

## Discipline Code

The Discipline Code was passed by the Council of the Students' Association at its meeting on Tuesday 4 November 2003 and subsequently ratified by a quorate referendum held on Thursday 14 October 2004. An amendment to this was subsequently made a quorate meeting of the Council of the Students' Association on 14 March 2006.

This Discipline Code is the bye law detailing procedure for discipline as required by Section 13 of the Students' Association Constitution. As a condition of SUSA membership, all members are required to adhere to the principles laid down in this code.

### 1 PURPOSE

This code has the following purposes:

- a To give guidance to the levels of behaviour expected at all times within the Students' Association and also within any other Students' Association to which members have access by way of a reciprocal agreement.
- b To provide a framework and procedure through which standards of behaviour are maintained so that members and staff are not exposed to violence, abuse or harassment of any nature, and to ensure that these standards are enforced.
- c To ensure that the Association's Licensed premises are run in accordance with the Licensing (Scotland) Act 1976.
- d In respect of any websites owned and operated by Stirling University Students' Association, to give guidance to the levels of behaviour expected at all times when posting material on such sites.

### 2 NOTES FOR DISCIPLINE CODE

- a A member is responsible not only for their own conduct but for the activities of any visitor they sign in to the Association's licence premises and as such, they may be liable for any offences they commit.
- b References to membership, Council, etc refer to bodies defined in the Constitution of Stirling University Students' Association (which can be found in the University Calendar).
- c The discipline procedures of the Association are entirely separate from the procedures of Scottish Law and it is not the purpose of the Discipline Committee to duplicate the processes of Criminal Law. Regardless of the outcome of any criminal proceedings, the Association may consider any case lodged with it by those authorised. In some cases, however, the outcome of separate court proceedings may call for an Appeals Committee to review the incident.

- d Any exclusion decided upon by the management of any club which has since been taken over by the Association is automatically continued by this Code.

### 3 PROCEDURE

- a When an incident occurs in any of the Students' Association premises, (the Robbins Centre, SUSA Shop), it will be reported to the Duty Manager or the most appropriate senior officer of SUSA available at the time.

The first point of reference is usually the Duty Manager.

- The Duty Manager should firstly ascertain which students are involved in the disturbance.
  - He/she should then ask for the ID Cards of all those people.
  - He/she should write down the names, addresses and ID numbers of the people involved.
  - He/she should retain the ID cards of the people and tell them to come and see him/her either on the next day or, if the incident is on Friday, Saturday or Sunday, on the Monday. They should be notified that they are excluded until then.
  - A clear photocopy of both sides of the ID card should be taken.
- b They will then make an incident report for the attention of the Secretary of Discipline committee and the Senior Bars Manager. This report should be received by the aforementioned within 3 University working days (wherever possible).
- c This report/notification shall include the name of the excluded person, unless it is not known, in which case the person's name shall be notified to the Secretary within 2 days of its becoming known.
- d Such complaints of misconduct by a member should wherever possible be dealt with informally by consultation between the member concerned, the Duty Manager, the Senior member of staff of SUSA, and the Secretary of the Discipline Committee.

The more formal procedures of this Code will only be used for instances of serious misconduct, or when more informal action has failed or is considered appropriate.

- e The Senior member of staff of SUSA, or anyone delegated by that person in their absence (e.g. Duty Manager), shall be empowered to exclude any member or visitor from the premises of SUSA for the day/night of the incident or conduct in question, and additionally, at their discretion, until such a matter has been decided under the procedure set out below. Any such exclusion should be notified to the Secretary of the Discipline Committee no more than 3 University days after such exclusion has taken effect.
- f In the case of a minor offence, the Duty Manager will arrange a time with the individual in question, the Bars Manager and the Secretary to the Discipline Committee to meet. Upon hearing the case, they may impose a ban extending from 1 day up to 3 months maximum, plus any

period of vacation, at their discretion. A member excluded in this manner shall have a period of 5 University days to decide whether to accept this decision or to appeal to the Appeals Committee (see Appeals).

- g In the case of a major offence, the initial procedure will remain the same but the Duty Manager will refer the matter to SUSA Discipline Committee.
- h In respect of any websites owned and operated by Stirling University Students' Association, the content and posting of material will be subject to moderation by the Sabbatical Officers and the Membership Services Manager. In addition, any alleged breach of this Code can be reported to one of the Website Moderators.
  - The Moderator/Sabbatical Officer should firstly ascertain which student(s) are involved in the alleged breach and investigate its content.
  - He/she should then edit or delete the material and seek to notify the Member responsible, via e-mail, of the reasons for the moderation and issue them with an official warning.
  - In the event that the Member in question fails to take notice of the initial warning and continues to breach this Code, one further warning will be issued, explaining that any further breaches will result in a one week ban from accessing the website.
  - Should the Member continue to breach the code an automatic one week ban from accessing the website will be put in place and an e-mail explaining the reasons behind the ban will be sent to the Member.
  - Should a Member, after receiving two bans from accessing the website, continue to breach this Code, the Website Moderator/Sabbatical Officer should refer the matter to the Secretary of Discipline Committee. This referral should be received by the aforementioned within 3 University days (wherever possible).
  - Thereafter, normal procedure shall apply.

