



## **Bye Laws – Disciplinary**

### **1. General Provision**

1.1 The President, on behalf of the 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 Guild Director, who may appoint a nominee.

1.3 The Executive Committee shall be responsible for agreeing:

- a. The schedule of fixed outcomes, resolutions and penalties to be applied for complaints and disciplinary incidents;
- b. any other procedural matters necessary for effective administration

1.4 In order to be considered under this Bye Law, complaints and disciplinary incidents should be reported, in writing via the Guild's online complaints form, usually within six months of the issue arising of 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 Guild Director, their nominee, an Officer or any other person responsible for implementing the Bye Law.

1.7 Only complaints against the Guild, Full Members and students of the University who are eligible for Full Membership but have exercised their right not to be a member in accordance with the Education Act 1994 shall be considered under this Bye Law.

1.8 Complaints against any other class of member shall be considered by the President and their decision shall be final.

1.9 An annual Complaints and Discipline Report will be submitted to Student Council, the Trustee Board and the University.

### **2. Complaints about a member**

2.1 The Guild 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 Guild and/or Guild societies, either on University premises or elsewhere.

2.2 This bye law will cover the following types of incident, noting this is neither exhaustive nor exclusive:

- a. Indecent, threatening, violent or disorderly behaviour against any person;
- b. Personal harassment of any person that relates to their background or a personal



characteristic;

c. Sexual harassment or inappropriate sexual behaviour;

d. Behaviour that is bullying, hostile, intimidating, discriminatory, malicious or insulting;

e. Behaviour likely to cause injury, impair the safety of others or put at risk of harm any person;

f. Damage to or defacement of Guild property through misappropriation or through intentional or reckless acts;

g. Theft, fraud, deceit, deception or dishonesty;

h. Behaviour which brings, or is likely to bring, the Guild into disrepute;

i. Disruption, obstruction of, or improper interference with the social, governance or cultural activities of the Guild;

j. Misconduct, unacceptable or inappropriate behaviour on premises of organisations associated with the Guild or with Guild activities taking place there;

k. Breaches of Guild data protection, health and safety, safeguarding, equality and diversity or other policies or regulatory requirements;

l. Failure to comply with an exclusion or penalty previously imposed by the Guild.

2.3 In certain cases, for example a complaint of harassment:

2.3.1 Additional support and guidance on support services will be provided;

2.3.2 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 can hear evidence and be given an opportunity to ask questions of the other party;

2.3.3 The Guild Director, 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.

### **3. Complaints about a Guild Officer**

3.1 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 Guild employee procedures.

3.2 Upheld complaints about an Officer which results in a penalty of exclusion from office shall be dealt with under the Constitution.

### **4. Complaints about a Guild Employee**

4.1 Complaints made by students about any service delivered by staff will be treated as a complaint of dissatisfaction in their dealings with the Guild.

4.2 If, in the course of considering or investigating the complaint, the Guild Director 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.



## **5. Assessment of Complaints**

5.1 Complaints will, in the first instance, be assessed by the Guild Director or their nominee who may:

- a. dismiss the complaint, subject to consultation with the President;
- b. decide the complaint warrants further investigation by the Guild, and thus decide at which procedural stage the complaint should initially be considered;
- c. refer the complaint to the University to be dealt with under their Discipline Regulations, in consultation with the Guild Director;
- d. report, or advise the complainant to report, the complaint to the Police to be dealt with under the criminal justice system, in consultation with the Guild Director.

5.2 You may be asked to attend an initial investigatory meeting to assess whether or not there is a case to answer, for instance, whether there is an entirely innocent explanation for what has been alleged.

5.3 Before any such initial meeting you will be informed of the nature of the allegation(s). You will be told that what is taking place is an investigatory interview to assess whether a complaint warrants further investigation. No decision on the truth or otherwise of the allegation is being taken at this meeting, only whether there is "a case to answer".

5.4 In order for the Guild to investigate any allegations thoroughly, as well as speaking to you, this will often involve speaking to others (e.g. employees, student officers, students) to obtain information, including witness statements.

