

Proposer: Matt Adie (VP Education)

Seconder: Astrid Smallembroek (Union President)

Date: 12 March 2018



GM Notes:

- That the Union's current Discipline Schedule (Schedule 6) is unfit for purpose, on the grounds that:
 - It fails to take account of the wide range of activity within the Union, instead focusing almost solely on member conduct within our commercial outlets
 - It does not align with, or reflect, the recent work undertaken to improve our approach to tackling and preventing sexual violence and misconduct on campus – and within the wider community.
 - It does not support members in raising a discipline complaint; posing unnecessary barriers that prevent inappropriate conduct being challenged.

- That for the past two years a project has been undertaken by the Union to review each of the Schedules supporting the Union's Constitution; with a view to ensuring their ongoing relevancy and appropriateness; and that the replacement of Schedule 6 represents the final phase of this project.

GM Believes:

- That all the Union's members should be able to engage with the Union in a safe and secure environment, without the fear of harassment.

GM Resolves:

- To repeal and replace the current Discipline Schedule (Schedule 6) with the revised Schedule 6 (Member Conduct) as outlined in Appendix 1.

Schedule Six

Discipline Code

1. Introduction

This Code provides guidance on the standards of behaviour expected at all times of members of the University of Stirling Students' Union, hereinafter referred to as 'The Union'. All members are required to behave in accordance with the Code.

2. Definitions

- 2.1. 'Union' refers to the University of Stirling Students' Union, as defined Section 1 of the Union's Constitution.
- 2.2. 'Member' refers to any member of the Union, as defined by Section 6 of the Union's Constitution.
- 2.3. 'Affiliate' refers to any individuals, groups or entities who maintain a formal relationship with the Union, through the virtue of their constitution.
- 2.4. 'Offence' refers to an alleged breach of the standards of conduct expected of Union members, or specific breach of Union policy. Offences are exemplified in Section 5.
- 2.5. 'Member(s) charged' refers to a member of the Union who has had been formally accused, through the proper channels, of committing an offence but has not yet had this considered by a disciplinary hearing.
- 2.6. 'Level 1 Offence Discipline Group' refers to the group who will investigate alleged offences classified as Level 1 in Section 5 of this Schedule.
- 2.7. 'Discipline Committee' refers to the committee who will consider charges of misconduct deemed to be Level 2, as exemplified in Section 5 of this schedule, through a formal disciplinary hearing.
- 2.8. 'Discipline Hearing' refers to the process through which a formal charge is heard, and considered by, the Union's Discipline Committee.
- 2.9. 'Investigatory Officer' refers to a trained member of Union staff who is appointed to conduct an investigation into an alleged Level 2 offence.
- 2.10. 'Appellant' refers to a member who has been found guilty of a Level 1 or Level 2 misconduct offence, but is currently appealing the decision through the Union's Appeals Panel.

3. Scope of the Code

- 3.1. This Code covers any member of the Union, within Union premises, at any Union event, activity, or affiliate event/activity, and at all times when representing the Union. It is the responsibility of all members to acquaint themselves with this Code.
- 3.2. In the instance of a formal complaint, the Union's official Complaint Procedure shall be followed; details of which can be found on the Union's website.
- 3.3. In addition to this Code, elected officers must also adhere to the Officer Code of Conduct (Appendix 2) and Section 8.1 of the Union's Constitution.

4. General Principles

- 4.1. The Union expects all members to conduct themselves in an appropriate manner at all times, and to comply with the Union's Equality, Diversity and Inclusion policy, core regulations and codes.
- 4.2. Any member found in breach of these Codes will be subject to appropriate disciplinary action;
- 4.3. The Union reserves the right to escalate any incident to the University of Stirling, to be dealt with under Ordinance 2 (Code of Student Discipline) if it is deemed necessary or appropriate;
- 4.4. The Union reserves the right to escalate any incident to University Security, if it is deemed necessary or appropriate;
- 4.5. The Union reserves the right to escalate any incident to Police Scotland and to the Environmental Health Service, if it is deemed necessary or appropriate.
- 4.6. Offences are categorised into two levels; Level 1 and Level 2, and are further explained under point 10 of this Code;

