

UPSU Governing Documents
Members Disciplinary Bye Law
October 2018

Approval Details

Approved by	G&A Committee	Date	May 2018
Approved by	Trustee Board	Date	June 2018
Ratified by	Union Council	Date	October 2018
Ratified by	SU UEG	Date	October 2018
Implementation date:	November 2018		
Review lead staff member	Director of Membership Services		

Reviewing this document

This document may be amended with the permission of the Board of Trustees, following pre-approval by Governance and Appointments Committee.

Union Council will then review any significant changes to this Bye-law prior to any such change taking effect in order to permit the Council the opportunity to provide feedback and raise any concerns in respect of any such change directly with the Union Chief Executive who will refer such feedback and concerns to the Board of Trustees for further consideration.

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1 Members Disciplinary

- 1.1 All members of the Union shall be expected to abide by the Union's Memorandum and Articles of Association and Bye-Laws at all times.
- 1.2 The Union's Members Disciplinary Bye-Law has authority over any premises managed by the Union, any Union activities, including the activities of any Union Club or Society, or any misconduct which takes place outside Union premises but is connected with the Union and is likely to affect the reputation of the Union. This includes UPSU as licensed premises (see Appendix 3)
- 1.3 The Union expects all members to adhere to all Union policies and highlights Safe Space Policy, Equal Opportunities Policy, Financial Policy, Health and Safety Policy, External Speakers Policy, Transport Policy as well as any Club or Society individual Constitution and Code of Conduct. Consistent breaches of any of these Policies will

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result in a Club or Society following this disciplinary procedure. Copies of these Policies are available upon request.

- 1.4 A complaint could come from a number of sources and must then be received within 20 working days of the date the event occurred by any member of the Sabbatical Officer team or member of Union staff. A complaint is defined as a formal expression of dissatisfaction with any aspect of an individual or group and the formal Complaint Template form must be completed and sent to feedback@upsu.com (See Appendix 1).
- 1.5 Complaints cannot be anonymous but will always be treated with appropriate sensitivity; information will only be disclosed on a need to know basis.
- 1.6 It may be necessary in the interest of relevant parties to suspend an individual or group from participation in any Union activities including the activities of any Union Club or Society pending the outcomes of a Stage 3 disciplinary hearing.
- 1.7 This procedure has not been written as a replacement for common law; if any criminal offence has been committed normally they should be referred to the appropriate authorities. However, if an individual/group is subject to a criminal investigation it does also mean that appropriate action using this procedure may be taken and this can run concurrently.

2 Stage 1: Informal Resolution

- 2.1 The complaint needs to be discussed with the member of staff directly concerned or a Sabbatical Officer and may be resolved through discussion and explanation with all parties and could include mediation.
- 2.2 If an informal complaint is received in writing acknowledgement will be received within 10 working days and a response within 15 working days. If it seems possible that a response will be delayed reasons will be given and individual/groups will be kept informed of progress.

3 Stage 2: Formal Resolution

- 3.1 If any member of the Union is deemed to have breached the rules of the Union, and their conduct has not been able to be addressed through an informal approach, or the breach is considered to be serious, then their conduct shall be examined by a panel consisting of the following:
 - 1 Union Director or nominee
 - 1 Sabbatical Officer (this shall not be the Union President)
 - 1 Union Middle Manager

This panel shall be known as the Members Disciplinary Committee.

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- 3.2 No individual shall sit on the Members Disciplinary Committee or Appeals Committees or any other Committee regarding the complaint if they are a witness, potential witness, the complainant or directly connected with the complainant or individual or group being charged.
- 3.3 An individual/group will receive an acknowledgment from the Union within 5 working days and should get a full response within 20 working days. If it seems possible that a response will be delayed reasons will be given and individuals/groups will be kept informed of progress.
- 3.4 The Members Disciplinary Committee will decide whether the matter is resolved as:
- not substantiated
 - not proven
 - informal advice given
 - recorded warning
 - referred to Stage 3 Disciplinary Hearing
- 3.5 The Members Disciplinary Committee may refer any matter to the University of Plymouth Disciplinary Committee, or any other appropriate body as it sees necessary.
- 3.6 The Union must inform the individual of their right of appeal in the light of additional information or evidence and that any appeal should be made in writing to the Union President within 10 working days.

