

Imperial College Union

Bye-Law H Discipline

Further proposed changes/updates as tracked changes

Last Approved September 2021

H. Discipline

0. This ~~B~~bye-law shall apply to all Members and Associate Members except:
 - 0.1. Trustees of the Union, acting in their capacity as a Trustee, shall be dealt with in accordance to bye-law B (Trustees). Complaints should be directed to the Chair of the Board of Trustees, or the President in the case of a complaint against the Chair of the Board of Trustees.
 - 0.2. Members of ~~the~~ College staff who are also registered students of the College shall be dealt with under the relevant College disciplinary procedure for staff, and not this policy. The Managing Director may exclude such individuals from Union premises and facilities pending College disciplinary action and shall inform their ~~H~~ead of ~~D~~epartment if so doing.
 - 0.3. Permanent Union staff shall be disciplined within the provisions of Imperial College HR policy and their contractual agreement. The Managing Director is responsible through the President to the Board of Trustees for staff discipline in the Union. The President and the Chair of the Board of Trustees ~~Chair~~ are responsible to the Board of Trustees for the discipline of the Managing Director.
1. Outside of the electoral process, the Union may only discipline individual Members and Associate Members within the provisions of ~~these~~ this Bbye-laws.
2. The Disciplinary Procedure does not provide for disciplinary action against Clubs, Societies & Projects. Disciplinary procedures related to Clubs, Societies & Projects are detailed in ~~separate policies~~ the Clubs, Societies and Projects Strike Policy.
3. For matters related to the Union's ~~licenced~~ licensed premises:
 - 3.1. The Designated Premises Supervisor (DPS) for the Union's ~~licenced~~ licensed premises, or their appointed nominee, has the right to take whatever reasonable action necessary to uphold the Union's ~~licenee~~ license within the premises. This includes the right to warn or ban – temporarily or permanently – anyone from the Union's ~~licenees~~ licensed premises.
 - 3.1.3.2. The process laid out in the ICU Licensing Disciplinary Investigation Process should be followed.
 - 3.2.3.3. Any warning or ban from the DPS, or their appointed nominee, is separate from summary punishment and, therefore, cannot be appealed within the provisions of these ~~B~~bye-laws. ~~Appeals should be made directly to the DPS.~~
 - 3.3.3.4. Members receiving summary punishment from the DPS may also be subject to disciplinary action within ~~these~~ this Bbye-laws if there is a suspected breach of the Union's College's Student Code of Conduct. This may be instigated through or complaint against the ~~M~~ember or the DPS may choose to refer a ~~M~~ember for disciplinary action if they deem it necessary.
4. For disciplinary matters regarding severe misconduct, for example assault or sexual misconduct, or other matters that may be investigated by the police, the Union may instead refer the matter directly to the College Registry.
5. The Union shall provide a ~~complaints form on the official Union website~~ mechanism which

~~for Members, Associate Members, or non-Members should use~~ to raise allegations of misconduct ~~of against other Members or Associate Members~~. A ~~member~~ anyone who uses this form to raise a complaint shall be referred to as the 'reporting party', and those they have raised a complaint ~~about~~ against shall be referred to as the 'responding party'.

6. A case for disciplinary action shall exist if there is an allegation, or the Union has reasonable suspicion, that a Member or Associate Member is alleged to ~~have~~ breached the Union/College's Code of Conduct Bye-Law.

~~7. Examples of misconduct pertaining to breaches of the Code of Conduct may be deemed to be either minor or major depending on the individual circumstances of the case. This will determine the application of the disciplinary procedure to the individual case.~~

~~8.7.~~ Cases will be dealt with by a Union nominee, hereby referred to as the 'investigating Officer', who shall normally be a member of the Union's Governance and Membership Committee.