## **6. Overview of Investigative Processes**

6.1 The Guild's Disciplinary and Complaints Procedure operates in line with UCB Guild's Disciplinary Policy.

6.2 The Guild reserves the right to depart from the precise requirements of its disciplinary procedure where it is expedient to do so and where the resulting treatment of the individual is no less fair.

6.3 Should the Guild Director or their nominee decide that a complaint warrants further investigation under this Bye Law, it will follow the following process:

- a. Informal Resolution (Stage 1)
- b. Panel (Stage 2)

6.4 The Guild Director or their nominee may decide to begin a complaint at either stage of the complaint, documenting the reasons for this.

## **7. Informal Resolution (Stage 1)**

7.1 A complaint dealt with locally by the relevant Officer, Committee or Department will be informal and can be:



- a. dismissed;
- b. upheld, wholly or partially, with an appropriate outcome, resolution or penalty applied; or
- c. referred to a Panel for further investigation

7.2 Should a complaint be upheld at this stage, the respondent will be made fully aware of what behaviour or response will be expected to rectify any issues. They will also be told when this will be reviewed and over what period. The member will be informed of what action will be taken if they fail to improve their conduct.

7.3 If the complainant or respondent is not satisfied with the decision made at Stage 1, they may request, in writing to the Guild Director, that a Panel is convened (Stage 2), on one or more of the following grounds:

- a. the outcome, resolution or penalty was manifestly unfair or disproportionate;
- b. an incorrect decision was made;
- c. there is new evidence which could not reasonably have available at the time.

7.4 The decision to convene a Panel will be taken by the Guild Director or their nominee, subject to consultation with the President.

## **8. Panel (Stage 2)**

8.1 The Panel will consider all of the evidence previously considered (if applicable), plus any new evidence which was not previously available.

8.2 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.

8.3 If the complainant or respondent is not satisfied with the decision of the Stage 2 Panel, they may request, in writing, that an Appeal Panel is convened on one or more of the following grounds:

- a. there was a procedural irregularity which rendered the process leading to the decision unfair;
- b. the outcome, resolution or penalty was manifestly unfair or disproportionate.

8.4 The decision to convene an Appeal Panel will be taken by the Guild Director, subject to consultation with the President.

## **9. Appeal Panel**

9.1 The Appeal Panel 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.

9.2 Where an complainant or respondent is not satisfied with how the Guild has dealt with a complaint, and all three stages of the process have been concluded, they may request an appeal, in writing, to the University on one or more of the following grounds:



- a. there was a procedural irregularity which rendered the process leading to the decision unfair;
- b. the outcome, resolution or penalty applied was manifestly unfair or disproportionate.

## **10. Appeal to the University**

10.1 An appeal to the University will not be a re-hearing of the original complaint.

10.2 The University Secretary will consider the appeal and respond, in writing, usually within six weeks.

10.3 The decision of the University Secretary is final and there is no further right of appeal against the Guild.

## **11. Outcomes, resolutions and penalties**

11.1 The following outcomes are available at any stage in the procedure:

- a. A complaint is wholly upheld or a disciplinary incident is proven;
- b. A complaint is partially upheld or a disciplinary incident partially proven;
- c. A complaint is dismissed or a disciplinary incident is not proven.

11.2 When a complaint is upheld, resolutions and penalties shall be fair and proportionate, and in accordance with guidelines agreed by the Executive Committee.

11.3 Once the Outcome has been determined, the following Resolutions are available at any stage in the procedure:

- a. Improvements or changes to Guild services, outlets, facilities, policies or procedures are recommended;
- b. The complainant and respondent are required to participate in training and/or mediation and conflict resolution;
- c. An apology is given;
- d. A referral to a University or external agency able to provide appropriate support.

11.4 Once the Outcome has been determined, the following Penalties are available at any stage in the procedures:

- a. Caution on future conduct;
- b. A letter of concern;
- c. Full or partial ban from, or access to, Guild services, events and/or activities for a prescribed period and/or upon completion of mandatory relevant training;
- d. Removal of the right to stand as a candidate for all or any elections for Guild Officer, Trustee, Representative, Student Council or as an NUS delegate;
- e. Removal from an Official position or have specific duties removed; implementation of such a recommendation will be in accordance with the Constitution;
- f. Referral to the University for consideration under its disciplinary procedures;



g. Referral to other action, including legal action, if such action is deemed to be in the best interests of the Guild.