**Note:** SUSA reserves the right to supersede the incremental banning system if, in the opinion of the Moderators, the alleged breach is of a sufficiently serious nature to warrant immediate referral to Discipline Committee.

#### 4 DISCIPLINE COMMITTEE

Discipline Committee meetings are called in order to investigate the nature of a complaint. They only meet during semester time.

- a **Membership:** The Discipline Committee shall be composed of:
  - i) A quorum of three Council or Sports Union Executive members is necessary for the Committee to function.
  - ii) Any member who becomes excluded from the premises whilst sitting on the Discipline Committee will automatically forfeit their membership of the Committee.

- iii) If no reasonable apologies are given to the Secretary of the Discipline Committee in advance of a Disciplinary meeting, then their absence will count as one absence of a Council Meeting (see Constitution) and will follow Council law on that procedure.
- iv) There shall be a Secretary to the Discipline committee who will also be Secretary to the Appeals Committee. The Secretary will be present at all stages of the decision-making process, but will not participate in the deliberations of the Committee prior to its making its decision. The Secretary will also be responsible for scheduling meetings, taking minutes and informing all parties involved of dates, times and decisions. They will not have voting status on the Committee.
- v) The Secretary shall be the Vice-President Services and Treasurer of the Students' Association, or in that person's absence, one of the other Sabbatical Officers.
- vi) SUSA will have an observer on the committee who will be the General Manager of the Association (or a substitute - Senior Bars and Catering Manager if the General Manager is not available), whose function is to ensure impartiality, fairness and continuity throughout cases. The observer will not have voting rights.
- vii) A Committee member shall not appear to be a judge in a matter where his/her own personal interest is involved.
- viii) The Committee also meet to make recommendations on amendments to the Discipline Code, if requested to do so by the Council. NB: The only members with the power to make decisions at a Discipline Committee meeting are the elected student members.

**b Notification**

- i) Following a referral of an incident to the Discipline Committee, the Secretary will notify the member excluded (by recorded delivery), the Committee members and any other parties involved of the time and place of the Committee meeting.
- ii) The meeting should take place within 12 University days from the original notification of the incident to the Secretary. The scheduling of the meeting should also attempt to take into account Academic timetabling of those involved. If academic timetabling conflicts with the scheduling of the meeting, then the member should notify the Secretary of the Discipline Committee **at least** two days before the meeting is due to take place so that a more convenient time can be arranged.
- iii) The Secretary shall give at least 5 University days' notice of the time and place of the meeting to the person excluded, the Senior member of staff/ Duty Manager and the members of the Committee who will be hearing the case. The letter of notification will make reference only to the date of an "alleged offence under the Discipline Code" in order to maintain and respect the excluded person's confidentiality. However, should the excluded person wish to have a limited and restricted indication of the nature of the alleged offence, then he/she is permitted to contact the

Secretary prior to any Hearing to be briefed by same. They will not, at any point, be entitled to see the witness reports made against them.

- iv) The member excluded or the persons making the referral may challenge up to one member of the committee on the grounds of personal interest at the beginning of the meeting. They will not have access to the names of the students on the Committee prior to the hearing.
- v) They also have the right to object to the Secretary and the General Manager on the same grounds, in which case a substitute will be selected from either one of the Sabbatical Officers or a member of SUSA management.

Members of the Committee may also withdraw upon the grounds of personal interest. This must be given in writing to the Secretary at least 2 days before the meeting.

- vi) Only one challenge to the Committee, one challenge to the Observer and one challenge to the Secretary shall be allowed. If a challenge is received, the Committee shall hear it before any other business is discussed.

## 5 DISCIPLINARY HEARING

Disciplinary Committee meetings take the format of a hearing, where the Committee listen to evidence provided by all parties and carefully weigh up the facts and reports. It is an investigation into an incident and there is no opportunity for a witness to cross examine other witnesses.

