

Bye-Law 8: Code of Discipline



Document Control		
Review Date	Changes	Version
19/05/2019	Initial Approval	V1.0
5/12/2023	References to SAUWS removed	V1.1
9/12/2024	No changes required	V1.2

Bye Law & Code of Discipline



1. Purpose of the code

This Code is used to ensure that all members, volunteers and elected officers maintain an appropriate standard of respect towards each other, the Union and its staff and sets out what will happen in all instances of misconduct.

2. Who is covered

All members, reciprocal members, elected officers and their guests and subject to this Code. By entering our venues or taking part in our events you agree to be bound by this code.

3. Misconduct

The following acts will be considered as misconduct:-:

1. Conduct amounting to a breach of the UWS Union code of conduct.
2. Conduct amounting to a breach of other applicable rules or regulations.
3. Conduct which is unbecoming of a member or guest.
4. Conduct which brings the Union into disrepute.
5. Where the Individual has failed to adhere to a ruling from a previous disciplinary committee
6. Inappropriate conduct in another Students' Union/Association/Guild.

The list is intended to provide examples only and will not prevent other acts or behaviour from being considered as misconduct.

4. Charging Procedure

a. Where misconduct occurs, the following procedure should be followed:

- i. The accused should be approached as per the Charging procedure ([Appendix 1](#))
- ii. An Incident Report ([Appendix 2](#)) should be forwarded to the Membership & Engagement Manager as soon as possible following the incident, along with any witness statements ([Appendix 3](#)). The Head of Student Union Support Services will assess where the incident merits an individual being charged.
- iii. Should the Head of Student Union Support Services determine that a charge should be made a disciplinary panel shall be convened and a chair

nominated from within the Executive Committee. The date for this panel shall be set within a period of fourteen calendar days from the charge being made. The Head of Student Union Support Services shall act as the clerk of the panel.

- iv. Once a date for a panel has been set, it shall be the responsibility of the Clerk to arrange for four random ordinary members who are unrelated to the charge to assist the Chair in their deliberations.
- v. In the event of a member of the Executive Committee being subject to a charge of misconduct, all responsibilities of the Chair relevant to the Code of Discipline for that case will be automatically transferred to the Lay members of the Board of Trustees or their nominee.
- vi. In the event that the Clerk determines that there is a possibility of the individual being subject to the sanction of permanent removal of their membership, a member of the Board of Trustees must be included in the panel.
- vii. At any point prior to a panel, the individual accused of misconduct may enter a guilty plea, which will move proceedings directly to Sanctions.

5. Interim Provisions

- a. The Executive Committee shall, at their joint discretion, have the power to suspend the membership rights of any individual charge with an alleged misconduct from the date of the alleged offence until the panel is called in the following circumstances:
 - i. An alleged physical assault on an employee or member of the Union.
 - ii. Using language which would be deemed to be in violation of the Union's safe space policy.
 - iii. Any further act that would bring the Union or its members into immediate and serious disrepute.
- b. If the accused individual is a member of the Executive Committee, then an interim suspension can only be imposed with the agreement of the External Trustees.

6. Disciplinary Panels

- a. Membership
 - i. A member of the Executive/Lay board member shall be the Chair, depending on the individual being charged.
 - ii. Four random ordinary members who are unrelated to the case being discussed.
 - iii. The Head of Student Union Support Services or their nominee shall act as the clerk for the committee.