11.5 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 Guild Director may take further action against the student including extending the penalties or re-hearing the case.

11.6 If any member breaches the terms of any resolution or penalty, the Guild Director shall be empowered to extend the resolution or penalty.

## **12. Removal of access in advance of investigation**

12.1 In order to protect the Guild or any of its members or staff, the Guild Director shall be empowered to exclude Full Members from all or any services and activities pending consideration of:

- a. a complaint under this Bye Law;
- b. misconduct under the University's Discipline Regulations;
- c. a charge in a court of law.

12.2 The Guild Director may only take such action if, in their opinion, it is necessary to protect the Guild or any of its members or employees.

12.3 Such action will not constitute a disciplinary penalty

## **13. Timescales**

13.1 All complaints will usually be assessed within two weeks of receipt and a written response issued. Each formal stage will usually be concluded within three weeks, with written notification usually issued within one week of a decision.

13.2 The complainant and respondent will usually have two weeks in which to challenge or appeal a decision.

13.3 A Panel will usually be convened within three weeks of the request being received.

13.4 Complainants, respondents, Panel members and any witnesses will usually be given one week's notice of a Panel hearing.

13.5 Complaints may be heard during university vacations, during which time the deadlines may be extended.

13.6 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.

13.7 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.



## **14. General Arrangements for Panels**

### 14.1 Selecting the Panel

14.1.1. A Panel will consist of one staff member of the Guild and two Guild Executive Officers who have not previously been involved with the case, except for the need to initially assess the complaint.

14.1.2 Appeals Panels will consist of one member of the Guild's senior management team and two Guild Executive Officers, one of whom must be an Officer Trustee, all of whom have not previously been involved with the case.

14.1.3 In order to ensure an Officer Trustee is always available for a potential Appeal Panel, no Panel will take place which leaves no Officer Trustee able to chair an Appeals Panel should the need arise.

14.1.4 In any instance where it is not possible to populate a Panel and/or Appeal Panel with the requisite amount of Officers, panel members will be drawn from staff members of other Students' Unions.

14.1.5 All Panels will be chaired by an Officer.

14.1.6 All panel members will be selected ensuring there is no conflict of interest. The complainant or respondent 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. In the case where the request regards the Panel Chair, requests should be made to the Guild Director.

### 14.2 Submitting Evidence

14.2.1. 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;

14.2.2. Arrangements for notifying witnesses of a Panel hearing will be the responsibility of the person who has requested their attendance;

14.2.3. Any information previously considered at earlier stages will be provided, as evidence, to a Panel hearing;

14.2.4. The Panel may request the input of specialist witnesses in order to assist the Panel;

14.2.5. No information about previous offences will be considered until and unless the complaint is upheld.

### 14.3 Attendance at the Hearing



14.3.1. 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;

14.3.2. 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;

14.3.3. 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.

#### 14.4 Making a decision

14.4.1. The panel will first determine the outcome of the case.

14.4.2. 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.

14.4.3. The Panel will then consider what resolutions and penalties to set in place. A Panel hearing will operate in accordance with the following procedures:

- a. The Chair will introduce all present, outline what will happen in the hearing, and ensure everyone understands the purpose of the hearing;
- b. The complainant will present their case and introduce any supporting statements and/or or witnesses;
- c. There will be an opportunity for the members of the Panel and the respondent to question the complainant and any witnesses;
- d. The respondent will present their case and may introduce any supporting statements and/or or witnesses;
- e. There will then be an opportunity for members of the Panel and the complainant to question the respondent;
- f. Any expert witnesses will be heard;
- g. The complainant will be given the opportunity to make a final statement;
- h. The respondent will be given the opportunity to make a final statement;
- i. The complainant and respondents will be asked to leave the room to allow the Panel to make a decision;
- j. The complainant 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.



14.4.4 Complainants and respondents will subsequently receive written notification of the decision, including any further rights of appeal;

14.4.5. Where relevant, case precedents will be recorded and may be referred to in future Panels or Appeals.

14.4.6. A written summary of proceedings will be taken and made available to the complaint or respondent on request.

14.4.7 The Panel may publish its decision in such a way as it determines.