

19. Members who have been asked to leave, or removed from the building, will be informed of why they have been excluded. They may then contact a Duty Manager by email on the following working day. If the member fails to do this, the failure will be taken into consideration when the Duty Manager makes their decision.
20. The member will be asked to provide a statement of their version of events to the Duty Manager and those of any witnesses they may choose. The Duty Manager will investigate and arrange to meet with the member within 5 days. The Duty Manager will keep a record of this meeting for future consideration.
21. If the Duty Manager decided that the offence is of a minor nature, then they may impose a temporary licensed premises ban of up to four weeks, in consultation with the Designated Premises Supervisor.
22. Any member wishing to contest the decision of the Duty Manager may have their case referred into the procedure below.
23. If the Duty Manager deems the offence to warrant more than a four-week ban, then they will refer the member into the formal procedure below.

### **Complaints**

24. In normal circumstances complaints and grievances will be made in writing to the Supervising Trustee c/o the Human Resources Manager at the Union.
25. The written complaint should include the name and contact details of the complainant, the person to whom the complaint refers, the nature of the complaint and a preferred course of action to resolve the complaint.
26. Members and elected officers should refer to the Governance and Democracy Coordinator who will advise on this code.
27. When:
  - (i) A disciplinary matter arises, or
  - (ii) A complaint is made, or
  - (iii) A matter of concern is referred to this procedure,
28. the Supervising Trustee shall first determine whether this policy is appropriate for the issue(s) being raised. In making the judgement the Supervising Trustee will be careful to ensure that matters of misconduct are handled through this procedure, but that matters of political performance are rightly referred to the appropriate accountability procedures.
29. The Supervising Trustee may at any time determine that the nature of a complaint or referred issue is sufficiently serious that the issues should be referred to the University's disciplinary procedures for investigation/resolution.

30. The University may determine that a complaint that it is in receipt of should be such that the issues should be referred to this code for investigation/resolution.
31. Subject to data protection and registration agreement procedures, the union and University will respectively routinely share information about suspension and disciplinary action in pursuit of the effective and operation of premises and activities.

### **Investigations**

32. If this procedure is used, the Supervising Trustee will appoint an impartial party to investigate the matter. The investigation is to establish the facts and where appropriate obtain statements from any available witnesses. Having carried out an investigation, the investigator will make a report to the Supervising Trustee. The Supervising Trustee will then decide whether to drop the matter, arrange informal coaching, advice or counselling, or to arrange for the matter to be dealt with under the disciplinary procedure.
33. At the start of the investigation, the complainant and respondent will receive a letter of formal notification detailing the complaint being investigated and the name and contact details of the person dealing with the investigation.
34. Respondents are encouraged to submit a written statement in response to the complaint. The deadline for doing so is seven working days after the date of formal notification of the investigation. The statement should attach copies of any other documents on which the respondent wishes to rely.
35. Should the respondent not respond to communications or refuse to engage with the investigation process, s/he will be deemed to have nothing to add to the investigation.
36. The investigator will consider statements and any other documents received from the complainant and respondent as soon as practicable. The Union aims to confirm the outcome of its investigation to the complainant, the respondent, and other interested parties within 14 working days of the date of the formal notification of the investigation, subject to having been able to contact all relevant parties within this time. If it is not practicable to comply with these deadlines, for example due to relevant parties being on holiday, they may be extended by discretion, normally up to a maximum of 7 further working days.
37. It should be recognised that being the subject of a complaint can be a difficult time for an individual, and so the Union will undertake the investigation with appropriate discretion, care and consideration. The Union will endeavour to ensure all steps in the process remain fair and in line with the equality & diversity policy and procedures.
38. No member involved in a matter covered by this code should comment publicly on the incident. Failure to observe this requirement will result in disciplinary action being taken under this code.

### **Informal Procedures**

39. Minor cases of misconduct and poor performance are best dealt with 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.

40. 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.

### **Stages of Disciplinary Action**

41. The Supervising Trustee will decide whether a matter should be dealt with informally or formally under the disciplinary procedure. Disciplinary panels and appeal panels will be made up of different people for fairness.
42. 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.
43. These are:
  - (i) Formal Verbal warning;
  - (ii) Written warning;
  - (iii) Termination or suspension of all membership entitlements or some act of partial suspension, which in the case of employed elected officers could result in contract termination.

### **Disciplinary Hearings**

44. Before a decision is reached or any disciplinary action taken there will be a disciplinary hearing at which the member will have an opportunity to state their case and answer the allegations that have been made. The appointed investigator will present their findings at the disciplinary hearing.
45. The Panel will hear the case. The member will be notified of a disciplinary hearing in advance and will be provided copies of statements given by any witnesses or other written evidence to be used. Hearings will be arranged as far as possible at a mutually convenient time and place and the member will have the right to be accompanied by a colleague or representative of their choice.
46. During a disciplinary hearing, the case against the member will be presented in detail by the appointed investigator. If the member challenges the substance of the witness statements then witnesses may be called to the hearing where the member or their representative will have the opportunity to ask them questions.
47. Where disciplinary action is necessary the member will be informed of the decision.
48. This will be in writing and will state:
  - (i) Details of the misconduct that has resulted in the disciplinary action;
  - (ii) The level of disciplinary action;

- (iii) Any recommendations/action required to prevent future disciplinary action;
- (iv) The consequence of failure;
- (v) Details of the appeal mechanism;
- (vi) If appropriate, the length of time the warning will last before it is disregarded.