b. Proceedings

- i.** The Investigating Officer presenting the case for the Union before any panel shall be the President or their nominee. In the event that the President was being charged, the Board of Trustees shall appoint an investigating officer.
- ii.** The individual accused of misconduct may represent themselves at the panel, or be represented by a person of their choice (but this may not be a legal representative), details of their representative should be sent to the Chair at least two working days prior to the hearing.
- iii.** The individual accused of misconduct shall be notified at least 3 working days in advance of the names of all the witnesses who shall be cited by the Investigating Officer.
- iv.** The individual accused of misconduct shall be notified in advance of their right to bring witness to the panel to give evidence of their behalf.
- v.** The Chair may request the attendance and hear the evidence of additional witnesses not brought by either the Investigating Officer or the party charged where they conclude that such evidence might be of assistance to proceedings.
- vi.** At the start of the panel, the Chair shall outline the charge against the individual and determine the plea entered.
- vii.** The Investigating Officer shall outline the case against the individual accused of misconduct, which shall include the witnesses for the Union. The accused party shall be entitled to cross-examine each witness, following which the chair and/or the panel shall have the right to re-examination of the witnesses on any new matter, which has arisen during cross examination.
- viii.** The Witnesses for the accused shall be then called and the Investigating Officer shall have the right of cross-examination in each case.
- ix.** The accused may give evidence as a witness on their own behalf subject to the Investigating Officer's right of cross-examination. Alternatively they may make a statement which shall not be subject to cross-examination, but the panel shall be entitled to take account of the fact that such statement has not be subject to cross examination when assessing its credibility.
- x.** The Chair shall make the final decision on whether or not an item may be submitted as evidence.
- xi.** The applicable standard of proof in proceedings before the disciplinary panel shall be the balance of probabilities. The onus of proof shall be on the Investigating Officer. The accused party shall be entitled to call evidence and make submissions to the Disciplinary Panel relative to any procedural defects in respect of his or her being charged of the offence

before the panel. If the Disciplinary Panel are satisfied that the accused has shown that such a breach has been materially prejudicial to the person charged, they shall make a finding of not guilty on that basis alone. If the panel decides that such a case has not been made out, the proceedings shall continue as if the preliminary submission of the defect and procedure had never been made.

- xii.** At the conclusion of the evidence, the Investigating Officer and the party charged, in that order, shall be entitled to make a closing speech of submissions to the Disciplinary Panel. Thereafter the Investigating Officer, the accused and their representative shall leave the room which the panel comes to its decision.
- xiii.** In the event of the accused being found guilty of misconduct, the Chair alone shall determine what penalty, if any, to impose in accordance with this Bye-Law. The Chair may invite and consider advice from the other members of Panel as to the appropriate penalty, if any, to impose. When that decision has been reached, the Investigating Officer and the individual accused of misconduct shall be recalled and informed of the findings of the Disciplinary Panel by the Chair.
- xiv.** Prior to any penalty being imposed by the Chair in the event that misconduct is proven, the accused may make a plea in mitigation of the penalty. In deciding the penalty, it shall be competent for the Chair to consider the previous disciplinary record of the party charged.

7. Disciplinary Hearings without the Accused being present

- a. Where the Investigating Officer produces evidence that the preliminary procedures to the hearing have been carried out in accordance with this Bye-Law and where neither the Investigating Officer, nor the Chair of the Disciplinary Panel have been informed of the reason for non-attendance of the accused, or the accused offers a reason for their absence that the Disciplinary Panel reasonably consider to be inadequate or unsatisfactory in all the circumstances of the case, it shall be open to the Disciplinary Panel to hear the case in the absence of the accused.
- b. In the event that the case is heard in the absence of the party charged, once evidence has been led for the prosecution by the Investigating Officer, they shall leave the room whilst the Disciplinary Panel decides upon its findings of guilt or innocence. The Investigating Officer shall be then recalled to the room to hear the Panel's decision pronounced by the Chair.
- c. If the accused is found guilty, the Chair shall pronounce penalty to be imposed. Thereafter it shall be the responsibility of the Chair of the Panel to send notice of the decision and of any penalty to be imposed to the accused.

8. Sanctions

- a. In the event of a finding of guilt and after the party charged has addressed the Panel in mitigation of the penalty, the Chair will impose one or more of the following sanctions:
 - i. A severe reprimand
 - ii. Restrictions placed on membership of Societies
 - iii. Restrictions on standing for election
 - iv. Membership suspension for a defined period not exceeding one academic year
 - v. Membership of SAUWS revoked permanently.
 - vi. Referral to the University Disciplinary procedures
 - vii. Referral to the Police.
- b. Any penalty or penalties imposed shall take immediate effect from the date of imposition. In the event that an appeal is made to the Disciplinary Appeals Panel within the prescribed time period, the sanction may be suspended pending the outcome of the appeal.
- c. If the Panel do not make a finding of guilt then the charge will be dismissed.