- a Both the person making the referral of the matter to the Committee and the person excluded shall be given equal opportunity to present their respective cases to the Committee, with a friend or representative if they so choose.
- b Both the person making the referral and the member excluded may call witnesses in support of their case. The list of these witnesses must be given to the Secretary at least one University day before the meeting. If witnesses are unavailable at the time of the meeting, they may submit a written report to be handed in at least one University day before the meeting.
- c In addition, the Disciplinary Committee may request to interview any person it wishes.
- d No witness reports will be circulated out with the Discipline Committee members in order to protect the confidentiality of the witnesses.
- e Witnesses will be seen individually by the Discipline Committee.
- f Should the member excluded fail to appear without notification or reasonable valid explanation, the Committee may continue using the evidence they already possess.
- g A member who has been excluded on a decision of the senior member of staff, a duty manager or the Discipline Committee may not be referred or re-referred to the Discipline Committee in respect of the same incident or matter.

- h The Committee will listen to all evidence and may ask questions of any of the witnesses. Should the meeting run over time, it may be reconvened at a mutually agreed time. Any further meetings should include all the original Committee members and no substitutes can be brought in at a later date.
- i During its deliberation and decision-making the Committee may exclude any person who is not a member of the Committee.
- j The Committee shall decide all matters by a vote of those members present, on the basis of simple majority, including 2:1 majority. In the event of no positive outcome, decision or majority being reached, the case will be referred to Appeals Committee (see Appeals).
- k The Committee will decide what the penalty is to be, but must remember that permanent and lengthy exclusion should only be imposed in the most serious cases. They may decide which areas an exclusion is to cover (e.g. Clubs and Societies, bars, etc.).
- l The Secretary to the committee shall inform all members concerned of the Committee's decision in writing within 3 University days.
- m Notification of the Committee's decision to the member excluded/the member responsible for the incident should be sent recorded delivery. It should include a brief explanation of the reason for any decision taken and a description of the right to appeal and how to do it.

## 6 APPEALS

The purpose of an Appeals meeting is to consider all appeals lodged under the grounds below. This may include declaring the person excluded to be innocent of the alleged offence and removing all penalties. Any person excluded shall have a right of appeal against a decision taken by the Senior member of staff, a duty manager or the Discipline committee.

### a Membership of Appeals Committee

The Appeals Committee shall consist of:

- i) Three Members of the Council of the Students' Association or Sports Union Executive who did not sit on the first hearing.
- ii) Sections 4(i) to 4(vii) apply to the Appeals Committee in the same way as they apply to the Discipline Committee.

### b Grounds for Appeal

An appeal against the findings and/or penalties imposed by the senior member of staff, a duty manager or Discipline Committee may only be lodged on the following grounds:

- i) That the procedure of the Code had not been observed and there is not justifiable reason for this;

- ii) That new information or witnesses have emerged and, if available at the time, would have been likely to have affected the decision appealed against;
- iii) That no positive decision had been made.

**c Procedure for Appeals**

- i Appeals shall be lodged in writing with the Secretary of the Appeals Committee within 5 University days of the decision appeals against. Within 12 University days of receiving an appeal, the Secretary shall call a meeting of the Appeals Committee.
- ii The Appeals Committee shall initially consider the nature of the appeal and shall hear a representative of the Discipline Committee to defend the decision. If the Appeals Committee is satisfied, by a majority of its member entitled to take part, that there are legitimate grounds of appeal, the Committee shall proceed to deal with the appeal, for which purpose the provisions of section 4a(iv) to 5m shall apply so far as appropriate, as though the references to the Discipline Committee were references to the Appeals Committee.
- iii There will be no opportunity for a member to claim compensation from the Association.

**7 POWERS OF THE DISCIPLINE AND APPEALS COMMITTEE**

- a Every reasonable effort should be made to ensure that all members enjoy and continue to enjoy the facilities and privileges associated with membership of SUSA. For this reason, the Discipline and Appeals Committees should avoid imposing permanent and lengthy exclusions. Such penalties should only be used in the most serious cases.
- b Before imposing exclusions, the Discipline and Appeals Committee should thoroughly and carefully consider all relevant facts and should exercise a considerable discretion in defining the terms of exclusions, as regards their length and facilities and privileges to which they are to apply. If a case is serious enough, however, it may be appropriate to exclude permanently from all facilities and privileges.
- c In exercising its discretion, the Discipline Committee shall give serious consideration to alternatives to the imposition of simple exclusions. In particular, it should consider the possibility of either a specified period making it quite clear that, so long as there is no repetition of the misconduct complained of and found proved or any other breach under this Code that misconduct will not be further penalised, but in breach of such condition that misconduct as well as the subsequent misconduct will be taken into consideration for the purpose of fixing a penalty.
- d Although it may not be appropriate in most cases, the Committee may require the payment of compensation and impose fines where it considers it would, in all circumstances, be appropriate to do so.