#### **Formal Verbal Warning**

49. This will occur in cases of minor infringements and can be given by a member of the Panel. A note of the warning will be kept on file for six months but then disregarded for disciplinary purposes. The warning will be given in the presence of the panel and the member will be entitled to have a colleague or representative present when the warning is given.

#### **Formal Written Warning**

50. This will occur when the infringement is more serious or is a failure to improve behaviour during the currency of the previous warning and can be given by the Panel.
51. A copy of the written warning will be kept on file for twelve months but then disregarded for disciplinary purposes.

#### **Suspension of benefits or other sanction**

52. If a member's conduct still fails to improve the final stage may be:
- (i) Partial disciplinary suspension of membership entitlements;
  - (ii) Temporary disciplinary suspension of some or all membership entitlements;
  - (iii) Termination of all membership entitlements.
53. Where a person, in a paid role, is suspended pending a hearing or whilst an investigation is carried out they will continue to be paid by the organisation.

#### **Disciplinary termination of all membership entitlements**

54. The decision to suspend or terminate entitlements (as listed above) is taken by the Panel. The member will be informed as soon as is reasonably practicable, of the following:
- (i) The decision and the reasons for the termination or suspension of entitlements;
  - (ii) The date on which the agreement between the Union and the member will terminate, information on the right of appeal including how to make the appeal and to whom.
55. The decision to suspend or terminate entitlements shall be confirmed in writing.
56. At any of the above stages the panel may resolve to:
- (i) Recommend that the member should undergo training;
  - (ii) Exclude the member from some or all future Union events or activities.

#### **Summary Termination of Entitlements**

57. In rare circumstances a member's entitlements may be summarily terminated if it is established that after investigation and hearing that there has been an act of gross misconduct, major breach of duty or conduct that brings the organisation into disrepute.
58. Acts that may constitute gross misconduct include, but are not limited to:
- (i) Theft, fraud and deliberate falsification of records;
  - (ii) Physical violence or threats;
  - (iii) Deliberate damage to organisational or personal property;
  - (iv) Serious incapability whilst representing the Union brought about through alcohol or illegal drugs;
  - (v) Misuse of the organisation's property or name;
  - (vi) Bringing the organisation into serious disrepute;
  - (vii) Serious infringement of health and safety rules;
  - (viii) Serious bullying or harassment;
  - (ix) Sexual misconduct;
  - (x) Serious infringement of equal opportunities, safe space or staff protocol policy.
59. Because the ability to hold elected office in the Union is dependent upon membership status and one of the rights and privileges of membership, termination of all entitlements would represent a termination of that holding of office. In the case of employed elected officers, this would therefore represent a termination of contract.

### **Suspension**

60. In certain circumstances for example cases involving gross misconduct, where relationships have broken down or where it is considered there are risks to property or the Union's responsibilities to other parties, consideration should be given to a period of suspension of membership rights with or without entitlements whilst an unhindered investigation is conducted.
61. Such a suspension should only be imposed after careful consideration and should be reviewed regularly to ensure that it is not unnecessarily protracted. Excluding a member from participation in Union activities is not in itself a form of disciplinary action whilst the investigation is progressing. The member will be entitled to seek advice, for example legal advice, the cost of which will be met by the member.
62. Because the ability to hold elected office in the Union is dependent upon membership status and one of the rights and privileges of membership, suspension of entitlements would represent a suspension of that holding of office.

### **Appeals**

63. A member will notify the Panel of their intention to appeal against disciplinary action within six working days of receipt of the confirmation letter. The appeal should be made in writing stating the grounds upon which the appeal is to be made and must be received by the Panel

within a further 10 working days.

64. An appeal hearing will normally be held within ten 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. The panel shall be made of the following:
- (i) A Student Trustee;
  - (ii) An External Trustee;
  - (iii) A member of University staff.
65. A member will have the right to be accompanied by a colleague or a representative of their choice. The member will be notified of the results of the appeal in writing within five working days of the hearing.
66. 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.
67. The grounds for appeal are:
- (i) Unfairness of judgement;
  - (ii) The severity of the penalty;
  - (iii) New evidence coming to light;
  - (iv) Procedural irregularities;
  - (v) Extenuating circumstances;
  - (vi) Bias of disciplining officer;
  - (vii) Unfairness of the interview;
68. The possible outcomes of an appeal are:
- (i) The appeal is upheld and the disciplinary sanction reduced or removed;
  - (ii) The appeal is upheld and there is a request for a re-investigation or rehearing;
  - (iii) The appeal is denied and the original decision is upheld.
  - (iv) The decision of the appeal panel is deemed as final, subject to standard procedures as laid out in the code of practice in operation between the Union and University.

#### **Recording Disciplinary Procedures**

69. Accurate records will be kept detailing:
- (i) Any breach of disciplinary rules or unsatisfactory performance;
  - (ii) The Member's defense or mitigation;
  - (iii) The action taken and the reasons for it;
  - (iv) Whether an appeal was lodged, its outcome and any subsequent developments;
70. These records are to be kept confidential and retained in line with the above disciplinary



procedure and the Data Protection Act 1998. Copies of any meeting records will normally be given to the individual concerned (in certain circumstances information shall be withheld, for example to protect a witness).