9. Grounds for Appeal

- a. A party found guilty of misconduct by the Disciplinary Panel may appeal the decision if the one or more of the following grounds are met:
 - i. The procedures detailed within this Bye-Law were not followed to such a material extent that it rendered the finding of guilt to be void.
 - ii. That any discretion exercised by the disciplinary Panel was done in such a way that caused material prejudice to the party charged.
 - iii. There was a material departure from the requirements of natural justice during the disciplinary panel.
 - iv. That no ordinary or properly instructed disciplinary Panel could have returned a guilty verdict based on the evidence provided by the Investigating Officer based on balance of probabilities
 - v. That the conduction or action complained of did not constitute a breach of discipline
 - vi. That the sentence imposed was oppressive or unduly harsh and did not reflect the nature and circumstances of the event.

10. Appeals procedure

- a. A Party wishing to appeal against a decision of a disciplinary Panel or against the sentence imposed by its Chair, must lodge a notice of appeal within fourteen days of the decision being communicated to them to the Clerk of the Panel.
- b. Upon receipt of the notice of appeal, the appellant shall be sent the appropriate minute of the Disciplinary Panel as soon as reasonably practicable.

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- c. The procedures for convening a Disciplinary Appeal hearing shall be the same as those outlined in section 6 of this bye-law.

Approving Body	Student Council/Board of Trustees
Date of approval:	19 th May 2019
Review date:	9/12/2024



Charging Procedure

Outlined

This procedure outlines the process used by staff of the Union to formally charge an individual with a breach of the Code of Discipline. Staff should only approach individuals if it is safe to do so and should make use of security staff and or the police if required.

Process

If Staff witness a person(s) behaving in a way that contravenes the Code of Discipline they should:

1. Approach the person(s) who are alleged to have contravened the code and identify themselves as a staff member of the Students' Union
2. If appropriate, the staff should ask the person(s) to cease the behaviour which is causing a breach of the Code of Discipline.
3. If the student fails, or the matter is serious, they should request to see the Students ID card. If they are not a member of the Student's Union, then you should ask to speak with the person who signed them in.
4. Details should be taken from the ID card or from the person to allow a charge sheet to be completed.
5. The person(s) should be advised that the matter will be dealt with via the Students Union Code of Discipline and that they must leave premises. If the student is a Student's Union member, they will be able to re-enter the premises on the next working day, unless the situation is deemed to be serious by the Head of Student Union Support Services – in which case they will not be allowed to enter the Union until the Disciplinary Panel has met. Non-UWS students will not be permitted to return until the Panel has met and made their decision.

Appendix 2 – Incident Report

	<h1>Incident Report</h1>
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Accused Details:			
Student Name:		BANNER ID:	
Email:			

Outline of Charges – Please tick all that apply			
	Conduct amounting to a breach of the Code of Conduct		Conduct amounting to a breach of other applicable rules or regulations
	Conduct which is unbecoming of a member or guest		Conduct which brings the Union in disrepute
	Failure to adhere to prior disciplinary ruling		Inappropriate conduct in another Students' Union

Details of incident – *Record details of what happened, when it happened and who was involved. Continue on separate sheet if required*

Declaration – I confirm that the information contained within this report is accurate to the best of my knowledge	
Signed:	
Print Name:	
Date:	



Witness Statement

Witness

Details:

Student Name:		BANNER ID:	
Email:			

Details of incident – *Record details of what happened, when it happened and who was involved. Continue on separate sheet if required*

Declaration – I confirm that the information contained within this report is accurate to the best of my knowledge

Signed:	
Print Name:	
Date:	