~~9.8.~~ The investigating Officer shall make an initial judgement, referring to guidance in the Union Disciplinary Procedure, to proceed as either:

~~9.1.8.1.~~ No action needed

~~9.2.8.2.~~ Level 1 – Summary punishment Procedure

~~9.3.8.3.~~ Level 2 – Union Disciplinary Panel

~~9.4.8.4.~~ Level 3 – Referral to the College

~~10.9.~~ Where the Union is made aware that the disciplinary matter is being investigated by the College and/or the Police, the Union shall suspend the disciplinary proceedings until the conclusion of a College and/or Police investigation.

~~11.10.~~ In cases where a disciplinary matter is being investigated by the Police, the Union shall defer to the College's disciplinary procedures and inform them of such an investigation.

~~12.11.~~ In cases of serious misconduct, where there is a safeguarding concern, or there is/cases with police involvement, or at the request of the College, the Union President or the Union Governance and Membership Committee can suspend Member(s) concerned from all Union activities and spaces pending the conclusion of investigations. In the case that the Union President issued the suspension, the Chair of the Governance and Membership Committee must be made aware of the suspension and has the power to overturn the decision.

~~13.12.~~ The investigating Officer shall inform the reporting party of any safeguarding measures that ~~is~~ are directly necessary for them to know, within the bounds of confidentiality. This should be done as soon as possible after a decision to take a safeguarding measure is made, usually before the responding party is informed where possible and appropriate.

~~14.~~ ~~At the request of the College, the Union Governance and Membership Committee shall consider suspending members from all Union activities and venues pending the outcome of a College disciplinary investigation.~~

13. The President shall submit a termly report to the Chair of the Governance and Membership Committee, summarising the disciplinary cases since the last report and any resulting

actions.

Level 1 - Summary Punishment Procedure

- ~~15.~~ Cases dealt with under the Summary Procedures shall normally be investigated by the investigating Officer, or appropriate appointed nominee, who shall consider the original complaint and supporting evidence provided to them by the Complaints Officer. This shall be done in accordance with the relevant process laid out in the Union Disciplinary Procedure.
- ~~16.~~ In all cases dealt with under the Summary Procedures, the responding party must be provided with a written statement of the allegations being made against them, and then with an opportunity to respond to the allegation and state their case prior to any decision being reached.
- ~~17.~~ The investigating officer shall normally conduct an interview with the responding party and, where appropriate, the reporting party; a full record of the discussions must be made, and those being interviewed given a chance to confirm they are an accurate reflection of the discussions. The investigating officer may also interview or collect written statements from witnesses named by either responding or reporting parties.
- ~~18.~~ The investigating officer shall consider all the evidence at hand and reach a decision of summary punishment. The reporting party should be informed of the outcome in writing within five college days of the decision, and of their right to appeal against the decision.
- ~~19.~~ 14. Where a Member or Associate Member has been ~~investigated on previous occasions and has received more than one penalty disciplined~~ under the Summary Procedures on a previous occasion, the investigating Officer may decide that any further allegations of misconduct will be considered by a Union Disciplinary Panel.

Level 2 - Union Disciplinary Panel

- ~~20.~~ 15. In the circumstance that the investigating Officer decides a Union Disciplinary Panel is appropriate, ~~either because a member has requested it or the matter in question is deemed to warrant an investigation,~~ they will convene a disciplinary panel and the relevant process laid out in the Union Disciplinary Procedure shall be followed.
- ~~21.~~ The panel will be drawn from a designated list of disciplinary panel members. The panel will comprise members of the Union's Board of Trustees, including at least one Officer Trustee, one student trustee, and one external trustee who will act as Chair.
- ~~22.~~ The designated Disciplinary Panel members will be reviewed annually by the Union's Governance and Membership Committee.
- ~~23.~~ No person who is part to or is a potential witness at a hearing before the panel shall be a member of the panel.
- ~~24.~~ The Union Complaints Officer will be appointed clerk to the panel.
- ~~25.~~ The responding party will be written to giving 10 college days' notice of the date, time and location of the hearing and be invited to submit any further documentation they wish to be