4. Stage 3 Disciplinary Hearing

- 4.1 In the event of the decision to proceed to stage 3 procedure a Members Disciplinary Panel shall normally aim to hear such a case within 20 working days of notification. The individual/group will be notified in writing of the allegations and a copy of the Member's Disciplinary Bye-law will be provided.
- 4.2 All incidents above level 2 disciplinary hearing guidelines will be reported to the University Head of Complaints and Appeals who may also invoke the Universities disciplinary procedures for students (See Appendix 2)
- 4.3 The Members Disciplinary Panel will have access to all evidence, papers and identify and summon witnesses and conduct other enquiries as it may think fit.
- 4.4 The disciplinary panel will consist of 6 persons, with equal attendance from both staff and representative roles with a quorum of 4:
- 1 Union Director / Senior Manager or nominee
 - Vice President Welfare and Diversity (Chair)
 - 1 Sabbatical Officer (this shall not be the Union President)

- 1 Union Middle Manager
- 2 Part Time Officers

This panel shall be known as the Members Disciplinary Panel and will be chaired by the Vice President Welfare and Diversity. All administrative support including organisation, communications and minutes will be provided by a member of student union staff.

45 Any panel member with an affiliation to or conflict of interest with the individual/group under review must declare this before agreeing to sit on the panel and may be asked to relinquish their position for the duration of the related hearing. In this case a suitable replacement will sit on the panel in their place.

4.6 The Members Disciplinary Panel should hear all aspects of the disciplinary matter, including hearing and asking questions of:

- the individual or group bringing the charge (or their representative)
- the individual or group subject to the charge (or their representative)
- any witnesses called by either party

4.7 Witnesses may be called by:

- The Members Disciplinary Panel
- The individual or group or his/her representative bringing the charge,
- The individual or group subject to the charge (or their representative)

Witness may give evidence and present any relevant documents to the panel.

4.9 Based on the evidence presented, the Members Disciplinary Panel shall then deliberate on the matter and decide on the appropriate action to be taken.

4.10 Evidence of any earlier misconduct shall not be presented until after the decision has been reached on the facts of the case, but then may be admitted and considered in deciding on any punishment. The ultimate sanction shall be the suspension of Union membership.

4.11 The hearing shall take place in private and a record shall be made; these shall be kept and used in any appeal.

4.12 The panel may refer any matter to the University Head of Complaints and Appeals in line with the guidance in Appendix 2.

4.13 Outcomes of the disciplinary hearing will be:

- not substantiated,
- not proven,
- proven

- 4.14 Penalties of the disciplinary hearing can include (see guidance in Appendix 2):
- informal advice given,
 - recorded warning,
 - Group or individual suspension (Note: Whilst under suspension no member will be excluded from the Union Advice Centre or access to Advice and Representation from the Union).
 - Life ban from Union activities
- 4.15 Where a Group is disciplined it will be on the basis that a percentage of its members were collectively involved. If an allegation is made against the whole Group and involves at least 20% of its members, then the Union reserve the right to take group action.
- 4.16 Any complaint could begin its journey at any of the above stages.

5. Appeals

- 5.1 The Members Disciplinary Panel must inform the individual or group of their right of appeal and that any appeal should be made in writing to the President within 10 working days.
- 5.2 The grounds of the appeal should be detailed and will normally include one or more of the following headings:
- a. procedural error
 - b. new evidence which could not have been made available at the Hearing
 - c. unfair or perverse decision by Disciplinary Panel
 - d. severity of the decision
- 5.3 If there are grounds for an appeal the Union President will convene and Chair a Members Appeals Committee. This committee will be made up of:
- the Union President (Chair)
 - the Chair of the Union Council
 - the Union Chief Executive or Union Director.

All must not have been involved in the original Members Disciplinary Committee. Where this is not possible, due to conflict of interest or other reason(s), any vacant place on the Members Appeals Committee will be filled by a member of the Union Council and/or the Union Accountability Board, as appointed by the Union President.

The individual shall be notified in writing at least 10 working days in advance of the Members Appeals Committee meeting.

- 5.3 The Members Appeals Committee shall review the reason for the appeal and the rationale behind the original decision. They shall also review any new evidence that has emerged since the disciplinary meeting. The matter shall be put to a vote and the decision shall be final.
- 5.4 The hearing shall take place in private and a record shall be made.
- 5.5 If the individual is still dissatisfied, then they may refer their final appeal to the Union Board of Trustees via the President. A review will be led by one External Trustee and one other Trustee not previously included and their decision shall be final.