5. Offences

- 5.1. Disciplinary offences are categorised into two levels: Level 1 and Level 2, as set out in the non-exhaustive lists below.
- 5.2. Examples of Level One Offences include, but are not limited to:
 - i) Minor breach of Union rules or policy
 - ii) Conduct in a manner unbecoming of a member;
 - iii) Causing minor damage to Union property;
 - iv) Misuse or unauthorised use of Union property;

- v) Anti-social or inappropriate behaviour which causes, or could cause distress, concern or disruption to others and to Union activities;
- vi) Unauthorised entry into Union property or events;
- vii) The use of threatening or intimidating language or behaviour;
- viii) Inappropriate behaviour towards other members, Union staff and Union officers.
- ix) Minor and isolated verbal, physical or online acts of bullying, harassment, discriminatory behaviour or intimidation.
- x) Making deliberately false and/or malicious allegations towards other members, Union staff and Union officers.

5.3. Examples of Level Two Offences include, but are not limited to:

- i) Major breach of Union rules or policy
- ii) Assault or causing physical harm;
- iii) Sexual harassment or assault;
- iv) Serious threatening behaviour;
- v) Serious or persistent verbal, physical or online acts of bullying, harassment, discriminatory behaviour or intimidation;
- vi) Theft, fraud, forgery, deception, dishonesty or bribery;
- vii) Use of illegal drugs;
- viii) Causing serious and deliberate damage to Union property;
- ix) Multiple, or repeated, Level 1 Offences;
- x) Refusal to observe and comply with a penalty imposed following a disciplinary hearing.

5.4. On receipt of a report of an alleged disciplinary offence, the Disciplinary Secretary shall decide whether this shall be treated as Level 1 or Level 2. The level of offence alleged will determine the disciplinary process followed.

6. Charging Procedure

6.1. When an alleged breach of the Code occurs, it shall be reported to the Secretaries of the Discipline Committee in the first instance.

- i) The Secretaries shall ascertain which members are involved in the incident;

- ii) They shall gather evidence on the alleged offence and ascertain whether it falls under the Level 1 offences category or Level 2 offences category. They shall also complete the Incident Report Form (*Appendix 1*) detailing the incident;

6.2. If it is deemed to be a Level 1 offence, the Secretaries shall

- i) Inform the members of the allegation against them
- ii) Outline the Level 1 Disciplinary Procedure, informing the member(s) charged of
 - a) the timescale for the case to be heard by the Level 1 Offence Disciplinary Group
 - b) Their right to submit a written statement in their defence
- iii) convene a meeting of the Level 1 Offence Discipline Group within 5 university days of the incident being reported;

6.3. If it is deemed to be a Level 2 offence, then

- i) the Secretaries will notify the member(s) charged of
 - a) their immediate suspension, pending the outcome of an investigation, from all Union premises and Union activity by email to their University email account;
 - b) the disciplinary process to be followed, including the proposed timeframe for the investigation to be concluded;
 - c) brief details of the alleged offence.
- ii) the Secretaries will notify, in confidence, all Club, Society and Sports Team Presidents of the member(s) suspension, pending the outcome of the Disciplinary Process.
- iii) an Investigatory Officer shall be appointed to begin the process of a formal investigation into the offence;
 - a) The Secretaries of the Discipline Committee shall ensure a fair and unbiased appointment of an Investigatory Officer;
 - b) The Investigatory Officer will be responsible for carrying out a thorough investigation, and shall remain impartial throughout the process;
 - c) If at any time the Investigatory Officer feels they can no longer remain impartial, this shall be communicated to the Secretaries of the Discipline Committee and a new Investigatory Officer shall be appointed;

- d) The Investigatory Officer will gather and analyse all relevant evidence and interview anyone involved in the case, including the accused and witnesses;
 - e) The Investigatory Officer will complete an *Investigation Report* (Appendix 2) which will be submitted to the Secretaries of the Discipline Committee;
 - f) The investigation will be carried out as soon as possible and normally within 20 working days. All relevant parties will be informed if any extension is required.
- iv) After the investigation process has been completed, the Secretaries shall convene the Union Discipline Committee which shall hear and determine the case and agree any penalties to be imposed.