~~considered within 5 college days.~~

- ~~26. The responding party may be accompanied for moral support by either a full member of the Union, an advisor from the Union or a current member of staff at the College. With agreement from the Chair of the Panel, this individual may speak on behalf of the responding party. Individuals may not be accompanied by a solicitor or barrister acting in a professional capacity. In addition, the member may be accompanied by a support, e.g. a sign language communicator, note taker or interpreter.~~
- ~~27. If the responding party is expected at the disciplinary hearing and fails to attend without good cause, the panel will normally continue with the hearing (providing it is satisfied that the member has been properly informed about the arrangements). If the hearing continues, anyone whom the member has chosen to accompany them shall remain for the hearing.~~
- ~~28. The proceedings of the panel meeting shall be determined by the Chair, but generally include: a levelling of the charge by the investigating officer, an opening statement by the responding party, questions from the panel to anyone present, and an opportunity for the responding party to provide a closing statement.~~
- ~~29. Once the meeting has adjourned, which shall happen at the discretion of the Chair, all parties apart from the panel members and clerk shall leave at which point the panel shall consider the evidence and reach a decision. The decision shall be to either fully or partially uphold the allegations, or to reject them. The panel may not find there have been other breaches of the code of conduct apart from those that have been alleged and presented by the investigating officer. The panel shall also determine which, if any, penalties are appropriate.~~
- ~~30. Following the panel decision, the responding party shall normally be informed, in writing, of this decision within 5 college days by the Complaints Officer. This correspondence shall include the minutes of the meeting proceedings, the details of the panel decision, details of any penalties, and information about the appeals process.~~
- ~~31. The reporting party shall be informed by the investigating officer, or a relevant supporter, of the completion of the investigation and whether complaints were upheld. They shall not normally be informed of the details of any penalties applied against the responding party unless it is directly necessary for them to know, within the bounds of confidentiality.~~

Level 3 - Referral to the University

- ~~32.16.~~ The ~~I~~investigating ~~O~~fficer shall refer the case to the College at any point if it is deemed that the nature of the action is relevant to the College or a serious enough allegation that requires College intervention.
- ~~33.17.~~ In such cases, the ~~I~~investigating ~~O~~fficer shall inform ~~all parties~~the reporting party of this decision, explain the reasoning behind ~~it~~the referral, and ~~refer signpost~~ them to relevant support.

Appeals

- ~~34.18.~~ A ~~M~~member or ~~A~~associate ~~M~~member penalised under the ~~Member-Union~~ Disciplinary Procedure may lodge an appeal only on the grounds of:

~~34.1.18.1.~~ Procedural irregularity in ~~the conduct of the Member Disciplinary procedure~~any part of the disciplinary process, or

~~34.2.18.2.~~ The availability of new evidence which could not reasonably have been expected to be presented prior to the consideration of the allegation and the application of the penalty.

~~35.19.~~ An appeal, including a statement of the grounds on which the appeal is being made, must normally be submitted by the individual concerned to the Union in writing within 10 College days of the date on which the written notification of the decision is sent to the responding party. A request for an appeal received after this time will be considered only where there is a demonstrable valid reason.

~~36.20.~~ An initial evaluation of the appeal will be made by the Union President, or nominee, normally within 5 College days to determine if there are valid grounds for the ~~request for~~ appeal to be considered. If there are no valid grounds, the responding party will be written to and advised that this is the case.

~~37.21.~~ Appeals against a Summary Procedure will be considered by one of the Union's designated panel members who has had no previous involvement in the case.