For further help and advice, please contact the Governance Team

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Complaint Form

Form details

If you have raised your complaint informally but remain dissatisfied with the outcome, you can use this form to make a formal complaint

About you

Full name

Student Number

Title of course

Faculty

School

Year of study

If you are studying at a Partner Institution please tell us which one

Address at which you can be contacted about your complaint

Please let us know if your address changes whilst your complaint is ongoing

Please indicate any periods when we will be unable to contact you about your complaint e.g. holidays:

Telephone Number

Email

About your complaint

Please tell us about your complaint? Includes as much details as possible

What action / response have you received already, if any?

What is it about the response that is not satisfactory?

What is your desired outcome do you wish to achieve from your complaint to?

Student Declaration

I declare that the above information is accurate

Signature (typed is acceptable)

Date

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Appendix 2

Disciplinary Hearing Guidelines

Depending on the nature of the incident, below are some guidelines to the types of behaviour and likely results. This list is not exhaustive and is intended to act as helpful guidance rather than an exact decision making framework. Each issue / complaint must be fully assessed within context: Any issues initially assessed under Appendix 3 may be considered at any level.

Level	Type of incident	Likely Penalty
1	General misbehaviour/breach of Union Policy.	<ul style="list-style-type: none"> Recorded warning. Volunteering hours.
2 (a)	Any activity considered to bring the Union into disrepute or violent conduct (either taking part in an activity or socially) or consistent breach of Union Policy.	<ul style="list-style-type: none"> Individual/group suspension. 1 – 3 week suspension, depending on the seriousness of the incident. Recorded warning. Volunteering Hours.
2 (b)	Second or repeat activity considered to bring the Union into disrepute or violent conduct.	<ul style="list-style-type: none"> Term suspension (up to a maximum of 2 terms). Recorded warning.
3	Serious physical violence, discrimination of any nature, suspected criminal activity. Consistent breach.	<ul style="list-style-type: none"> Academic year ban. Suspension from all Union activities to include the activities of any Union Club or Society Club, Society or group is reported to the University.
4	Serious issues as above which could constitute criminal activity.	<ul style="list-style-type: none"> Life ban from Union activities for example Volunteering, Sports Clubs, Societies or other group activities. Club, Society or group excludes member(s). Club, Society or group is excluded, their accounts frozen and Club / Society / group removed from all competitions including BUCS, Society events or equivalent. Club, Society or group is no longer recognised by the Union. Club, Society or group is reported to the University.

All incidents above level 2 disciplinary hearing guidelines will be reported to the University Head of Complaints and Appeals who may also invoke the Universities disciplinary procedures for students.

Incidents at level 1 will be discretionarily reported to the University of Plymouth dependant on the behaviour and whether the University has any impact or the behaviour involves University staff or buildings. In all cases that involve the Police the matter will be referred to the University.

Disruptive behaviour by individuals/groups which bring the Union, the University of Plymouth or the Club or Society into disrepute, or which disrupts Club or Society sessions will not be tolerated.

This can be generally described as anti-social behaviour and may include:

- fighting or disruptive behaviour,
- swearing at a member of the Union, University staff, coach, manager or a committee member,
- abusing equipment,
- behaving in a dangerous manner,
- bullying or racial abuse,
- showing a lack of respect of, or failing to acknowledge the ability of other individuals.

Guidance should be taken from the current University of Plymouth Student Code of Conduct and Disciplinary Procedure and the definition of student misconduct.

These guidelines may be amended by the Union Council or Trustee Board as required.

Appendix 3

Licensed premises & Events held by the union:

This policy is applicable to all members of the Union, including associate members when using the Union's licensed premises. In addition to this, it will also apply to members of the public when using the union's licensed premises.

The Students' Union Commercial Services department with delegated authority from the Designated Premises Supervisor (DPS) is responsible for the management of the union's licensed premises, events and can initiate the member's disciplinary process and will have the power to enforce a ban of up to 2 weeks on individual students, clubs or societies.

When an incident occurs in our licensed venue or at an event held by the union, the student will be dealt with appropriately at the time by the venue duty manager. In most cases incidents are minor and will be dealt with immediately with no further actions required. Any student that is involved in an incident that will potentially result in a ban from the venue will automatically be suspended from the venue for 2 weeks by the duty manager pending a review of incidents and disciplinary decisions. In this case, a report will be generated detailing the incident and any further evidence collected and filed with it in our venue log and relevant senior management team will be informed triggering the disciplinary process.