**8 LIST OF OFFENCES AND PENALTIES**

The following list of offences and penalties is intended to give guidance to the Discipline and Appeals Committee. It is in no way intended to be comprehensive or exhaustive.

- This List of Offences and Penalties covers all categories of student members.
- Access to the Association's Premises whilst under any exclusion penalty will be restricted to appropriate Welfare and Administration Services, and Election Procedures. Any access granted will be at the sole discretion of the Association's Senior Office Bearers and/or Senior Management Staff.
- Penalties are based on term-time exclusions. If vacation periods link these exclusions they are incorporated into the overall length of exclusion, for example an 8-week term-time ban which commences mid-May is effective to mid-October.
- The commencement date of any exclusion is the date of the offence.

The Association reserves the right to impose penalties for offences which are not covered in the following section:

a **Physical Violence**

Assault whether causing injury or not, which, unless committed in genuine self-defence or as a result of undue provocation or otherwise reasonably explainable, will carry a minimum mandatory penalty of exclusion for not less than one semester and where serious bodily injury has been caused, of permanent exclusion.

b **Threatened Violence/Threatening Behaviour (including Harassment on the Grounds of Sex, Sexual Preference, Religion or Race)**

Such threats to members, members of staff or visitors which, unless shown to be understandably retaliatory or otherwise reasonably explainable, will carry a maximum penalty of permanent exclusion from such facilities and/or privileges available to members of SUSAs as the Discipline Committee shall deem appropriate.

c **Theft**

Theft is an offence. Thieves shall be required to return stolen items. The Association reserves the right to ban and/or prosecute members found guilty of theft. In addition, the Discipline Committee may impose such exclusion as it deems appropriate.

d **Damage to Association Property**

Should a member or visitor wilfully, negligently or accidentally damage Association property, they may be refused admission to the appropriate venue(s)/event(s) until the bill for repair is met. The Association reserves the right to ban and/or prosecute and/or refer the matter to the University's Discipline structure.

e **Disturbance Offences**

Any member endangering the Association's licence to sell alcohol or the Association's occupancy agreement, by creating disturbances in or after using Association premises, may be subject to an exclusion for a maximum 4 years.

**f Failure to Produce an ID Card**

To entail a ban on using the facilities until the card is produced and for a specified period afterwards.

**g Lobbying Members of the Discipline Committee/Appeals Committee**

Any improper interference with the disciplinary process and particularly attempts to influence members of either the Discipline or Appeals Committee will be treated as an offence under this Code and will be dealt with accordingly.

**h Breach of Exclusion**

If any excluded person attempts or achieves entry to the premises then the original exclusion shall be re-applied from the date of the attempted re-entry and such conduct may be considered for further penalty at the discretion of the Discipline Committee.

**i Illegal Entry**

Illegal entry (e.g. through fire doors) to the premises is a breach of SUSA's door policy and signing-in regulations. It should carry a mandatory penalty of exclusion for one semester.

**j Taking Glasses/Bottles Out of the Premises**

Such behaviour jeopardises SUSA's licence and there will be a mandatory 2-week ban for committing this offence. A log will be kept of offenders and should they re-offend the mandatory period may be extended at the discretion of the Discipline Committee/Senior member of staff.

**k Possession and/or Dealing of Drugs**

Any incidents involving the use or supply of illegal substances are considered most seriously by the Association, with supply carrying a permanent exclusion penalty.

**l Glasses taken into GLOW**

A 2-week ban will be levied for taking glasses into GLOW.

**m Illicit Alcohol**

A mandatory four-week exclusion will be applied for bringing alcohol into any Association Premises, and the exclusion will be applied to both possession and/or consumption.

**n Tampering with Fire Safety Equipment/Maliciously setting off Alarms**

Any instances where a member is caught tampering with fire-safety equipment or setting off a fire alarm in full knowledge that there is no threat of fire will face an exclusion of anything up to permanent exclusion, at the discretion of the committee.

o **Breach of Smoking Ban**

Any member breaching the Smoking, Health and Social Care (Scotland) Act 2005 and the Smoking in Certain Premises (Scotland) Regulations 2006 by smoking in any part of the SUSA premises, with the exception of the external deck area of the Studio Bar, may be subject to a maximum penalty of permanent exclusion from the Association's Premises.

The Discipline Committee may also impose a financial penalty upon members found to be in breach of the Association's Smoke Free Policy at the Committee's discretion consistent with any fine levied against the Association for breach of legislation. If a financial penalty is imposed the member in breach of the policy shall remain excluded until this fine is paid

9 **CONFIDENTIALITY**

All Discipline business of the Committee, whether by way of hearing as such, or not, shall be confidential if specific cases are being discussed. Such matters should not be treated frivolously.

March 2006