~~38.22.~~ Appeals against Union Disciplinary Panel decisions shall be considered by an Appeals Panel. ~~The Appeals Panel will be drawn from a designated list of appeal panel members. The panel will comprise members of the Union's Board of Trustees, including at least one Officer Trustee, one student trustee, and one external trustee who will act as Chair in accordance with the Union Disciplinary Procedure.~~

~~39.~~ ~~The designated Appeal Panel members will be reviewed annually by the Union's Governance and Membership Committee.~~

~~40.~~ ~~The Union Complaints Officer will be appointed clerk to the panel.~~

~~41.23.~~ The Appeals Panel will not consider the case afresh but shall consider whether the initial hearing and outcome were fair against the stated grounds of the appeal.

~~42.24.~~ The Appeals Panel considering an appeal shall have the authority to confirm, set aside, reduce or increase the penalty previously applied, or, if new evidence that is material and substantial has been established through the appeal process, to refer the case back for consideration by a newly constituted Union Disciplinary Panel. The decision of the panel hearing the appeal shall be final and there shall be no further opportunity for appeal against that decision within the Union.

Penalties

~~43.25.~~ If the breach of discipline is admitted by the responding party or is found to be proved, on the balance of probabilities, one or more of the following penalties may be imposed.

~~26.~~ In respect of Summary Action Procedure:

~~44.26.1.~~ The Investigating Officer may impose the following penalties:

~~44.1.26.1.1.~~ A written reprimand and a warning about future behaviour;

~~44.2.26.1.2.~~ A requirement ~~upon the member~~ to give an undertaking as to their future good conduct within the Union ~~and College~~;

~~44.3.26.1.3.~~ A requirement ~~upon the member~~ to provide a written apology;

~~44.4.26.1.4.~~ A requirement ~~upon the member~~ to pay for any damage to property they may have caused or to recompense the Union ~~and or College~~ for any loss it may have suffered arising from the ~~M~~member's misconduct, up to £500;

~~44.5.~~ A requirement ~~on the member to undertake specified tasks or services for the benefit of the Union up to a maximum of forty hours~~;

~~26.1.5.~~ A revocation of or reduction in financial ~~authority~~responsibility.

26.2. The Investigating Officer may impose the following penalties after consultation with the Governance and Membership Committee:

26.2.1. Attendance at appropriate training (whether Union or external);

26.2.2. Dismissal from some or all elected posts in the Union;

26.2.3. Suspension from any part of the Union or its facilities, including any online activities, for up to three months;

26.2.4. Suspension from membership of a Club, Society, or Project for up to three months;

26.2.5. Expulsion or suspension of the eligibility to be considered for any Union Awards;

26.3. Permanent exclusion from holding elected roles;

~~44.6.~~26.4. Any restorative sanctions appropriate to the case.

~~45.27.~~ In respect of a Union Disciplinary Panel, any of the above and the following:

~~45.1.~~27.1. A charge to meet the cost in whole or in part of any funds lost through damage or mismanagement;

~~45.2.~~27.2. Expulsion or suspension from any part of the Union or its facilities, including any online activities ~~for a fixed period~~;

~~45.3.~~ Permanent expulsion from any part of the Union's premises;

~~45.4.~~27.3. Expulsion from or suspension from of membership of a Club or, Society, or Project;

~~45.5.~~ Attendance at appropriate training (whether Union or external);

~~45.6.~~27.4. Revocation of membership of the Union.

28. In cases of interpersonal violence, abuse, or sexual misconduct, the following sanctions must be imposed and may be overturned only in the case of a successful appeal:

28.1. Dismissal from all elected posts in the Union;

28.2. Permanent exclusion from holding elected roles;

28.3. Permanent exclusion from participating in all elections as a candidate;

28.4. Permanent exclusion from positions that involve direct interaction with children

(e.g. tutoring).

~~46. In cases of interpersonal violence, abuse, and sexual misconduct, that is deemed non-minor following an investigation, the following sanctions must be imposed: dismissal from all elected posts in the Union, permanent exclusion from holding elected roles, participating in all elections as a candidate, and volunteering positions that involve direct interaction with children (e.g. tutoring). These sanctions may only be overturned in the case of a successful appeal following the aforementioned process.~~