Level 1 Offence Procedure

7. Level 1 Offence Discipline Group

- 7.1. The Union Level 1 Offence Group shall hold jurisdiction for dealing with allegations of misconduct deemed to be Level 1, as exemplified by Section 5.2. It shall have the power to impose appropriate penalties to members found guilty of a level 1 offence.
- 7.2. Membership of the group shall include
- i) A Discipline Secretary (In Attendance)
 - ii) One of Two Executive Officers
 - iii) Two of Two Executive Officers
 - iv) A member of Union Staff (In Attendance)
- 7.3. The group's membership shall include a Discipline Secretary and a member of Union Staff, as appointed by the Chief Executive who shall ensure the proper conduct of the meeting.
- 7.4. Voting members shall be appointed to the group by the Discipline Secretary in accordance with Section 7.2(ii) of this schedule.
- 7.5. The Level 1 Offence group will consider any allegations of misconduct against a member(s) and will be provided with a copy of the Incident Report by the Discipline Secretary.
- 7.6. The member(s) charged shall have the right to put forward a written statement in support of their case for consideration by the group.
- 7.7. During its deliberation and decision-making, the Group may exclude any person who is not a member of the Group;

7.8. The Group shall decide all matters by a vote of those members present, a full majority will be required in order to reach a guilty verdict.

7.9. On reaching its decision, the Level 1 Offences Group may decide to:

- i) Find the member guilty
- ii) Dismiss the charges
- iii) Escalate the case for consideration by the Union Discipline Committee as a Level 2 Offence.

7.10. In the event of a guilty finding, the Group will decide what the penalty, if any, is to be imposed from the list of available penalties in Section 9.1 (i) of this Code;

7.11. The Discipline Secretary shall inform all members concerned of the Group's decision within three University days, by email to their University email account;

7.12. The notification shall include a brief explanation of the reason for the decision taken and, any penalty imposed, confirmation of the right of appeal and details of the appeal process.

Level 2 Offence Procedure

8. The Discipline Committee

8.1. The Discipline Committee shall have jurisdiction over the conduct of all members of the Union and all persons within the all premises of the Union, it shall deal with allegations of misconduct made against Union members and will have the power to enforce any penalties that it sees fit, in line with the scope of this schedule.

8.2. The membership of the Discipline Committee shall be:

- i) The Discipline Committee shall have two Secretaries, the Sports Union President and the Vice President Communities, or in a Secretary's absence, one of the other Sabbatical Officers.
 - a) Both Secretaries will be present at all stages of the decision-making process, but will not participate in the deliberations of the Committee prior to it reaching its verdict.
 - b) The Secretaries will also be responsible for scheduling meetings, taking minutes and informing all parties involved of dates, times and decisions. They will not have voting rights on the Committee;

- c) Where a Secretary feels unable to carry out their role on the grounds of personal interest or other vested in the case, they shall be replaced by an alternative sabbatical officer.
- ii) Three voting members of the Discipline Committee will be appointed by the Discipline Secretaries and selected from the membership of the Union's Executive Council, or from any of the Zone Executive Committees;
 - a) The Secretaries shall ensure that members appointed have no personal interest or other vested in the matter, prior to or throughout the process;
 - b) Any member who becomes excluded from the Union whilst sitting on the Discipline Committee will automatically forfeit their membership of the Committee;
- iii) The Union will have an observer on the Committee who will be the Chief Executive of the Union (or a member of Union staff that the Chief Executive may delegate the role to) whose function is to ensure impartiality, fairness and continuity throughout cases. The observer will not have voting rights;
- iv) The member(s) charged will be permitted one challenge to the voting membership of the committee on the grounds of personal interest; and a further challenge to the non-voting membership on the grounds of personal interest. The member(s) charged will not be informed of the membership of the committee prior to the hearing. As such, one reserve voting member and one reserve non-voting member will be standing by in the event of a challenge. If a challenge is received, the Committee shall hear it before any other business is discussed.

8.3. In convening a meeting of the Disciplinary Committee, Secretaries shall take account of potential academic timetabling conflicts, so as to ensure all parties can attend at a time suitable to their existing academic schedules.

8.4. The member(s) charged shall be informed with at least 5 University days' notice of the time and place of the hearing;

8.5. Meetings of the Discipline Committee shall proceed in accordance with the provisions below.

- i) The Committee members shall be presented with the Investigation Report, completed by the Investigatory Officer, and consider all the evidence provided by all parties.
- ii) Both the person who is making the referral of the matter to the Committee, and the member(s) charged shall be given equal opportunity to present their respective cases to the Committee, with a friend or representative in attendance if they so choose;
- iii) Both the person making the referral, and the member(s) charged may call witnesses in support of their case. The list of these witnesses must be given to the Secretaries at least

two University days before the meeting. If witnesses are unavailable at the time of the meeting, they may submit a written report to be submitted at least one University day before the meeting;

- a) Witnesses will be seen individually by the Discipline Committee;
 - b) There will be no opportunity for a witness to cross examine any other witness;
 - c) All reports and witness statements shall be confidential to the Committee and those attending its hearing.
- iv) The Disciplinary Committee shall also be able to interview any person it wishes in connection to the case being considered.

8.6. Should the member(s) charged fail to appear without notification and a reasonable valid explanation, the Committee may continue to hear the case in their absence;

8.7. The Committee will listen to all evidence and may ask questions of any of the witnesses and the member(s) charged. The meeting may be reconvened at a mutually agreed time. The composition of the Committee shall remain unchanged;

8.8. During its deliberation and decision-making, the Committee may exclude any person who is not a member of the Committee;

8.9. The Committee shall decide all matters by a vote of those members present, on the basis of simple majority.

8.10. In the event of a guilty finding, the Committee will decide what the penalty, if any, is to be imposed from the list of available penalties in Section 9 of this Code;

8.11. The Secretary to the Committee shall inform all members concerned of the Committee's decision within three University days, by email to their University email account;

8.12. The notification shall include a brief explanation of the reason for the decision taken and, any penalty imposed, confirmation of the right of appeal and details of the appeal process. This shall serve as official notification of the disciplinary outcome.

9. Penalties

9.1. Where deemed appropriate by the Discipline Committee or Level 1 Offence Group, a penalty may be sanctioned against any member(s) deemed to be guilty of an offence.

- i) The following penalties shall be available for use by the Union's Level One Offence Group.

- a) A reprimand or formal warning;
 - b) A fine consistent with the offence, but not exceeding £25, to be paid within 14 university days;
 - c) Suspension from some, or all, of the privileges of Union membership for a period not exceeding 4 weeks;
 - d) A requirement to make good in whole or in part any loss or damage caused;
- ii) Penalties available to the Discipline Committee may include those listed below, all of which may be imposed for a set period of time or indefinitely.
- a) Exclusion from all or part of Union's premises and services, with the exception of independent advocacy;
 - b) Exclusion from Union events and activities;
 - c) Barring from standing in Union elections;
 - d) Barring from membership of a club, society or sport team;
 - e) Barring from committee membership of a club, society or sport team;
 - f) A requirement to make good in whole or in part any loss or damage caused;
 - g) A requirement to attend, or participate in, education or training linked to the offence;

9.2. In the event of a monetary fine being imposed on a member, the Discipline Secretary shall send a letter, by recorded delivery, to the member requiring payment of the fine within the identified payment timescale. If this fine remains unpaid by the end of the payment schedule, then the member shall be suspended from all the Union premises and services, with the exception of independent advocacy, until such times as the fine has been paid in full.

9.3. In the event of a member being excluded from all or part of the Union's activities, then an email shall be sent from the Discipline Secretaries, in confidence, to all affiliated clubs, societies and sports teams informing them of the member's exclusion and instructing them to prevent the member from holding office or taking part in any activities of the Union.

10. Appeals

10.1. A member to whom disciplinary action has been brought against, may appeal a decision made by the Union's Level 1 Offence Group or the Union's Disciplinary Committee, by writing to the Discipline Secretaries within ten university days of the date stated on the

correspondence notifying the individual of the committee's decision. All Appeals will be considered by the Union's Appeals Committee.

10.2. A member may appeal on the grounds that:

- i) The Level 1 Offence Group or Disciplinary Committee failed to follow the processes laid out within this schedule in reaching their verdict, rendering the decision or penalty applied unsound, inappropriate or unfair.
- ii) New information has come to light which may render the decision or penalty unsound, inappropriate or unfair.
- iii) If a member is given a sanction under either Section 9.1.2.a or Section 9.1.2.b of this code they can appeal against the severity of the sanction issued.

10.3. On receipt of a request to appeal, the Discipline Secretary shall alert the Union's Appeals Secretaries, who shall in turn call a meeting of the Appeals Panel.

10.4. During the process of appeal any penalties previously imposed on the appellant will be suspended, pending the outcome of the appeals process.

10.5. The Union's Appeals Panel will consider all cases of appeal against decisions taken or penalties imposed by the Level 1 Offence Group or Disciplinary Committee. It shall have the power to overturn decisions made by these bodies and revoke any and all penalties enforced.

- i) The Appeals Panel shall have two Secretaries, the Union President and the Vice President Education, or in a Secretary's absence, one of the other Sabbatical Officers.
 - a) Both Secretaries will be present at all stages of the decision-making process, but will not participate in the deliberations of the Panel prior to making its decision.
 - b) The Secretaries will also be responsible for scheduling meetings, taking minutes and informing all parties of dates, times and decisions. They will not have voting rights on the Committee.
- ii) Three voting members of the Appeals Panel will be appointed by the Appeals Secretaries and selected from the membership of the Union's Executive Council, or from any of the Zone Executive Committees;
 - a) The Secretaries shall ensure that members appointed have no personal interest or other vested in the matter, prior to or throughout the process; and that they have not been involved in the original Disciplinary case, as heard by the Discipline Committee.

- b) Any member who becomes excluded from the Union whilst sitting on the Appeals Panel will automatically forfeit their membership of the Committee;
 - iii) The Union will have an observer on the panel who will be the Chief Executive of the Union (or a member of Union staff that the Chief Executive may delegate the role to) whose function is to ensure impartiality, fairness and continuity throughout cases. The observer will not have voting rights;
- 10.6. The Appeals Panel shall proceed to deal with the appeal in accordance with the provisions below.
- i) The panel members shall be presented with the Disciplinary Summary Report, completed by the Discipline Secretaries. A Discipline Secretary shall appear before the panel to speak to this report and outline the approach taken in the original case.
 - ii) The appellant will be given the opportunity to present their case for appeal to the Appeals Panel, with a friend or representative in attendance if they so choose;
 - iii) Should the appellant fail to appear without notification and a reasonable valid explanation, the Panel may continue to hear the case in their absence.
- 10.7. The Appeals Panel shall deliberate and consider the merit of the appeals case in accordance with the principles outlined in Section 10.2.
- 10.8. On reaching its decision, the Appeals Panel may decide to:
- i) Uphold the appeal based on the grounds given for appeal by the appellant, and on the basis of any provided evidence
 - ii) Reject the appeal
- 10.9. Where the appeal is upheld, the Appeals Panel shall have the power to revoke or vary any penalties imposed by the Union's Discipline Committee.
- 10.10. The Appeals Secretaries shall inform the Appellant of the outcome of their appeal by writing to their University email within five university days, this communication will serve as official notice of the appeal outcome and will advise on the status of any penalties imposed.
- 10.11. The verdict of the Appeals Panel shall be considered final and there shall be no further right of appeal against a decision taken by the Union's Appeals Panel.

11. Preventing and Tackling Sexual Violence, Misconduct or Assault

- 11.1. The University of Stirling and University of Stirling Students' Union share a joint commitment to encouraging a culture of respect and creating a university community that

does not tolerate, and feels comfortable to challenge and report, sexual violence or misconduct in Scottish society.

- 11.2. If a survivor of sexual violence, misconduct or assault wishes to make a complaint to the Students' Union, they will be treated with sensitivity and respect. The issue will be handled confidentially and appropriately.
- 11.3. The Students' Union has two dedicated staff members, who have been trained as Sexual Misconduct Liaison Officers (SMLOs). The SMLOs will be able to provide the survivor with appropriate and confidential guidance and information, signpost to university and external support, and explain the reporting processes of the University of Stirling and Police Scotland to the survivor.
- 11.4. In the event that a student experiences sexual violence, misconduct and/or assault and having gained the explicit permission of the survivor, the Students' Union will escalate the issue in line with the provisions granted in Section 3.3 – 3.5.